



**United Nations**

# **Report of the Human Rights Committee**

**Volume I**

**Ninety-fourth session  
(13-31 October 2008)**

**Ninety-fifth session  
(16 March-3 April 2009)**

**Ninety-sixth session  
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## Summary

The present annual report covers the period from 1 August 2008 to 31 July 2009 and the ninety-fourth, ninety-fifth and ninety-sixth sessions of the Human Rights Committee. Since the adoption of the last report, Bahamas and Vanuatu have become parties to the International Covenant on Civil and Political Rights. Kazakhstan has become party to the Optional Protocol. Argentina, Chile, Nicaragua, Rwanda and Uzbekistan have become parties to the Second Optional Protocol. In total, there are 164 States parties to the Covenant, 112 to the Optional Protocol and 71 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-fourth session: Denmark, Monaco, Japan, Nicaragua and Spain; ninety-fifth session: Rwanda, Australia and Sweden; ninety-sixth session: the United Republic of Tanzania, the Netherlands, Chad and Azerbaijan — 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 Grenada final and public, regretting the lack of cooperation by that State.

Under the Optional Protocol procedure, the Committee adopted Views on 46 communications, and declared 6 communications admissible and 29 inadmissible. Consideration of 13 communications was discontinued (see chapter V for information on Optional Protocol decisions). So far, 1,888 communications have been registered since the entry into force of the Optional Protocol to the Covenant, and 88 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 on concluding observations, Sir Nigel Rodley, presented progress reports during the Committee's ninety-fourth, ninety-fifth and ninety-sixth sessions. A new Special Rapporteur for follow-up on concluding observations, Mr. Abdelfattah Amor, was designated at the ninety-sixth session. 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 deplors the fact that a large number of 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 decided to continue applying this procedure and sent reminders to several States parties that will be considered in the absence of a report in future sessions if they do not send their overdue reports by a set deadline.

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. Sixteen initial or periodic reports were received between 1 August 2008 and 31 July 2009, and by the end of the ninety-sixth session, 20 reports had not yet been considered by the Committee. At the end of the ninety-sixth session, 410 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.

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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 on Views, 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). A new Special Rapporteur for follow-up on Views, Ms. Ruth Wedgwood, was designated at the ninety-sixth session, who succeeded Mr. Ivan Shearer.

On 23 July 2009, during its ninety-sixth session, the Committee held its fifth meeting with States parties, which was attended by representatives of 80 States parties (see chapter I, paragraphs 32 to 39). Finally, 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. Yuji Iwasawa, represented the Committee at the twenty-first meeting of chairpersons of the human rights treaty bodies (2 and 3 July 2009), Mr. Abdelfattah Amor and Mr. Michael O'Flaherty participated in the eighth inter-committee meeting (1-3 December 2008) and Ms. Motoc and Mr. Rafael Rivas Posada participated in the ninth inter-committee meeting (29 June to 1 July 2009).

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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-sixth session of the Human Rights Committee, there were 164 States parties to the International Covenant on Civil and Political Rights and 112 States parties to the Optional Protocol to the Covenant. Both instruments have been in force since 23 March 1976.

2. Since the last report, Bahamas and Vanuatu have become parties to the Covenant and Kazakhstan became a party to the 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 31 July 2009, there were 71 States parties to the Protocol, an increase of 5 (Argentina, Chile, Nicaragua, Rwanda and Uzbekistan) 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-fourth session was held from 13 to 31 October 2008, the ninety-fifth session from 16 March to 3 April 2009 and the ninety-sixth session from 13 to 31 July 2009. The ninety-fourth and ninety-sixth sessions were held at the United Nations Office at Geneva, and the ninety-fifth session at United Nations Headquarters in New York.

#### C. Election of officers

8. On 16 March 2009, the Committee elected the following officers for a term of two years, in accordance with article 39, paragraph 1, of the Covenant:

Chairperson: Mr. Yuji Iwasawa

Vice-Chairpersons: Ms. Zonke Zanele Majodina  
Sir Nigel Rodley  
Mr. Jose Luis Sanchez-Cerro

Rapporteur: Ms. Iulia Antoanella Motoc

9. During its ninety-fourth, ninety-fifth and ninety-sixth sessions, the Bureau of the Committee held nine meetings (three per session). 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, Ms. Christine Chanet, registered 82 communications during the reporting period and transmitted them to the States parties concerned, and issued 13 decisions calling for interim measures of protection pursuant to rule 92 of the Committee's rules of procedure.

11. The Special Rapporteur for follow-up on Views, Mr. Ivan Shearer, continued to assume his functions during the ninety-fourth session. The Special Rapporteur for follow-up on concluding observations, Sir Nigel Rodley, continued to assume his functions during the reporting period. During the ninety-sixth session, the Committee designated Ms. Ruth Wedgwood and Mr. Abdelfattah Amor as, respectively, the new Special Rapporteur for follow-up on Views and the new Special Rapporteur for follow-up on concluding observations. During the ninety-fourth session, Mr. Shearer presented an interim report on his follow-up activities to the plenary. Pending the designation of a new Special Rapporteur for follow-up on Views, the Chairman of the Committee presented the interim report on activities related to follow-up on Views to the plenary at the ninety-fifth session. The interim report was presented by Ms. Wedgwood at the ninety-sixth session. Interim reports were also submitted to the Committee by Sir Nigel Rodley during the ninety-fourth, ninety-fifth and ninety-sixth sessions. The reports on follow-up on Views can be found in annex IX (vol. II). 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-fourth, ninety-fifth and ninety-sixth sessions to consider and adopt lists of issues on the reports of Argentina, Australia,

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

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



Azerbaijan, Chad, Croatia, Ecuador, Mexico, Kingdom of the Netherlands, New Zealand, Republic of Moldova, Russian Federation, Rwanda, Switzerland, United Republic of Tanzania and Uzbekistan.

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 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-fourth session, the Working Group on Communications was composed of Mr. Bhagwati, Mr. Glèlè Ahanhanzo, Mr. Johnson Lopez, Ms. Palm, Mr. Rivas Posada, Mr. Perez Sanchez-Cerro, Ms. Motoc and Ms. Majodina. Ms. Palm was designated Chairperson-Rapporteur. The Working Group met from 6 to 10 October 2008.

15. At the ninety-fifth session, the Working Group on Communications was composed of Mr. Bhagwati, Mr. O'Flaherty, Mr. Rivas Posada, Mr. Iwasawa, Ms. Majodina, Ms. Motoc, Sir Nigel Rodley and Mr. Perez Sanchez-Cerro. Ms. Majodina was designated Chairperson-Rapporteur. The Working Group met from 9 to 13 March 2009.

16. At the ninety-sixth session, the Working Group on Communications was composed of Mr. Bhagwati, Ms. Chanet, Mr. Fathalla, Mr. Iwasawa, Ms. Keller, Ms. Motoc, Mr. O'Flaherty, Mr. Rivas Posada, Sir Nigel Rodley and Mr. Salvioli. Sir Nigel Rodley was designated Chairperson-Rapporteur. The Working Group met from 6 to 10 July 2009.

## **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, third, fourth, fifth, sixth, seventh, eighth and nine 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, from 23 to 25 June 2008, from 1 to 3 December 2008 and from 29 June to 1 July 2009 where this matter was also given consideration.

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

19. Ms. Chanet 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. At its ninety-fifth session, the Committee designated Ms. Keller as rapporteur for the preparation of new guidelines.

20. This issue was also discussed at the eighth and ninth inter-committee meetings (3-5 December and 29 June to 1 July 2009) and the twenty-first meeting of chairpersons of the human rights treaty bodies (2-3 July 2009). Mr. Amor and Mr. O'Flaherty represented the Committee at the eighth inter-committee meeting, and Mr. Iwasawa, Ms. Motoc and Mr. Rivas Posada represented the Committee at the ninth inter-committee meeting. Mr. Iwasawa attended the twenty-first meeting of chairpersons.

### **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. 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. Chanet 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 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-fourth session, the Committee discussed these issues in plenary on the basis of the report presented by Ms. Chanet and Ms. Wedgwood (see CCPR/C/SR.2588).

23. Pursuant to a recommendation of the fourth inter-committee meeting and the seventeenth meeting of persons chairing the human rights 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 and at its ninety-sixth session, requested the Secretariat to assist it in its task by keeping it informed of ongoing developments with regard to this issue.

24. From 20 to 24 April 2009, Ms. Zonke Zanele Majodina, Vice-Chairperson of the Committee, represented the Committee and delivered a statement on its behalf at the Durban Review Conference, which took place at the United Nations Office at Geneva.

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

25. 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>3</sup>

26. On 7 August, 29 August, 17 September, 12 November, 12 December 2008, and on 15 May and 9 June 2009, the Government of Peru notified the other States parties, through the intermediary of the Secretary-General, that it had extended or declared the state of emergency in different provinces and parts of the country. In these notifications, 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.

27. On 2 September 2008, the Government of Peru notified the other States parties, through the intermediary of the Secretary-General, that pursuant to decree No. 061-2008-PCM issued on 28 August 2008, decree No. 058-2008-PCM,

<sup>3</sup> Ibid. *Sixtieth Session, Supplement No. 40 (A/60/40)*, vol. I, chap. I, paras. 28-35.

declaring a state of emergency in certain districts and several provinces, had been declared null and void.

28. During the period under review, the Government of Guatemala notified the other States parties, through the intermediary of the Secretary-General, on 9 October 2008 of the declaration of a state of emergency for a period of 15 days in part of the country by Government decree No. 7-2008, specifying the restriction placed on certain rights and freedoms. On 24 October 2008, the Government of Guatemala notified the other States parties of the prorogation of the state of emergency for 15 days by Government decree No. 08-2008.

29. On 20 May 2009, the Government of Guatemala notified the other States parties, through the intermediary of the Secretary-General, of the declaration of a public health emergency throughout the national territory, by Government decree No. 7-2009 dated 6 May 2009, with a view to preventing and mitigating the effects of the influenza A (H1N1) epidemic, specifying the restriction placed on the rights and freedoms contained in articles 12, 19 and 21 of the Covenant. The notification of 20 May 2009 also indicated that the decree had been repealed on 12 May 2009.

30. On 18 October 2008, the Government of Colombia notified the other States parties, through the intermediary of the Secretary-General, of the adoption of legislative decree No. 3929 of 9 October 2008 declaring a nationwide state of internal disturbance for 90 days.

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

## **J. Meetings with States parties**

32. On 23 July 2009, during its ninety-sixth session, the Committee held its fifth meeting with States parties to the Covenant. Representatives of 80 States parties took part in the meeting.

33. The agenda set by the Committee included the following items:

(a) The consideration of State party reports under article 40 of the Covenant and Follow-up to concluding observations;

(b) The work under the Optional Protocol and Follow-up to Views;

(c) The relationship of the Committee with the Human Rights Council and the universal periodic review mechanism;

(d) Other matters of common interest.

34. The Chairperson, Mr. Yuji Iwasawa, opened the meeting and highlighted the most recent developments in the work of the Committee, stressing in particular the constant efforts of the Committee to improve its working methods.

35. Mr. Abdelfattah Amor, speaking on reporting obligations, indicated that as a general rule, States met their reporting obligations. There were, however, currently 90 overdue reports and 33 States parties had not yet submitted their initial report. Mr. Amor explained the procedure for the consideration of the situation of States parties whose reports were outstanding under rule 70 of the rules of procedure. He

also informed States about the current efforts of the Committee to update its reporting guidelines.

36. Sir Nigel Rodley reported on the Committee's procedure for follow-up on concluding observations and informed States about the latest developments concerning the strengthening of the procedures.

37. Ms. Ruth Wedgwood stressed the importance for States to follow up on Views adopted by the Committee under the Optional Protocol.

38. Ms. Christine Chanet presented the Committee's view on the interaction between the Committee and the Human Rights Council, in particular regarding the universal periodic review.

39. The representatives of States parties and the Committee members held a constructive dialogue regarding the above-mentioned issues and other matters of common concern and agreed on the usefulness of such meetings (see for a full summary of the discussion CCPR/C/SR.2644).

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

40. At its eighty-fifth session, the Committee decided that, after adoption of the new general comment No. 32 on article 14,<sup>4</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. The draft was adopted by the Committee at its ninety-fourth session, on 28 October 2008 (see general comment No. 33 in annex V).

41. At its ninety-fourth session, the Committee decided to revise its general comment No. 10 (1983) on article 19 of the Covenant (freedom of expression).

## **L. Staff resources**

42. The Committee reaffirms its concern regarding the shortage of staff resources and stresses once again the importance of allocating adequate 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. Furthermore, the Committee expresses concern that general rules concerning staff mobility in the Secretariat may hamper the work of the Committee, in particular for staff working in the Petitions Unit that need to remain in their position for a sufficiently long period so as to acquire experience and knowledge regarding the jurisprudence of the Committee.

## **M. Emoluments of the Committee**

43. 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 the General Assembly, in resolution 56/272, from US\$ 3,000 to the

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<sup>4</sup> *Ibid.*, *Sixty-second Session, Supplement No. 40 (A/62/40)*, vol. I, annex VI.

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 entitlements improperly disregarded should be restored.

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

44. 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-fourth, ninety-fifth and ninety-sixth sessions.

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

46. 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 forthcoming production by OHCHR of an updated version of the DVD containing both a film and extensive documentation on the work of the treaty bodies is a positive development.

47. 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, which was adopted by the Committee and made public at its ninety-fourth session (see CCPR/C/94/3).

48. At its ninety-sixth session, the Committee requested the Secretariat to ensure that access of the public be facilitated, in particular for public meetings during sessions held at the United Nations Headquarters in New York.

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

49. The Committee notes with appreciation that volumes 5, 6, 7, 8 and 9 of the Selected Decisions of the Human Rights Committee under the Optional Protocol have been published, bringing its jurisprudence up to date to the October 2007 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.

50. The Committee has learned with satisfaction that its decisions adopted under the Optional Protocol have been published in the databases of various institutions.<sup>5</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.

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

51. At its ninety-third session, the Committee confirmed the following schedule of meetings for 2009: ninety-seventh session from 12 to 30 October 2009. At its ninety-sixth session, it confirmed the following schedule of meetings for 2010: ninety-eighth session from 8 to 26 March 2010, ninety-ninth session from 12 to 30 July 2010 and hundredth session from 11 to 29 October 2010.

## **Q. Adoption of the report**

52. At its 2652nd meeting, on 29 July 2009, the Committee considered the draft of its thirty-third annual report, covering its activities at its ninety-fourth, ninety-fifth and ninety-sixth sessions, held in 2008 and 2009. 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>5</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**

53. 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**

54. 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.

55. In October 1999, the Committee adopted new consolidated guidelines on the form 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>6</sup>

56. 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>7</sup> 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

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<sup>6</sup> Ibid., *Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. A.

<sup>7</sup> Ibid., chap. III, sect. B, and *ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, chap. III, sect. B.



rules of procedure were issued (CCPR/C/3/Rev.6 and Corr.1).<sup>8</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>9</sup>

57. 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 on 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>10</sup>

58. 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>11</sup> to provide for the possibility of making provisional concluding observations 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. At its ninety-fourth session (October 2008), the Committee also decided to declare the State party in non-compliance with its obligations under article 40 of the Covenant.

59. 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

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<sup>8</sup> *Ibid.*, *Fifty-sixth Session, Supplement No. 40 (A/56/40)*, vol. I, annex III, sect. B.

<sup>9</sup> *Ibid.*, *Fifty-seventh Session, Supplement No. 40 (A/57/40)*, vol. I, annex VI.

<sup>10</sup> Except for the eighty-third session, when a new Special Rapporteur was appointed.

<sup>11</sup> Rule 70 of the rules of procedure.

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.

60. 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. At its ninety-fourth session (October 2008), the Committee also decided to declare the State party in non-compliance with its obligations under article 40 of the Covenant. 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.

61. 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.

62. 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.

63. 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. The State party having failed to submit its second periodic report, the Committee decided to make the provisional concluding observations on the situation in Saint Vincent and the Grenadines final and public at the end its ninety-second session (March 2008).

64. 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.

65. 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 and the Committee considered it at its ninety-fifth session.

66. 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. Provisional concluding observations were sent to the State party, which was requested to submit its initial report by 31 December 2008. At the end of its ninety-sixth session (July 2009), the Committee decided to convert the provisional concluding observations into final and public observations.

67. At its seventy-fourth session, the Committee adopted decisions spelling out the modalities for following up on concluding observations.<sup>12</sup> At its seventy-fifth session, the Committee appointed Mr. Yalden as its Special Rapporteur for follow-up on concluding observations. At the eighty-third session, Mr. Rivas Posada succeeded Mr. Yalden. At the ninetieth session, Sir Nigel Rodley was appointed Special Rapporteur for follow-up on concluding observations. At the ninety-sixth session, Mr. Abdelfattah Amor succeeded Sir Nigel Rodley.

68. 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>13</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 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

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<sup>12</sup> *Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 40 (A/57/40)*, vol. I, annex III, sect. A.

<sup>13</sup> *Ibid.*, vol. I, annex III, sect. B.

delegations during the consideration of State party reports. The first task forces were convened during the seventy-fifth session.

## **B. Follow-up to concluding observations**

69. Since its forty-fourth session in March 1992,<sup>14</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.

70. At its ninety-fourth session, the Committee requested the Special Rapporteur for follow-up on concluding observations, Sir Nigel Rodley, to present proposals to the Committee on ways to strengthen its follow-up procedure. On the basis of a paper submitted by the Special rapporteur for follow-up on concluding observations (CCPR/C/95/5), the Committee discussed and adopted several proposals to strengthen its follow-up procedure at its ninety-fifth decision (see annex VI).

71. During the period under review, such comments were received from Austria, Barbados, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, France, Georgia, Honduras, Hong Kong Special Administrative Region (China), Ireland, Libyan Arab Jamahiriya, Madagascar, Tunisia, Ukraine and United States of America, as well as the United Nations Interim Administration Mission in Kosovo (UNMIK). This information has been published and can be consulted on the Office of the United Nations High Commissioner for Human Rights website (<http://www2.ohchr.org/english/bodies/hrc/followup-procedure.htm>). 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**

72. 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>15</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.

73. The twenty-first meeting of chairpersons of treaty bodies was held in Geneva on 2 and 3 July 2009; Mr. Yuji Iwasawa participated. The eighth and ninth inter-committee meetings were held in Geneva respectively from 1 to 3 December

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<sup>14</sup> Ibid., *Forty-seventh Session, Supplement No. 40 (A/47/40)*, chap. I, sect. E, para. 18.

<sup>15</sup> Ibid., *Sixty-second Session, Supplement No. 40 (A/62/40)*, vol. I, annex V.

2008 and from 29 June to 1 July 2009. Representatives from each of the human rights treaty bodies participated. The Committee was represented by Mr. Abdelfattah Amor and Mr. Michael O'Flaherty at the eighth inter-committee meeting and by Ms. Iulia Motoc and Mr. Rafael Rivas Posada (see chapter I, section G).

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

74. At its ninety-sixth session, Mr. Mohammed Ayat took over from Mr. Edwin Johnson Lopez as Rapporteur mandated to liaise with the Office of the Special Adviser to the Secretary-General for the Prevention of Genocide and Mass Atrocities.

## Chapter III

### **Submission of reports by States parties under article 40 of the Covenant**

75. 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 2008 to July 2009**

76. During the period covered by the present report, 16 reports were submitted to the Secretary-General by the following States parties: Cameroon (fourth periodic report), Colombia (sixth periodic report), Estonia (third periodic report), El Salvador (sixth periodic report), Poland (sixth periodic report), Belgium (fifth periodic report), Jordan (third periodic report), Hungary (fifth periodic report), Serbia (second periodic report), Mongolia (fifth periodic report), Slovakia (third periodic report), Togo (fourth periodic report), Jamaica (third periodic report), Kazakhstan (initial report), Ethiopia (initial report) and Bulgaria (third periodic report).

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

77. 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.

78. 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.

79. 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 2009) or that have not submitted a report requested by a special decision of the Committee**

<i>State party</i>	<i>Type of report</i>	<i>Date due</i>	<i>Years overdue</i>
Gambia <sup>a</sup>	Second	21 June 1985	24
Equatorial Guinea <sup>b</sup>	Initial	24 December 1988	20
Somalia	Initial	23 April 1991	18
Saint Vincent and the Grenadines <sup>c</sup>	Second	31 October 1991	17
Grenada <sup>d</sup>	Initial	5 December 1992	17
Côte d'Ivoire	Initial	25 June 1993	16
Seychelles	Initial	4 August 1993	15
Angola	Initial/Special	9 April 1993/31 January 1994	15
Niger	Second	31 March 1994	15
Afghanistan	Third	23 April 1994	15
Dominica	Initial	16 September 1994	14
Guinea	Third	30 September 1994	14
Mozambique	Initial	20 October 1994	14
Cape Verde	Initial	5 November 1994	14
Iran (Islamic Republic of)	Third	31 December 1994	14
Malawi	Initial	21 March 1995	14
Burundi	Second	8 August 1996	12
Haiti	Initial	30 December 1996	12
Malta	Second	12 December 1996	12
Belize	Initial	9 September 1997	11

<i>State party</i>	<i>Type of report</i>	<i>Date due</i>	<i>Years overdue</i>
Nepal	Second	13 August 1997	11
Sierra Leone	Initial	22 November 1997	11
Turkmenistan	Initial	31 July 1998	11
Romania	Fifth	28 April 1999	11
Nigeria	Second	28 October 1999	9
Bolivia (Plurinational State of)	Third	31 December 1999	9
Lebanon	Third	31 December 1999	9
South Africa	Initial	9 March 2000	9
Burkina Faso	Initial	3 April 2000	9
Iraq	Fifth	4 April 2000	9
Senegal	Fifth	4 April 2000	9
Ghana	Initial	8 February 2001	8
Armenia	Second	1 October 2001	8
Macao Special Administrative Region (China) <sup>e</sup>	Initial	31 October 2001	7
Belarus	Fifth	7 November 2001	7
Bangladesh	Initial	6 December 2001	7
India	Fourth	31 December 2001	7
Lesotho	Second	30 April 2002	7
Cyprus	Fourth	1 June 2002	7
Zimbabwe	Second	1 June 2002	7
Cambodia	Second	31 July 2002	7
Uruguay	Fifth	21 March 2003	6
Guyana	Third	31 March 2003	6
Congo	Third	21 March 2003	6
Eritrea	Initial	22 April 2003	6



<i>State party</i>	<i>Type of report</i>	<i>Date due</i>	<i>Years overdue</i>
Gabon	Third	31 October 2003	5
Trinidad and Tobago	Fifth	31 October 2003	5
Peru	Fifth	31 October 2003	5
Democratic People's Republic of Korea	Third	1 January 2004	5
Djibouti	Initial	5 February 2004	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. At its ninety-fourth session (October 2008), the Committee also decided to declare the State party in non-compliance with its obligations under article 40 of the Covenant (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. At its ninety-fourth session (October 2008), the Committee also decided to declare the State party in non-compliance with its obligations under article 40 of the Covenant (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. At the end of its ninety-second session (March 2008), the Committee decided to convert the provisional concluding observations into final and public observations (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. At the end of its ninety-sixth session (July 2009), the Committee decided to convert the provisional concluding observations into final and public observations (see chap. IV, para. 95).

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

80. The Committee once again draws particular attention to the fact that 30 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.

81. With respect to the circumstances that are set out in chapter II, paragraphs 60, 63 and 66 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.

## 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**

82. 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-fourth, ninety-fifth and ninety-sixth 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**

##### **83. Denmark**

(1) The Human Rights Committee considered the fifth periodic report of Denmark (CCPR/C/DNK/5) at its 2570th and 2571st meetings (CCPR/C/SR.2570 and 2571), held on 13 and 14 October 2008, and adopted the following concluding observations at its 2591st meeting (CCPR/C/SR.2591), held on 28 October 2008.

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

(2) The Committee welcomes the submission of the fifth periodic report of Denmark, which includes detailed information on the measures taken to address the concerns expressed in the Committee's previous concluding observations (CCPR/CO/70/DNK), as well as the written replies to its list of issues (CCPR/C/DNK/Q/5/Add.1).

(3) The Committee welcomes the dialogue with the delegation of the State party, which included experts from relevant ministries responsible for the implementation of the Covenant.

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

(4) The Committee welcomes the extensive legislative, administrative and policy measures taken to improve the promotion and protection of human rights since the examination of the fourth periodic report, including:

(a) The adoption of the Act on Equal Ethnic Treatment and the Action Plan to Promote Equal Treatment and Diversity and Combat Racism;

(b) The introduction of a special section on torture in the Criminal Code, which, inter alia, specifies that criminal liability for acts of torture is no longer subject to the statute of limitations;

(c) The adoption of a number of legislative and policy measures aimed at eliminating violence against women, including the launch of a four-year Action Plan to Combat Men's Domestic Violence against Women and Children 2005/2008 and the elaboration, in May 2008, of revised instructions concerning the investigation and prosecution of cases of domestic violence;

(d) The far-reaching reform of the judicial system, which aims at rationalizing the court system and reducing the processing time of criminal and civil cases;

(e) The establishment, in May 2008, of the Board of Equal Treatment, with competence to receive individual complaints concerning alleged cases of discrimination based on gender, race, colour, religion or belief, disability, political opinion, age or sexual orientation, national, social or ethnic origin.

### C. Principal subjects of concern and recommendations

(5) The Committee regrets that the State party intends to maintain all the reservations entered upon ratification of the Covenant. It considers in particular that, following the recent reform of the jury system (CCPR/C/DNK/5, para. 350), which introduced the right to have one's conviction and sentence reviewed by a higher tribunal with respect to the most serious criminal cases, the scope of the reservation to article 14, paragraph 5, could be reduced.

**The State party should keep the reservations to the Covenant under constant review, with a view to withdrawing them in whole or in part. The State party should in particular consider narrowing the scope of the reservation to article 14, paragraph 5, in the light of the recent reform of the jury system.**

(6) The Committee notes with concern the decision taken by the State party not to incorporate the Covenant into its domestic legal order, contrary to the recommendation of the Committee on Incorporation of Human Rights Conventions into Danish Law (art. 2).

**The State party should reconsider its decision not to incorporate the Covenant into its domestic legal order, with a view to ensuring that all rights protected under the Covenant are given full effect in domestic law.**

(7) The Committee notes with concern that, despite the various measures taken by the State party to promote gender equality and increase the representation of women in publicly elected bodies, women continue to be underrepresented in political decision-making positions, especially at the local level. The Committee is also concerned about the low representation of women in high-level and managerial positions and on boards of private enterprises (arts. 2, 3, 25 and 26).

**The State party should strengthen its efforts to increase the participation of women in political decision-making positions, especially at the local level, by means of, inter alia, awareness-raising campaigns and, where feasible, temporary special measures. The State party should also seek ways to further support the participation of women in high-level and managerial positions and on boards of private enterprises through enhanced cooperation and dialogue with partners in the private sector.**

(8) The Committee remains concerned at the persistence of violence against women, including domestic violence, in spite of the efforts made by the State party to eliminate this phenomenon (arts. 3, 7 and 26).

**The State party should continue its efforts to eliminate violence against women, including domestic violence, by means of, inter alia, information campaigns on the criminal nature of this phenomenon and the allocation of sufficient financial resources to prevent such violence and provide protection and material support to victims.**

(9) The Committee is concerned at allegations that the airspace and airports of the State party have been used for so-called rendition flights of persons from third countries to countries where they risk being subjected to torture or ill-treatment. The Committee notes that the State party has set up a governmental task force to carry out an inquiry into this issue (arts. 7, 9 and 14).

**The State party should provide the Committee with the report of the governmental task force investigating allegations related to transit through its territory of rendition flights as soon as the report becomes available. It should also establish an inspection system to ensure that its airspace and airports are not used for such purposes.**

(10) While welcoming the acknowledgement by the delegation that diplomatic assurances do not release Denmark from its obligations under international human rights, humanitarian and refugee law, the Committee notes with concern that the State party may be willing to rely on such diplomatic assurances to return foreign nationals to countries where treatment contrary to article 7 of the Covenant is believed to occur (arts. 7, 9 and 14).

**The State party should exercise the utmost care in relying on diplomatic assurances when considering the return of foreign nationals to countries where treatment contrary to article 7 of the Covenant is believed to occur. The State party should also monitor treatment of such persons after their return and take appropriate action when the assurances are not fulfilled.**

(11) The Committee remains concerned at the use of long-term solitary confinement during pretrial detention, and in particular at the possibility of unlimited prolongation of such a measure with regard to persons charged with a crime under parts 12 and 13 of the Criminal Code, including persons under 18 years of age (arts. 7, 9 and 10).

**The State party should review its legislation and practice in relation to solitary confinement during pretrial detention, with a view to ensuring that such a measure is used only in exceptional circumstances and for a limited period of time.**

(12) The Committee takes note of the explanation provided by the delegation that the special position granted to the Evangelical Lutheran Church as the “Established Church of Denmark” (section 4 of the Constitutional Act of Denmark of 5 June 1953) is based on historical and social factors, as well as on the fact that the vast majority of the population belongs to this church. Nevertheless, the Committee notes with concern that the direct financial support that the Evangelical Lutheran Church receives from the State, and the administrative functions entrusted to it, such

as civil status registration and the management of burial grounds, could lead to discrimination against other religious groups (arts. 2, 18 and 26).

**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 are in full conformity with article 18 of the Covenant. In particular, the State party should consider reviewing its legislation and administrative practices regarding the direct financial support provided to the Established Church, and entrust the administrative functions relating to civil status registration and the management of burial grounds to State authorities.**

(13) The Committee notes with concern that, in its decision of 28 November 2003, the Supreme Court did not recognize the Thule Tribe of Greenland as a separate group capable of vindicating its traditional rights, despite the tribe's own perception to the contrary (arts. 2, 26 and 27).

**The State party should pay special attention to self-identification of the individuals concerned in the determination of their status as persons belonging to minorities or indigenous peoples.**

(14) The State party should publish and disseminate widely the text of its fifth 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. In addition to Danish, the Committee suggests that the report and the concluding observations be translated into minority languages spoken in Denmark, including Faroese.

(15) 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 8 and 11.

(16) The Committee requests the State party to provide in its sixth periodic report, due to be submitted by 31 October 2013, updated 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 Faroe Islands and in Greenland. The Committee also requests that the process of compiling the sixth periodic report involve civil society and non-governmental organizations operating in the State party.

#### 84. Monaco

(1) The Human Rights Committee discussed the second periodic report of Monaco (CCPR/C/MCO/2) at its 2572nd and 2573rd meetings (CCPR/C/SR.2572 and 2573) held on 14 and 15 October 2008, and adopted the following concluding observations at its 2591st meeting (CCPR/C/SR.2591), held on 28 October 2008.

##### A. Introduction

(2) The Committee welcomes the second periodic report of Monaco, in particular the information following up on its previous recommendations (CCPR/CO/72/MCO). It also applauds the written responses provided to the list of issues (CCPR/C/MCO/Q/2 and Add.1) and the additional information supplied during its consideration of the report. The Committee notes that the delegation included

representatives of ministerial departments that played an essential role in the application of the Covenant.

**B. Positive aspects**

(3) The Committee hails the amendment of the 1962 Constitution by Act No. 1249 of 2002 establishing the principle of the independence of the judiciary and verification by the Supreme Court of the legality of administrative decisions.

(4) The Committee notes with satisfaction the legislative advances made with respect to equality between the sexes, in particular the passage of the following acts:

(a) Act No. 1276 of 22 December 2003, permitting naturalized Monegasque women to pass their nationality on to their children;

(b) Act No. 1278 of 29 December 2003, amending the Civil Code and establishing:

(i) Equal rights between man and wife within the household, the choice of a place of residence being henceforth subject to agreement between the spouses;

(ii) Equal rights between children born in wedlock and those born out of wedlock.

(5) The Committee hails the passage of the “Justice and Freedom” Act, No. 1343, of 26 December 2007, amending the Code of Criminal Procedure and adding a new article 60-4, dealing with the rights of persons held in custody and establishing a number of safeguards for human rights, including the right to consult a lawyer of one’s choice. The Committee also welcomes the introduction of “custodial judges” (*juges des libertés*).

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

(6) While taking note of the explanations provided by the State party in its written responses to the list of issues, the Committee reiterates its concern about the interpretative declarations made and the reservations entered when the Covenant was ratified.

**The Committee recommends that the State party reconsider and reduce the number of its interpretative declarations and reservations, which have become out of date and unnecessary following changes in the State party, in particular those relating to articles 13, 14 (para. 5), 19 and 25 (subparagraph (c)) of the Covenant.**

(7) Although the Optional Protocol to the Covenant is currently under consideration, the Committee notes that the State party has not yet acknowledged the competence of the Committee to receive and consider communications from individuals under its jurisdiction relating to provisions of the Covenant.

**The Committee encourages the State party to accede to the Optional Protocol to the Covenant.**

(8) The Committee takes note of the establishment of a Human Rights and Fundamental Freedoms Unit within the Department of External Relations in 2005, but observes that it does not qualify as an independent national human rights institution (art. 2).

**The Committee recommends that the State party establish a national human rights institution in accordance with the principles relating to the status of national institutions for promotion and protection of human rights (the “Paris Principles”) annexed to General Assembly resolution 48/134. In so doing, the State party should consult civil society.**

(9) While taking note of current proceedings relating to the bill on combating domestic violence, the Committee regrets that the State party has not yet adopted specific legislation on domestic violence against women (art. 3).

**The Committee encourages the State party to adopt specific legislation on domestic violence. The State party should also step up public information campaigns, inform women of their rights, and provide victims with material and psychological support. The police should be given specific training on the subject.**

(10) While the Committee takes note of the bill on medical interruption of pregnancy, which is intended to amend article 248 of the Criminal Code so that medical interruption of pregnancy will no longer be considered a crime, inter alia in cases where a pregnancy endangers a woman’s life or physical health, it is concerned to observe that abortion is still illegal in all circumstances under the State party’s legal system (arts. 3 and 6).

**The State party should amend its legislation on abortion to comply with the Covenant. It should take steps to help women avoid unwanted pregnancies so that they do not need to resort to abortions that are illegal or that take place in unsafe conditions such as may endanger their lives, or to seek abortions abroad.**

(11) While it understands the security requirements associated with efforts to combat terrorism, the Committee is concerned about the broad, ill-defined definition of terrorist acts given in book III, title III, of the Criminal Code on offences against the State. More specifically, it is concerned that the definition of “environmental” terrorism is not clear.

**The State party should ensure that any action taken to combat terrorism is in keeping with the requirements of the Covenant. It should also formulate and adopt a more precise definition of terrorist acts. The Committee requests the State party to provide it with further information on the definition and scope of “environmental” terrorism.**

(12) The Committee takes note of the State party’s assurances that banishment will be done away with during the current reform of the Criminal Code, but it is still concerned that out-of-date provisions contrary to the Covenant, such as the criminal law provisions authorizing banishment, remain in force (art. 12).

**The State party should repeal out-of-date provisions contrary to the Covenant such as the criminal-law provisions authorizing banishment, which are in complete contradiction with article 12, paragraph 4, of the Covenant.**

(13) The Committee has taken note of the bill on the principle of allowing the establishment of bodies corporate by simple declaration. It is, however, concerned about the discretion given to the Administration to decide whether a body corporate being set up is sectarian in nature (arts. 18 and 22).

**The Committee recommends that the State party define more specifically the conditions required for setting up bodies corporate, and to clarify what it means by “objet de caractère sectaire” (“sectarian purposes”?).**

(14) The Committee requests the State party to publish the second periodic report, its written responses to the list of issues, and these concluding observations, as adopted by the Committee, making them widely available to all sectors of society and to the legislative, administrative and judicial authorities in particular. It also requests the State party to give details in its next periodic report of whatever follow-up action it has taken, and urges it to encourage the establishment of domestic non-governmental human rights organizations.

(15) In accordance with rule 71, paragraph 5, of the Committee’s rules of procedure, the State party should provide, within one year, information on the follow-up action it has taken on the Committee’s recommendations in paragraph 9 above.

(16) The Committee requests the State party to include in its third periodic report, due to be submitted by 28 October 2013, specific, up-to-date information on follow-up action taken on all the recommendations made and on the implementation of the Covenant as a whole. The Committee also requests that the third periodic report be prepared in consultation with civil society entities operating in the State party.

#### **85. Japan**

(1) The Human Rights Committee considered the fifth periodic report submitted by Japan (CCPR/C/JPN/5) at its 2574th, 2575th and 2576th meetings (CCPR/C/SR.2574, 2575 and 2576), held on 15 and 16 October 2008, and adopted the concluding observations below at its 2592nd, 2593rd and 2594th meetings (CCPR/C/SR.2592, 2593 and 2594), held on 28 and 29 October 2008.

#### **A. Introduction**

(2) The Committee welcomes the State party’s comprehensive fifth periodic report and written replies to the list of issues and the detailed answers given by the delegation to the Committee’s oral questions. It notes, however, that the report was submitted in December 2006, although it was due in October 2002. The Committee appreciates the presence of a large high-level inter-ministerial delegation and of a large number of national non-governmental organizations, showing a strong interest in the dialogue.

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

(3) The Committee welcomes the adoption of several legislative and institutional measures designed to advance the equal enjoyment of rights by men and women, in particular:

(a) The adoption of the Basic Law for a Gender-Equal Society in 1999;

(b) The appointment of a Government minister for gender equality;

(c) The approval by the Cabinet in 2005 of the Second Basic Plan for Gender Equality, which sets the objective that women shall occupy at least 30 per cent of leadership positions in all fields of society by 2020;



(d) The establishment of a gender equality bureau, which promotes the Basic Plan for Gender Equality and coordinates basic policies for the development of a gender-equal society.

(4) The Committee notes the measures taken by the State party to protect and assist victims of gender-based violence and exploitation, including domestic violence, sexual violence and trafficking in persons, such as the establishment of spousal violence counselling and support centres, women's consulting offices and women's protection facilities; the increase in the number of protection orders and the extension of their scope under the revised Act on the Prevention of Spousal Violence and the Protection of Victims; and the adoption in 2004 of a plan of action on measures to combat trafficking in persons and the establishment of an inter-ministerial liaison committee (task force) to combat trafficking.

(5) The Committee welcomes the State party's accession to the Rome Statute of the International Criminal Court in 2007.

### C. Principal subjects of concern and recommendations

(6) The Committee is concerned that many of its recommendations made after the consideration of the State party's fourth periodic report have not been implemented.

**The State party should give effect to the recommendations adopted by the Committee in the present as well as in its previous concluding observations.**

(7) The Committee notes the absence of information on domestic court decisions, other than Supreme Court judgements finding no violation of the Covenant, which make direct reference to provisions of the Covenant (art. 2).

**The State party should ensure that the application and interpretation of the Covenant form part of the professional training for judges, prosecutors and lawyers and that information about the Covenant is disseminated at all levels of the judiciary, including the lower courts.**

(8) The Committee notes that one of the reasons why the State party has not ratified the Optional Protocol to the Covenant is the concern that such ratification may give rise to problems with regard to its judicial system, including the independence of its judiciary.

**The State party should consider ratifying the Optional Protocol, taking into account the Committee's consistent jurisprudence that it is not a fourth instance of appeal and that it is, in principle, precluded from reviewing the evaluation of facts and evidence or the application and interpretation of domestic legislation by national courts.**

(9) The Committee notes with concern that the State party has still not established an independent national human rights institution (art. 2).

**The State party should establish an independent national human rights institution outside the Government, in accordance with the Paris Principles (General Assembly resolution 48/134, annex), with a broad mandate covering all international human rights standards accepted by the State party and with competence to consider and act on complaints of**

**human rights violations by public authorities, and allocate adequate financial and human resources to the institution.**

(10) While taking note of the State party's explanation that "public welfare" cannot be relied on as a ground for placing arbitrary restrictions on human rights, the Committee reiterates its concern that the concept of "public welfare" is vague and open-ended and may permit restrictions exceeding those permissible under the Covenant (art. 2).

**The State party should adopt legislation defining the concept of "public welfare" and specifying that any restrictions placed on the rights guaranteed in the Covenant on grounds of "public welfare" may not exceed those permissible under the Covenant.**

(11) The Committee reiterates its concern about discriminatory provisions in the Civil Code affecting women, such as the prohibition for women to remarry in the six months following divorce and the different age of marriage for men and women (arts. 2, para. 1, 3, 23, para. 4, and 26).

**The State party should amend the Civil Code, with a view to eliminating the period during which women are prohibited from remarrying following divorce and harmonizing the minimum age of marriage for men and women.**

(12) The Committee notes with concern that, despite numerical targets for the representation of women in public offices, women hold only 18.2 per cent of the seats in the Diet and 1.7 per cent of Government posts at the level of directors of ministries, and that some of the numerical targets set in the 2008 programme for accelerating women's social participation are extremely modest, such as the 5 per cent target for women's representation in positions equivalent to directors of ministries by 2010 (arts. 2, para. 1, 3, 25 and 26).

**The State party should intensify its efforts to achieve equitable representation of women and men in the National Diet and at the highest levels of the Government and in the public service, within the time frame set in the Second Basic Plan for Gender Equality adopted in 2005, by adopting special measures such as statutory quota and by reviewing numerical targets for women's representation.**

(13) The Committee is concerned about reports that women hold only 10 per cent of management positions in private companies and earn on average only 51 per cent of men's salaries, that women account for 70 per cent of informal workers and as such are excluded from benefits such as paid leave, maternity protection and family allowance, are vulnerable to sexual harassment owing to their unstable contractual situation, and that they are often forced to work as part-time workers to sustain family life (arts. 2, para. 1, 3 and 26).

**The State party should take measures to promote the recruitment of women as formal workers and to eliminate the gender wage gap, including (a) require all companies to take positive action to ensure equal employment opportunities for women; (b) review any deregulation of labour standards resulting in longer working hours; (c) further increase the number of child-care facilities, with a view to enabling women as well as men to balance work and family life; (d) relax the conditions for equal**

**treatment of part-time workers under the revised Part-Time Workers Law; (e) criminalize sexual harassment at the workplace; (f) extend the prohibited forms of indirect discrimination under the Law on Equal Opportunity and Treatment of Men and Women to include the different treatment of employees on the basis of their status as heads of household or as part-time or contract employees; and (g) adopt effective measures to prevent indirect discrimination.**

(14) The Committee notes with concern that the definition of rape in article 177 of the Criminal Code only covers actual sexual intercourse between men and women and requires resistance by victims against the attack, and that rape and other sexual crimes cannot be prosecuted without a complaint filed by the victim except in cases where the victim is under 13 years of age. It is also concerned about reports that perpetrators of sexual violence frequently escape just punishment or receive light sentences, that judges often unduly focus on the sexual past of victims and require them to provide evidence that they have resisted the assault, that the monitoring and enforcement of the revised Prison Law and the guidelines of the National Police Agency for victim support is ineffective, and that there is a lack of doctors and nurses with specialized training in sexual violence, as well as of support for non-governmental organizations providing such training (arts. 3, 7 and 26).

**The State party should broaden the scope of the definition of rape in article 177 of the Criminal Code and ensure that incest, sexual abuse other than actual sexual intercourse, as well as rape of men, are considered serious criminal offences; remove the burden on victims to prove resistance against the assault; and prosecute rape and other crimes of sexual violence ex officio. It should also introduce mandatory gender-sensitive training in sexual violence for judges, prosecutors and police and prison officers.**

(15) The Committee is concerned that sentences for perpetrators of domestic violence are reportedly lenient and that violators of protection orders are only arrested in cases of repeated violations or when they ignore warnings. It is also concerned that there is a lack of long-term assistance for victims of domestic violence, and that the delays in granting foreign victims of domestic violence residence status effectively bar them from applying for stable employment and from having access to social security benefits (arts. 3, 7, 26 and 2, para. 3).

**The State party should review its sentencing policy for perpetrators of domestic violence, detain and prosecute violators of protection orders, increase the amount of compensation for victims of domestic violence and of child-rearing allowances for single mothers, enforce court orders for compensation and child support, and strengthen long-term rehabilitation programmes and facilities, as well as assistance for victims with special needs, including non-citizens.**

(16) While noting that, in practice, the death penalty is only imposed for offences involving murder, the Committee reiterates its concern that the number of crimes punishable by the death penalty has still not been reduced and that the number of executions has steadily increased in recent years. It is also concerned that death row inmates are kept in solitary confinement, often for protracted periods, and are executed without prior notice before the day of execution and, in some cases, at an advanced age or despite the fact that they have mental disabilities. The non-use of

the power of pardon, commutation or reprieve and the absence of transparency concerning procedures for seeking benefit for such relief is also a matter of concern (arts. 6, 7 and 10).

**Regardless of opinion polls, the State party should favourably consider abolishing the death penalty and inform the public, as necessary, about the desirability of abolition. In the meantime, the death penalty should be strictly limited to the most serious crimes, in accordance with article 6, paragraph 2, of the Covenant. Consideration should be given by the State party to adopting a more humane approach with regard to the treatment of death row inmates and the execution of persons at an advanced age or with mental disabilities. The State party should also ensure that inmates on death row and their families are given reasonable advance notice of the scheduled date and time of the execution, with a view to reducing the psychological suffering caused by the lack of opportunity to prepare themselves for this event. The power of pardon, commutation and reprieve should be genuinely available to those sentenced to death.**

(17) The Committee notes with concern that an increasing number of defendants are convicted and sentenced to death without exercising their right of appeal, that meetings of death row inmates with their lawyer in charge of requesting a retrial are attended and monitored by prison officials until the court has decided to open the retrial, and that requests for retrial or pardon do not have the effect of staying the execution of a death sentence (arts. 6 and 14).

**The State party should introduce a mandatory system of review in capital cases and ensure the suspensive effect of requests for retrial or pardon in such cases. Limits may be placed on the number of requests for pardon in order to prevent abuse of the suspension. It should also ensure the strict confidentiality of all meetings between death row inmates and their lawyers concerning retrial.**

(18) The Committee reiterates its concern that, despite the formal separation of the police functions of investigation and detention under the Act on Penal Detention Facilities and Treatment of Inmates and Detainees, the substitute detention system (*Daiyo Kangoku*), under which suspects can be detained in police detention facilities for a period up to 23 days to facilitate investigations, without the possibility of bail and with limited access to a lawyer especially during the first 72 hours of arrest, increases the risk of prolonged interrogations and abusive interrogation methods with the aim of obtaining a confession (arts. 7, 9, 10 and 14).

**The State party should abolish the substitute detention system or ensure that it is fully compliant with all guarantees contained in article 14 of the Covenant. It should ensure that all suspects are guaranteed the right of confidential access to a lawyer, including during the interrogation process, and to legal aid from the moment of arrest and irrespective of the nature of their alleged crime, and to all police records related to their case, as well as to medical treatment. It should also introduce a pre-indictment bail system.**

(19) The Committee notes with concern the insufficient limitations on the duration of interrogations of suspects contained in internal police regulations, the exclusion of counsel from interrogations on the assumption that such presence would diminish

the function of the interrogation to persuade the suspect to disclose the truth, and the sporadic and selective use of electronic surveillance methods during interrogations, frequently limited to recording the confession by the suspect. It also reiterates its concern about the extremely high conviction rate based primarily on confessions. This concern is aggravated in respect of such convictions that involve death sentences (arts. 7, 9 and 14).

**The State party should adopt legislation prescribing strict time limits for the interrogation of suspects and sanctions for non-compliance, ensure the systematic use of video-recording devices during the entire duration of interrogations and guarantee the right of all suspects to have counsel present during interrogations, with a view to preventing false confessions and ensuring the rights of suspects under article 14 of the Covenant. It should also acknowledge that the role of the police during criminal investigations is to collect evidence for the trial rather than establishing the truth, ensure that silence by suspects is not considered inculpatory, and encourage courts to rely on modern scientific evidence rather than on confessions made during police interrogations.**

(20) The Committee is concerned that the Penal Institution Visiting Committees, the Detention Facilities Visiting Committees established under the 2006 Act on Penal Detention Facilities and Treatment of Inmates and Detainees, the Review and Investigation Panel for Complaints from Inmates of Penal Institutions reviewing complaints that have been dismissed by the Minister of Justice, and the Prefectural Public Safety Commissions responsible for reviewing complaints, petitions for review and reports of cases submitted by detainees lack the independence, resources and authority required for external prison or detention monitoring and complaint mechanisms to be effective. In this regard, it notes the absence of any verdicts of guilt or disciplinary sanctions against detention officers for crimes of assault or cruelty during the period from 2005 to 2007 (arts. 7 and 10).

**The State party should ensure:**

**(a) That the Penal Institution and Detention Facilities Visiting Committees are adequately equipped and have full access to all relevant information in order to effectively discharge their mandate and that their members are not appointed by the management of penal institutions and police detention facilities;**

**(b) That the Review and Investigation Panel for Complaints from Inmates of Penal Institutions is adequately staffed and that its opinions are binding on the Ministry of Justice;**

**(c) That the competence for reviewing complaints submitted by detainees is transferred from the Prefectural Public Safety Commissions to an independent body comprising external experts. It should include in its next periodic report statistical data on the number and nature of complaints received from prisoners and detainees, the sentences or disciplinary measures imposed on perpetrators and any compensation provided to victims.**

(21) The Committee is concerned that death row inmates are confined to single rooms day and night, purportedly to ensure their mental and emotional stability, and that lifetime prisoners are sometimes also placed in solitary confinement for

protracted periods of time. It is also concerned about reports that inmates may be confined to protection cells without prior medical examination initially for a period of 72 hours, which is indefinitely renewable, and that a certain category of prisoners are placed in separate “accommodating blocks” without the opportunity to appeal against this measure (arts. 7 and 10).

**The State party should relax the rule under which inmates on death row are placed in solitary confinement, ensure that solitary confinement remains an exceptional measure of limited duration, introduce a maximum time limit and require the prior physical and mental examination of an inmate for confinement in protection cells and discontinue the practice of segregating certain inmates in “accommodating blocks” without clearly defined criteria or possibilities of appeal.**

(22) The Committee notes with concern that the State party has still not accepted its responsibility for the “comfort women” system during the Second World War, that perpetrators have not been prosecuted, that the compensation provided to victims is financed by private donations rather than public funds and is insufficient, that few history textbooks contain references to the “comfort women” issue, and that some politicians and mass media continue to defame victims or to deny the events (arts. 7 and 8).

**The State party should accept legal responsibility and apologize unreservedly for the “comfort women” system in a way that is acceptable to the majority of victims and restores their dignity, prosecute perpetrators who are still alive, take immediate and effective legislative and administrative measures to compensate adequately all survivors as a matter of right, educate students and the general public about the issue, and refute and sanction any attempt to defame victims or to deny the events.**

(23) The Committee is concerned about the lack of statistical data on the (estimated) number of persons trafficked to and in transit through the State party, the low number of prison sentences imposed on perpetrators of trafficking-related crimes, the decreasing number of trafficking victims protected in public and private shelters, the lack of comprehensive support for victims, including interpretation services, medical care, counselling, legal support for claiming unpaid wages or compensation and long-term support for rehabilitation, and the fact that special permission to stay is only granted for the period necessary to convict perpetrators and that it is not granted to all victims of trafficking (art. 8).

**The State party should intensify its efforts to identify victims of trafficking and ensure the systematic collection of data on trafficking flows to and in transit through its territory, review its sentencing policy for perpetrators of trafficking-related crimes, support private shelters offering protection to victims, strengthen victim assistance by ensuring interpretation, medical care, counselling, legal support for claiming unpaid wages and compensation, long-term support for rehabilitation and stability of legal status to all victims of trafficking.**

(24) The Committee is concerned about reports that non-citizens who come to the State party under the industrial training and technical internship programmes are

excluded from the protection of domestic labour legislation and social security and that they are often exploited in unskilled labour without paid leave, receive training allowances below the legal minimum wage, are forced to work overtime without compensation and are often deprived of their passports by their employers (arts. 8 and 26).

**The State party should extend the protection of domestic legislation on minimum labour standards, including the legal minimum wage, and social security to foreign industrial trainees and technical interns, impose appropriate sanctions on employers who exploit such trainees and interns, and consider replacing the current programmes with a new scheme that adequately protects the rights of trainees and interns and focuses on capacity-building rather than recruiting low-paid labour.**

(25) The Committee notes with concern that the 2006 Immigration Control and Refugee Recognition Act does not expressly prohibit the return of asylum-seekers to a country where there is a risk of torture, that the recognition rates for asylum-seekers remain low in relation to the number of applications filed, and that there are often substantial delays in the refugee recognition process during which applicants are not allowed to work and receive only limited social assistance. It is also concerned that the possibility of filing an objection with the Minister for Justice against a negative asylum decision does not constitute an independent review because the refugee examination counsellors advising the Minister upon review are not independently appointed and have no power to issue binding decisions. Lastly, it is concerned about reported cases of rejected asylum-seekers having been deported before they could submit an objection against the negative decision on their application to stay the execution of the deportation order (arts. 7 and 13).

**The State party should consider amending the Immigration Control and Refugee Recognition Act, with a view to explicitly prohibiting the return of asylum-seekers to countries where there is a risk of torture or other ill-treatment, and ensure that all asylum-seekers have access to counsel, legal aid and an interpreter, as well as to adequate State-funded social assistance or employment during the entire length of proceedings. It should also establish an entirely independent appeal mechanism, including for applicants who are deemed to be “possible terrorists” by the Minister for Justice, and ensure that rejected applicants are not deported immediately after the conclusion of the administrative proceedings before they can submit an appeal against the negative asylum decision.**

(26) The Committee is concerned about unreasonable restrictions placed on freedom of expression and on the right to take part in the conduct of public affairs, such as the prohibition of door-to-door canvassing, as well as restrictions on the number and type of written materials that may be distributed during pre-election campaigns, under the Public Offices Election Law. It is also concerned about reports that political activists and public employees have been arrested and indicted under laws on trespassing or under the National Civil Service Law for distributing leaflets with content critical of the Government to private mailboxes (arts. 19 and 25).

**The State party should repeal any unreasonable restrictions on freedom of expression and on the right to take part in the conduct of public affairs from its legislation to prevent the police, prosecutors and courts from**

**unduly restricting political campaigning and other activities protected under articles 19 and 25 of the Covenant.**

(27) The Committee is concerned about the low age of sexual consent, which has been set at 13 years for boys and girls (art. 24).

**The State party should raise the age of sexual consent for boys and girls from its current level of 13 years, with a view to protecting the normal development of children and preventing child abuse.**

(28) The Committee reiterates its concern that children born out of wedlock are discriminated against with regard to the acquisition of nationality, inheritance rights and birth registration (arts. 2, para. 1, 24 and 26).

**The State party should remove any provisions discriminating against children born out of wedlock from its legislation, including article 3 of the Nationality Law, article 900 (4) of the Civil Code, and article 49 (1), item 1, of the Family Registration Law prescribing that birth registration forms shall indicate whether or not a child is “legitimate”.**

(29) The Committee is concerned about discrimination against lesbian, gay, bisexual and transgender persons in employment, housing, social security, health care, education and other fields regulated by law, as exemplified by article 23 (1) of the Public Housing Law, which applies only to married and unmarried opposite-sex couples and effectively bars unmarried same-sex couples from renting public housing, and by the exclusion of same-sex partners from protection under the Law for the Prevention of Spousal Violence and the Protection of Victims (arts. 2, para. 1, and 26).

**The State party should consider amending its legislation, with a view to including sexual orientation among the prohibited grounds of discrimination, and ensure that benefits granted to unmarried cohabiting opposite-sex couples are equally granted to unmarried cohabiting same-sex couples, in line with the Committee’s interpretation of article 26 of the Covenant.<sup>16</sup>**

(30) The Committee notes with concern that, as a result of the non-retroactivity of the elimination of the nationality requirement from the National Pension Law in 1982 combined with the requirement that a person pay contributions to the pension scheme for at least 25 years between the ages of 20 and 60, a large number of non-citizens, primarily Koreans who lost Japanese nationality in 1952, are effectively excluded from eligibility for pension benefits under the national pension scheme. It also notes with concern that the same applies to disabled non-citizens who were born before 1962 owing to a provision that non-citizens who were older than 20 years at the time when the nationality clause was repealed from the National Pension Law are not eligible for disability pension benefits (arts. 2, para. 1, and 26).

**The State party should make transitional arrangements for non-citizens affected by the age requirements stipulated in the National Pension Law, with a view to ensuring that non-citizens are not discriminatorily excluded from the national pension scheme.**

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<sup>16</sup> See *Young v. Australia*, communication No. 901/1999 and *X v. Colombia*, communication No. 1361/2005.



(31) The Committee is concerned that State subsidies for schools that teach in the Korean language are significantly lower than those for ordinary schools, making them heavily dependent on private donations, which are not exempted or deductible from taxes, unlike donations to private Japanese schools or international schools, and that diplomas from Korean schools do not automatically qualify students to enter university (arts. 26 and 27).

**The State party should ensure the adequate funding of Korean language schools by increasing State subsidies and applying the same fiscal benefits to donors of Korean schools as to donors of other private schools, and recognize diplomas from Korean schools as direct university entrance qualifications.**

(32) The Committee notes with concern that the State party has not officially recognized the Ainu and the Ryukyu/Okinawa as indigenous peoples entitled to special rights and protection (art. 27).

**The State party should expressly recognize the Ainu and Ryukyu/Okinawa as indigenous peoples in domestic legislation, adopt special measures to protect, preserve and promote their cultural heritage and traditional way of life, and recognize their land rights. It should also provide adequate opportunities for Ainu and Ryukyu/Okinawa children to receive instruction in or of their language and about their culture, and include education on Ainu and Ryukyu/Okinawa culture and history in the regular curriculum.**

(33) The Committee sets 29 October 2011 as the date for the submission of the sixth periodic report of Japan. It requests that the State party's fifth periodic report and the present concluding observations be published and widely disseminated in Japanese and, to the extent possible, in national minority languages to the general public, as well as to the judicial, legislative and administrative authorities. It also requests that the sixth periodic report be made available to civil society and to non-governmental organizations operating in the State party.

(34) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within a year information on the follow-up given to the Committee's recommendations in paragraphs 17, 18, 19 and 21 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.

## 86. Nicaragua

(1) The Committee considered the third periodic report of Nicaragua (CCPR/C/NIC/3) at its 2577th and 2578th meetings (CCPR/C/SR.2577 and 2578), held on 17 October 2008, and adopted the following concluding observations at its 2594th meeting (CCPR/C/SR.2594), held on 29 October 2008.

### A. Introduction

(2) The Committee welcomes the third periodic report of Nicaragua, while observing that the report was submitted more than 15 years late. The report gives detailed information on legislation recently adopted by the State party and on its forthcoming legislative plans. The Committee expresses its thanks for the written

responses to the list of issues, and for the responses given orally by the delegation. It also congratulates the State party on its submission of a core document in conformity with the harmonized guidelines on reporting under the international human rights treaties (HRI/CORE/NIC/2008).

**B. Positive aspects**

(3) The Committee welcomes the ratification, by Decree No. 122 of 11 September 2008, of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aimed at the abolition of the death penalty.

(4) The Committee notes the adoption in 2004 of the Organization Act on the Judiciary and accompanying regulations, and the adoption in June 2008 of the Judicial Career Act and accompanying regulations.

(5) The Committee applauds the ratification in August 2008 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

(6) The Committee hails the creation, pressed for by the Supreme Court of Justice in coordination with the Organization of American States (OAS), of the system of judicial facilitators. This is a programme making it easier for citizens, women in particular, to have access to justice.

(7) The Committee also welcomes the adoption of the Code of Criminal Procedure aimed at improving the administration of justice.

(8) The Committee notes with interest of the establishment by Act No. 212 of 1996 of the Office of the Procurator for the Protection of Human Rights, functioning as a commission of the National Assembly for the promotion, protection and safekeeping of constitutional guarantees. It also welcomes the introduction of special procurators for children and adolescents, for women, for indigenous peoples and ethnic communities, for persons with disabilities, for persons deprived of their liberty and for civic participation.

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

(9) The Committee is concerned at the absence of specific penalties for trafficking in and the sexual exploitation of women and children, and the fact that women and children are trafficked for sexual exploitation purposes in the State party (arts. 3, 8 and 24).

**The State party should step up efforts to combat the trafficking of women and children and, in particular:**

**(a) Explicitly make trafficking in and the sexual exploitation of women and children criminal offences;**

**(b) Ensure that punishment commensurate with the gravity of the offences is inflicted upon anyone who exploits women and children for such purposes;**

**(c) Maintain its efforts to make the general public aware of the criminal nature of the sexual exploitation of women and children;**

**(d) Arrange training courses for the competent authorities;**

**(e) Protect and assist the victims of sexual exploitation.**

(10) While the Committee welcomes the adoption on 14 February 2008 of the Equal Rights and Opportunities Act, No. 648, which sets the objective of promoting equality between men and women in the enjoyment of civil and political rights, among others, it regrets that the proportion of women in the civil service remains low (arts. 3, 25 and 26).

**The State party should meet the targets set in this respect in the Equal Rights and Opportunities Act, taking action in particular to ensure that more women are present at the most senior levels of the civil service.**

(11) The Committee expresses its concern at the discrimination women face in the workplace, including access to employment and wage differentials (arts. 3 and 26).

**The State party should intensify its efforts to combat discrimination against women in employment matters, guaranteeing, inter alia, equal access to employment and equal pay for equal work.**

(12) While the Committee notes the approval of a standard operating procedure for handling of cases of domestic abuse and sexual aggression, it is concerned at the increase in recent years in killings of women arising from gender violence and domestic and sexual violence in particular. It is also concerned that attackers appear to go unpunished (arts. 3 and 7).

**The Committee urges the State party to take immediate steps to put a halt to killings of women and, in particular:**

- (a) **Conduct investigations and punish their attackers;**
- (b) **Allow the victims of gender violence effective access to justice;**
- (c) **Provide police protection for victims, and set up shelters where victims may live in dignity;**
- (d) **Maintain and promote opportunities for direct participation by women, both nationally and locally, in decision-taking on matters related in particular to violence against women, and ensure that women participate and are represented in civil society;**
- (e) **Take steps to prevent and warn against gender violence, such as giving police officers, particularly those in the police units for women, training on women's rights and gender violence.**

**The Committee would be grateful to receive detailed information in the next periodic report regarding the progress made in combating gender violence.**

(13) The Committee notes with concern the general ban on abortion, even in cases of rape, incest and, apparently, pregnancies threatening the life of the mother. It is also concerned that the law authorizing therapeutic abortion in such circumstances was repealed by Parliament in 2006 and that, since the introduction of the ban, there have been various documented cases in which the death of a pregnant woman has been associated with a lack of timely medical intervention to save her life such as would have taken place under the legislation in force before the law was revised. The Committee also notes with concern that the State party has not clarified in writing that medical professionals can follow the Standard Operating Procedures for

Dealing with Obstetric Complications without fear of criminal investigation or prosecution by the State party (arts. 6 and 7).

**The State party should bring its legislation on abortion into line with the provisions of the Covenant. It should also take steps to help women avoid unwanted pregnancies so that they do not need to resort to illegal or unsafe abortions which may endanger their lives, or seek abortions abroad. The State party should also avoid penalizing medical professionals in the conduct of their professional duties.**

(14) The Committee notes with concern that detainees continue to suffer ill-treatment at the hands of the forces of law and order, especially in prisons, but also at the time of their arrest by the police, and that in most cases such conduct goes unpunished (arts. 7 and 10).

**(a) The State party should take immediate, effective steps to end such abuse, remain vigilant, investigate and, where appropriate, bring to trial and punish members of the forces of law and order responsible for ill-treatment, and indemnify the victims.**

**(b) The State party should step up training in human rights for the forces of law and order so that they do not engage in such conduct.**

(15) The Committee is concerned that the corporal punishment of children at school is not forbidden by law, and regrets that no specific information on the subject has been provided (arts. 7 and 24).

**National legislation in the State party should ban all corporal punishment of children, at school and in other institutions for children.**

(16) The Committee is concerned about alleged instances of wrongful arrest occurring, in particular, in connection with public protests (arts. 6, 7 and 9).

**The State party should protect the lives and safety of all individuals against excessive use of force by the police. The Committee recommends that it consider reforming the Code of Criminal Procedure, which allows the police to detain people without a warrant, contrary to the provisions of the Constitution.**

(17) The Committee takes note of the action being taken by the State party to improve conditions in detention, but is concerned at the high levels of overcrowding and poor conditions prevailing at detention centres, especially the lack of hygiene, the shortage of drinking water, the inadequate food budget, the lack of medical care, the shortage of staff, and the failure to keep accused persons and convicted offenders separate (art. 10).

**The State party should step up its efforts to improve conditions for all persons deprived of their liberty, complying with all the requirements of the Standard Minimum Rules for the Treatment of Prisoners. It should tackle overcrowding as a matter of priority. It should supply the Committee with figures illustrating the progress made since the approval of this recommendation, especially the effect of specific steps to improve conditions for persons deprived of their liberty.**

(18) The Committee is concerned about the existence of legal provisions which might de facto allow a person to be imprisoned for failure to meet a contractual obligation (art. 11).

**The State party should see to it that its legislation cannot be used to imprison a person for failure to meet a contractual obligation.**

(19) The Committee notes with concern a growing number of reports alleging systematic persecution and death threats against human rights defenders by individuals, political groupings and bodies connected to the State authorities. It also notes with concern the criminal investigations mounted against defenders of reproductive rights, including the criminal charges pending against the nine women defenders of women's rights involved in the interruption of a pregnancy conducted on an under-age girl who had been raped, which occurred at a time when therapeutic abortion was still legally permitted. It is likewise concerned at the de facto restrictions on the exercise by human rights organizations of their right to freedom of assembly (arts. 19 and 22).

**The Committee recommends that the State party take the necessary action to put a stop to alleged instances of systematic persecution and death threats, particularly against the defenders of women's rights mentioned above, and ensure that those responsible are duly punished. The State party should guarantee organizations of human rights defenders the right to freedom of expression and association in the conduct of their activities.**

(20) While the Committee notes that the State party has partly complied with the ruling by the Inter-American Court of Human Rights in the YATAMA case, it regrets that it has not undertaken the necessary legislative reform to introduce a simple legal remedy ensuring that indigenous and ethnic communities in the autonomous regions can take effective part in elections with due regard for their traditions, conventions and customs (arts. 25 and 27).

**The State party should meet the targets laid down in the Inter-American Court's ruling and, in particular, take steps to bring about the necessary reforms in the Elections Act as recommended by the Court and introduce a simple legal remedy against decisions by the Supreme Electoral Board.**

(21) The Committee voices concern regarding the existence among the general public of racial prejudice against indigenous peoples, especially in the Autonomous Regions of the Atlantic coast, and the many problems affecting indigenous peoples, including serious shortcomings in health and education services, the fact that institutions have few or no branches in their areas, and the absence of a consultation process to secure free, informed prior consent to the exploitation of natural resources on indigenous communities' lands. The Committee also notes that more than six years after the ruling handed down by the Inter-American Court in the *Awes Tingni* case, the community still has no title of ownership, while the *Awes Tingni* region continues to be prey to illegal activity by outside settlers and loggers (arts. 26 and 27).

**The State party should:**

**(a) Effectively guarantee indigenous peoples' right to education, tailored to their specific needs;**

**(b) Guarantee access by all indigenous peoples, especially those in the Autonomous Regions of the Atlantic coast, to adequate health services;**

**(c) Conduct consultations with indigenous peoples before granting licences for the economic exploitation of the lands where they live, and ensure that such exploitation in no circumstances infringes the rights acknowledged in the Covenant;**

**(d) Continue and complete the process of delimiting, demarcating and granting title to the lands of the Awas Tingni community, prevent and check illegal activity by outsiders on those lands, and investigate and punish those responsible for such activity.**

(22) The Committee requests the State party to publish the third periodic report and these concluding observations, making them widely available to the general public and to the judicial, legislative and administrative authorities. Printed copies should be distributed to universities, public libraries, the Library of Parliament and other relevant places. The Committee also requests the State party to make the third periodic report and these concluding observations available to civil society and to the non-governmental organizations operating in the country. It would be appropriate to distribute a summary of the report and 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 provide, within one year, information on the current situation and on its implementation of the Committee's recommendations given in paragraphs 12, 13, 17 and 19 above.

(24) The Committee requests the State party, in its next periodic report due to be submitted by 29 October 2012, to provide information on the remaining recommendations made and on compliance with the Covenant as a whole.

## **87. Spain**

(1) The Human Rights Committee considered the fifth periodic report of Spain (CCPR/C/ESP/5) at its 2580th and 2581st meetings, held on 20 and 21 October 2008 (CCPR/C/SR.2580 and 2581), and adopted the following concluding observations at its 2595th meeting (CCPR/C/SR.2595), held on 30 October 2008.

### **A. Introduction**

(2) The Committee welcomes the submission of the fifth periodic report of Spain and the opportunity this presents to resume the dialogue with the State party after more than 12 years. It also welcomes the high quality of the replies given by a competent delegation and would like to thank the State party for its written replies to the list of issues (CCPR/C/ESP/Q/5 and Add.1), although it regrets that these were not transmitted sufficiently in advance to be translated into the other working languages of the Committee.

### **B. Positive aspects**

(3) The Committee welcomes the adoption of Act No. 52/2007, the Historical Memory Act, which provides for reparations for the victims of the dictatorship.

(4) The Committee appreciates the efforts made by the State party to promote gender equality, particularly through the adoption of Act No. 3/2007 of 22 March 2007 on effective equality between women and men in the areas of health, education, the civil service and private enterprise.

(5) The Committee welcomes the plan to improve conditions of detention in prisons (Plan for the Standardization and Establishment of Prisons), adopted in December 2005, and notes with interest that implementation is under way. It encourages the State party increasingly to seek alternative solutions to imprisonment.

(6) The Committee takes note with satisfaction of the strategic citizenship and integration plan for 2007-2010, aimed at the integration of immigrants.

(7) The Committee welcomes the established practice of national courts in applying the provisions of the Covenant in their decisions.

### C. Principal subjects of concern and recommendations

(8) The Committee notes with concern the lack of information on concrete measures taken by the State party to follow up on the Committee's Views under the Optional Protocol to the Covenant (arts. 2 and 14).

**The State party should provide detailed information on concrete measures it has taken to follow up on the Committee's Views under the Optional Protocol to the Covenant.**

(9) While taking note of the recent decision of the National High Court to consider the question of the disappeared, the Committee is concerned at the continuing applicability of the 1977 amnesty law. It recalls that crimes against humanity are not subject to a statute of limitations and draws the State party's attention to its general comment No. 20 (1992), on article 7, according to which amnesties for serious violations of human rights are incompatible with the Covenant, and its general comment No. 31 (2004), on the nature of the general legal obligation imposed on States parties to the Covenant. While noting with satisfaction the State party's assurance that the Historical Memory Act provides for light to be shed on the fate of the disappeared, the Committee takes note with concern of the reports on the obstacles encountered by families in the judicial and administrative formalities they must undertake to obtain the exhumation of the remains and the identification of the disappeared persons.

**The State party should:**

(a) **Consider repealing the 1977 amnesty law;**

(b) **Take the necessary legislative measures to guarantee recognition by the domestic courts of the non-applicability of a statute of limitations to crimes against humanity;**

(c) **Consider setting up a commission of independent experts to establish the historical truth about human rights violations committed during the civil war and dictatorship;**

(d) **Allow families to exhume and identify victims' bodies, and provide them with compensation where appropriate.**

(10) The Committee expresses concern at the potentially too broad scope of the definitions of terrorism in domestic law, as set out in articles 572-580 of the Spanish Criminal Code, which could lead to violations of several of the rights enshrined in the Covenant.

**The State party should define terrorism in a restrictive way and ensure that its counter-terrorism measures are in full conformity with the Covenant. In particular, it should consider amending articles 572-580 of the Criminal Code to limit their application to offences that are indisputably terrorist offences that deserve to be dealt with as such.**

(11) While taking note of the adoption of Organization Act No. 15/1999 on the protection of personal data, the Committee is concerned that such data may not be adequately protected, given the abuses that can occur in the fight against terrorism (arts. 2 and 17).

**The State party should protect personal data and fully guarantee the right to privacy in accordance with the Covenant.**

(12) While noting the steps taken by the State party to combat violence against women, as well as its intention to increase the number of specialized courts dealing with this subject, the Committee notes with concern the persistence of domestic violence in Spain, despite the noteworthy efforts of the State party. It also notes with regret the lack of effective measures to encourage women to report incidents, as well as the lack of adequate assistance from the public prosecutor's office (arts. 3 and 7).

**The State party should step up its efforts to prevent and combat violence against women and, in particular, domestic violence, and, in this connection, should collect adequate statistics to obtain a clearer picture of the extent of the phenomenon. The authorities, including the public prosecutor's office, should also provide all necessary assistance to victims.**

(13) The Committee notes with concern that there continue to be reports of cases of torture and that the State party does not seem to have prepared a comprehensive strategy or taken adequate steps to eradicate this practice once and for all. The State party has not yet set up an effective mechanism to prevent torture, despite the recommendations to this effect by various international bodies and experts (art. 7).

**The State party should speed up the process of adopting a national mechanism 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, bearing in mind the recommendations of the various international bodies and experts, as well as the advice of civil society and all the non-governmental organizations working to combat the use of torture.**

(14) While taking note of Organization Act No. 13/2003, which introduces the detainee's right to a second medical examination, as well as the possibility of obtaining a judicial order for the video-recording of certain interrogations, the Committee remains concerned at the persistence of the practice of incommunicado detention in cases of terrorism and organized crime, which can last up to 13 days, and at the fact that the individuals concerned are not entitled to choose their own lawyer. The Committee does not share the State party's view that maintaining the



practice of incommunicado detention is necessary and justified by “the interests of justice”. It considers that the practice can be conducive to ill-treatment, and regrets that it persists despite recommendations by several international bodies and experts that it should be abolished (arts. 7, 9 and 14).

**The Committee recommends once again that the necessary measures, including legislative ones, should be taken to definitively put an end to the practice of incommunicado detention, and that the right to freely choose a lawyer who can be consulted in complete confidentiality by detainees and who can be present at interrogations should be guaranteed to all detainees. The State party should also systematize the audio-visual recording of interrogations in all police stations and places of detention.**

(15) While noting the safeguards introduced by Organization Act No. 13/2003 (Organization Act on Criminal Prosecution and Pretrial Detention), the Committee remains concerned that the length of pretrial detention is set according to the length of the sentence incurred and may be extended to four years, which is clearly incompatible with article 9, paragraph 3, of the Covenant.

**The State party should limit the length of police custody and pretrial detention, in a manner compatible with article 9 of the Covenant. The Committee reiterates its recommendation that the State party should end the practice of setting the length of pretrial detention according to the length of the sentence incurred.**

(16) While taking into account the State party’s efforts to guarantee the rights of foreigners, as attested by, for example, the provisions of Royal Decree No. 2393/2004 on legal aid for foreigners, the Committee remains concerned at reports that judicial supervision of asylum applications has been reduced to a mere formality and that some decisions on the detention and expulsion of foreigners are arbitrary (art. 13).

**The State party should ensure that the decision-making process in matters concerning the detention and expulsion of foreigners complies fully with the procedure set out by law, and that humanitarian reasons can always be invoked in asylum proceedings. The State party should also ensure that the new asylum law is in full conformity with the Covenant.**

(17) While taking note of developments in the case law of the Supreme Court, and also the reform undertaken by the State party with regard to appeals in cassation, the Committee notes with concern that the provisional and partial measures now in force and those envisaged under the reform are not sufficient to ensure conformity with article 14, paragraph 5, of the Covenant (arts. 2 and 14, para. 5).

**The State party should take the necessary steps to effectively guarantee the right of everyone convicted of a crime to have his conviction and sentence reviewed by a higher tribunal. The State party should ensure that Organization Act No. 19/2003 fully guarantees the right to appeal to a higher court in criminal matters.**

(18) While taking into account the explanations given by the State party, the Committee is concerned about the sub judice rule whereby the judge in a criminal investigation can order a full or partial ban on access by the defence to the information produced by the investigation (art. 14).

**The State party should consider abolishing the sub judice rule, in order to comply with the Committee's settled jurisprudence whereby the principle of equality of arms means that the parties should have the necessary time and facilities to prepare their case, which implies access to the documents needed for this purpose.**

(19) The Committee takes note of reports that the exercise of freedom of expression and association could be unjustifiably hindered by prosecutions before the National High Court for the offences of association and collaboration with terrorist groups (art. 19).

**The State party should ensure that any restriction on freedom of expression and association is necessary, proportional and justified, in accordance with article 19, paragraph 3, and article 22 of the Covenant.**

(20) While taking note of the steps taken by the State party to combat racist and xenophobic tendencies, especially Act No. 19/2007 on violence, racism, xenophobia and intolerance in sport, the Committee is concerned about the acts of violence perpetrated against persons from minorities, especially against Roma and immigrants from North Africa and Latin America (art. 20).

**The State party should ensure that its legislation against incitement to racial hatred and racial discrimination is strictly enforced. It should also consider broadening the mandate of the Spanish Observatory for Racism and Xenophobia to make it more effective.**

(21) The Committee is concerned at the reports describing the situation of unaccompanied children arriving in Spanish territory who are repatriated with no heed to the best interests of the child. These children are allegedly ill-treated in the reception centres and sometimes detained on police or Guardia Civil premises without the benefit of a lawyer's assistance and without being brought promptly before a judge.

**The State party should ensure that the rights of unaccompanied children who enter Spanish territory are respected. Among other things, it should:**

**(a) Ensure that every unaccompanied child receives free legal assistance for the duration of the administrative proceedings, and, more generally, the expulsion proceedings;**

**(b) Take into account the best interests of the child in any such proceedings;**

**(c) Establish a monitoring mechanism for the reception centres to ensure that minors are not subjected to abuse.**

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

(23) 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 in paragraphs 13, 15 and 16 above.

(24) The Committee sets 1 November 2012 as the date for the submission of the sixth periodic report of Spain. 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. The Committee also requests that the process of compiling the sixth periodic report involve civil society and non-governmental organizations in the State party.

#### **88. Rwanda**

(1) The Human Rights Committee considered the third periodic report of Rwanda (CCPR/C/RWA/3) at its 2602nd, 2603rd and 2604th meetings, on 18 and 19 March 2009 (CCPR/C/SR.2602, 2603 and 2604). It adopted the following concluding observations at its 2618th meeting (CCPR/C/SR.2618), on 30 March 2009.

#### **A. Introduction**

(2) The Committee welcomes the submission of the third periodic report of Rwanda and the opportunity thus afforded for it to resume its dialogue with the State party, while regretting that the report was submitted more than 15 years late. The Committee invites the State party to respect the schedule it has established for the submission of reports. It is grateful for the information provided by the State party on its legislation, including in its written replies to the list of issues (CCPR/C/RWA/Q/3/Rev.1 and Add.1).

(3) The Committee notes that the State party is still in a period of reconstruction following the genocide of 1994 and the tragic events that ensued. While acknowledging the progress achieved, it expresses its concern about the instability of the current situation in regard to reconciliation within Rwandan society.

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

(4) The Committee notes the efforts made by the State party to advance reconciliation in society and establish the rule of law in Rwanda, particularly the adoption of a new Constitution in 2003.

(5) The Committee welcomes the abolition of the death penalty in the State party and its ratification of the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.

(6) The Committee welcomes the progress made in implementing article 3 of the Covenant, particularly in respect of the representation of women in Parliament and the invocation of this article by the Supreme Court. The Committee calls on the State party to redouble its efforts to further promote the participation of women in public life and in the private sector.

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

(7) The Committee regrets that the report of the State party and its written replies to the list of issues transmitted to it do not contain detailed factual information or statistics that would enable it to assess how far the rights set out in the Covenant are respected in the State party. The Committee considers such data to be essential for monitoring implementation of the Covenant.

**The State party should provide fuller information, including through relevant statistics, regarding the implementation of its laws and administrative provisions in the various fields covered by the Covenant.**

(8) The Committee notes that, according to the report of the State party, the Covenant takes precedence over domestic law and can be invoked before the domestic courts. The Committee notes, however, that the Covenant is not made sufficiently well known for it to be regularly invoked before the courts and authorities of the State (art. 2).

**The State party should take steps to make the Covenant known to all the population and mainly to judges and law enforcement officials. The State party should include in its next periodic report detailed examples of the application of the Covenant by the domestic courts.**

(9) While noting that equality between men and women is enshrined in the Constitution of Rwanda, the Committee notes with concern that discrimination against women exists in several fields, particularly under the Civil Code and also under the Family Code, which recognizes the husband to be the head of the conjugal union (arts. 3 and 26).

**In the context of the proposed revision of the Civil Code and the Family Code, the State party should take measures to remove provisions that place women in a situation of inferiority.**

(10) The Committee notes that the number of girls entering secondary and higher education is less than the number of boys, in particular because of the persistence of traditional attitudes towards the role of women in society (arts. 3 and 26).

**The State party should redouble its efforts to guarantee girls and boys equal access to all forms and levels of education. The State party should also take steps to raise the awareness of families in that regard.**

(11) The Committee is concerned about reports of domestic violence in Rwanda and at the inadequacy of the measures taken by the public authorities in that regard, particularly in relation to criminal proceedings and the care of victims (arts. 3 and 7).

**The State party should initiate a policy of prosecution and punishment of domestic violence, in particular by providing the police with clear guidelines to that end. The State party should also develop the appropriate legal instruments and step up its efforts to raise the awareness of the police and of the population at large in order to combat this phenomenon.**

(12) The Committee is concerned at reported cases of enforced disappearances and summary or arbitrary executions in Rwanda and about the impunity apparently enjoyed by the police forces responsible for such violations. The Committee is concerned at the lack of information from the State party regarding the disappearance of Mr. Augustin Cyiza, former president of the Court of Cassation, and Mr. Leonard Hitimana, a member of Parliament belonging to the Mouvement démocratique républicain (Democratic Republican Movement) (MDR) party (arts. 6, 7 and 9).

**The State party should ensure that all allegations of such violations are investigated by an independent authority and that those responsible for such acts are prosecuted and duly punished. The victims or their families**

**should have an effective remedy, including adequate compensation, in accordance with article 2 of the Covenant.**

(13) The Committee remains concerned at the large number of persons, including women and children, reported to have been killed from 1994 onwards in the course of operations by the Rwandan Patriotic Army, and at the limited number of cases reported to have resulted in prosecution and punishment by the Rwandan courts (art. 6).

**The State party should take steps to ensure that such acts are investigated by an independent authority and that those responsible are prosecuted and duly punished.**

(14) While welcoming the abolition of the death penalty in 2007, the Committee notes with concern that it has been replaced by life imprisonment in solitary confinement, treatment which is contrary to article 7 of the Covenant.

**The State party should put an end to the sentence of solitary confinement and ensure that persons sentenced to life imprisonment benefit from the safeguards of the United Nations Standard Minimum Rules for the Treatment of Prisoners.**

(15) The Committee is concerned at reports of appalling prison conditions, particularly as regards hygiene, access to health care and food. It is also concerned about the fact that there appears to be no guarantee that detained children will be held separately from adults, and accused from convicted persons (art. 10).

**The State party should, as a matter of urgency, adopt effective measures against overcrowding in detention centres and ensure conditions of detention that respect the dignity of prisoners, in accordance with article 10 of the Covenant. It should put in place a system to segregate accused persons from convicted persons and minors from other prisoners. The State party should, in particular, take steps to ensure that all the United Nations Standard Minimum Rules for the Treatment of Prisoners are respected.**

(16) The Committee is concerned about reports that the Kigali authorities often arrest persons belonging to vulnerable groups, such as street children, beggars and sex workers, on the grounds of vagrancy. Such persons are reported to be held in detention without any charges being brought against them and in very poor material conditions (art. 9).

**The State party should take steps to ensure that no one is detained arbitrarily, in particular for reasons essentially of poverty, and to abolish the offence of vagrancy from the criminal legislation.**

(17) While acknowledging the serious problems confronting the State party, the Committee notes with concern that the *gacaca* system of justice does not operate in accordance with the basic rules pertaining to the right to a fair trial, particularly with regard to the impartiality of judges and protection of the rights of the accused. The lack of legal training for judges and reports of corruption continue to be causes of concern to the Committee, as do exercise of the rights of defence and respect for the principle of equality of arms, in particular in cases where sentences of up to 30 years' imprisonment may be handed down (art. 14).

**The State party should ensure that all tribunals and courts in Rwanda operate in accordance with the principles set out in article 14 of the Covenant and paragraph 24 of the Committee's general comment No. 32 (2007), on the right to equality before courts and tribunals and to a fair trial. According to that general comment, courts based on customary law cannot hand down binding judgments 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 if necessary 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 courts.**

(18) The Committee is concerned about the very limited number of lawyers in Rwanda who provide legal assistance to detained persons regarded as very poor (art. 14).

**The State party should take steps to ensure free legal assistance for those who do not have the means to pay for the assistance of a defence lawyer, in accordance with article 14, paragraph 3 (d), of the Covenant.**

(19) While taking note that sexual relations between consenting adults of the same sex are not an offence under criminal law, the Committee is concerned that the draft legislation would alter that situation (arts. 17 and 26).

**The State party should ensure that any reform of its criminal law is in full conformity with articles 17 and 26 of the Covenant.**

(20) While taking note of the State party's explanations with regard to the role of the press in the 1994 events, the Committee notes with concern reports that journalists who have criticized the Government are currently subjected to intimidation or to acts of aggression by the State party authorities and that some have been charged with "divisionism". International press agencies are reported to have been threatened with losing their licences because they employ certain journalists (art. 19).

**The State party should guarantee freedom of expression for the press and the media, as well as for all citizens. It should make sure that any restriction on the exercise of their activities is compatible with the provisions of article 19, paragraph 3, of the Covenant and cease to punish acts of so-called "divisionism". The State party should also conduct investigations into the above-mentioned acts of intimidation or aggression and punish their perpetrators.**

(21) The Committee finds cause for concern in the reported obstacles to the registration and freedom of action of human rights NGOs and opposition political parties (arts. 19, 22, 25 and 26).

**The State party should take the necessary steps to enable national human rights NGOs to operate without hindrance. It should treat all political parties on an equal footing and offer them equal opportunities to pursue**

**their legitimate activities, in accordance with the provisions of articles 25 and 26 of the Covenant.**

(22) Notwithstanding the information provided by the State party, the Committee is concerned about the non-recognition of the existence of minorities and indigenous peoples in Rwanda, as well as reports that members of the Batwa community are victims of marginalization and discrimination (art. 27).

**The State party should take steps to ensure that members of the Batwa community are protected against discrimination in every field, that they are provided with effective remedies in that regard and that they take part in public affairs.**

(23) The State party should widely disseminate the text of its third periodic report, the written responses it has provided to the list of issues drawn up by the Committee and the present concluding observations, in particular by publishing them on the Government's website and placing copies in all public libraries.

(24) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, information on the follow-up action it has taken on the recommendations contained in paragraphs 12, 13, 14 and 17 above.

(25) The Committee requests the State party to include in its fourth periodic report, due to be submitted by 10 April 2013, specific, up-to-date information on all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing its fourth periodic report, to consult civil society and NGOs operating in the country.

## 89. Australia

(1) The Committee considered the fifth periodic report of Australia (CCPR/C/AUS/5) at its 2609th, 2610th and 2611th meetings (CCPR/C/SR.2609-2611), held on 23 and 24 March 2009, and adopted at its 2624th meeting (CCPR/C/SR. 2624), held on 2 April 2009, the following concluding observations.

### A. Introduction

(2) While appreciating the willingness of the State party to test new approaches for the preparation of its periodic reports, and acknowledging that it does not intend to use the same approach in the future, the Committee considers that the fifth periodic report of Australia does not meet the requirements of article 40 of the Covenant regarding the provision of sufficient and adequate information on the measures adopted to give effect to the Covenant rights, as well as on the progress made in the enjoyment of those rights.

(3) The Committee welcomes the constructive dialogue with the delegation of the State party and concise answers provided to its oral and written questions. It also appreciates that the written responses to its list of issues (CCPR/C/AUS/Q/5) were submitted well in advance, thus allowing for their timely translation into the Committee's working languages.

(4) The Committee welcomes the contribution of the Australian Human Rights Commission and non-governmental organizations to its work.

**B. Positive aspects**

(5) The Committee welcomes the current National Human Rights Consultation regarding the legal recognition and protection of human rights in Australia, involving various human rights stakeholders, including experts and persons belonging to vulnerable groups.

(6) The Committee welcomes the parliamentary apology to indigenous peoples' victims of the Stolen Generations policies, issued on 13 February 2008.

(7) The Committee welcomes the establishment of the National Council to Reduce Violence against Women and their Children in 2008.

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

(8) The Committee notes that the Covenant has not been incorporated into domestic law and that the State party has not yet adopted a comprehensive legal framework for the protection of the Covenant rights at the Federal level, despite the recommendations adopted by the Committee in 2000. Furthermore, the Committee regrets that judicial decisions make little reference to international human rights law, including the Covenant (art. 2).

**The State party should: (a) enact comprehensive legislation giving de facto effect to all the Covenant provisions uniformly across all jurisdictions in the Federation; (b) establish a mechanism to consistently ensure the compatibility of domestic law with the Covenant; (c) provide effective judicial remedies for the protection of rights under the Covenant; and (d) organize training programmes for the Judiciary on the Covenant and the jurisprudence of the Committee.**

(9) While taking note of the State party's explanations, the Committee regrets that it has not withdrawn any of its reservations entered upon ratification of the Covenant.

**The State party should consider withdrawing its reservations to article 10, paragraphs 2 (a) and (b) and 3; article 14, paragraph 6; and article 20 of the Covenant.**

(10) While acknowledging the measures taken by the State party to reduce the likelihood of future communications regarding issues raised in certain of its Views, the Committee expresses once again its concern at the State party's restrictive interpretation of, and failure to fulfil its obligations under the Optional Protocol and the Covenant, and at the fact that victims have not received reparation. The Committee further recalls that, by acceding to the Optional Protocol the State party has recognized its competence to receive and examine complaints from individuals under the State party's jurisdiction, and that a failure to give effect to its Views would call into question the State party's commitment to the Optional Protocol (art. 2).

**The State party should review its position in relation to Views adopted by the Committee under the Optional Protocol and establish appropriate procedures to implement them, in order to comply with article 2, paragraph 3 of the Covenant which guarantees a right to an effective remedy and reparation when there has been a violation of the Covenant.**



(11) While acknowledging the State party's intention to review the Terrorist Act in the near future, the Committee is concerned that some provisions of the Anti-Terrorism Act (No. 2) 2005 and other counter-terrorism measures adopted by the State party appear to be incompatible with the Covenant rights, including with non-derogable provisions. The Committee is particularly concerned at: (a) the vagueness of the definition of terrorist act; (b) the reversal of the burden of proof contrary to the right to be presumed innocent; (c) the fact that "exceptional circumstances", to rebut the presumption of bail relating to terrorism offences, are not defined in the Crimes Act; and (d) the expanded powers of the Australian Security Intelligence Organization (ASIO), including so far unused powers to detain persons without access to a lawyer and in conditions of secrecy for up to seven-day renewable periods (arts. 2, 9 and 14).

**The State party should ensure that its counter-terrorism legislation and practices are in full conformity with the Covenant. In particular, it should address the vagueness of the definition of terrorist act in the Criminal Code Act 1995, in order to ensure that its application is limited to offences that are indisputably terrorist offences. The State party should in particular:**

**(a) Guarantee the right to be presumed innocent by avoiding reversing the burden of proof;**

**(b) Ensure that the notion of "exceptional circumstances" does not create an automatic obstacle to release a bail;**

**(c) Envisage to abrogate provisions providing Australian Security Intelligence Organization (ASIO) the power to detain people without access to a lawyer and in conditions of secrecy for up to seven-day renewable periods.**

(12) The Committee remains concerned that the rights to equality and non-discrimination are not comprehensively protected in Australia in federal law (arts. 2 and 26).

**The State party should adopt Federal legislation, covering all grounds and areas of discrimination to provide comprehensive protection to the rights to equality and non-discrimination.**

(13) While acknowledging the consultation process initiated by the State party to establish a national indigenous representative body to replace the Aboriginal and Torres Islander Commission abolished in 2004, the Committee remains concerned that indigenous peoples are not sufficiently consulted in the decision-making process with respect to issues affecting their rights (arts. 2, 25, 26 and 27).

**The State party should increase its efforts for an effective consultation with indigenous peoples in decision-making in all areas having an impact on their rights and establish an adequately resourced national indigenous representative body.**

(14) The Committee notes with concern that certain of the Northern Territory Emergency Response (NTER) measures adopted by the State party to respond to the findings of the report of the Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse in the Northern Territory ("Little Children are Sacred" of 2007) are inconsistent with the State party's obligations under the Covenant. It is

particularly concerned at the negative impact of the NTER measures on the enjoyment of the rights of indigenous peoples and at the fact that they suspend the operation of the Racial Discrimination Act 1975 and were adopted without adequate consultation with the indigenous peoples (arts. 2, 24, 26 and 27).

**The State party should redesign NTER measures in direct consultation with the indigenous peoples concerned, in order to ensure that they are consistent with the 1995 Racial Discrimination Act and the Covenant.**

(15) While taking note with satisfaction that the State party has implemented some of the recommendations of the Human Rights and Equal Opportunity Commission's "Bringing Them Home" report, the Committee regrets that it has not granted reparation, including compensation, to the victims of the Stolen Generation policies (arts. 2, 24, 26 and 27).

**The State party should adopt a comprehensive national mechanism to ensure that adequate reparation, including compensation, is provided to the victims of the Stolen Generations policies.**

(16) The Committee, while welcoming recent reforms, notes with concern the high cost, complexity and strict rules of evidence applying to claims under the Native Title Act. It regrets the lack of sufficient steps taken by the State party to implement the Committee's recommendations adopted in 2000 (arts. 2 and 27).

**The State party should continue its efforts to improve the operation of the Native Title system, in consultation with Aboriginal and Torres Strait Islander Peoples.**

(17) The Committee notes with concern that, despite the efforts recently undertaken by the State party to address violence against women, including its zero tolerance approach and its intention to conduct a National Survey on Community Attitudes to Violence against Women in 2009, disturbing levels of domestic violence persist in Australia. The Committee is particularly concerned at the higher number of reports of violence against indigenous women in proportion to reports of violence against non-indigenous women (arts. 2, 3, 7 and 26).

**The State party should strengthen its efforts towards the elimination of violence against women, especially perpetrated against indigenous women. The State party is encouraged to promptly implement its National Plan of Action to Reduce Violence against Women and their Children, as well as the recommendations of the 2008 Family Violence and Homeless report.**

(18) The Committee is concerned at the situation of homeless persons, in particular indigenous people, who as a result of that condition are not able to fully exercise the rights enshrined in the Covenant (arts. 2, 26 and 27).

**The State party should increase its efforts in order to ensure that social, economic and other conditions do not deprive homeless persons of the full enjoyment of the rights enshrined in the Covenant.**

(19) The Committee is concerned at reports of cases in which the State party has not fully ensured respect for the principle of non-refoulement (arts. 2, 6 and 7).

**The State party should take urgent and adequate measures, including legislative measures, 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.**

(20) The Committee notes with concern the residual power of the Attorney-General, in ill-defined circumstances, to allow the extradition of a person to a State where he or she may face the death penalty, as well as the lack of a comprehensive prohibition on the providing of international police assistance for the investigation of crimes that may lead to the imposition of the death penalty in another State, in violation of the State party's obligation under the Second Optional Protocol.

**The State party should take the necessary legislative and other steps to ensure that no person is extradited to a State where he or she may face the death penalty, as well as whereby it does not provide assistance in the investigation of crimes that may result in the imposition of the death penalty in another State, and revoke the residual power of the Attorney-General in this regard.**

(21) The Committee expresses concern at reports of excessive use of force by law enforcement officials against groups, such as indigenous people, racial minorities, persons with disabilities, as well as young people; and regrets that the investigations of allegations of police misconduct are carried out by the police itself. The Committee is concerned by reports of the excessive use of the electro-muscular disruption devices (EMDs) "tasers" by police forces in certain Australian states and territories (arts. 6 and 7).

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

(a) **Establish a mechanism to carry out independent investigations of complaints concerning excessive use of force by law enforcement officials;**

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

(c) **Increase its efforts to provide training to law enforcement officers with regard to excessive use of force, as well as on the principle of proportionality when using force;**

(d) **Ensure that restraint devices, including tasers, are only used in situations where greater or lethal force would otherwise have been justified;**

(e) **Bring its legislative provisions and policies for the use of force into line with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;**

(f) **Provide adequate reparation to the victims.**

(22) The Committee notes with concern that, despite the positive measures adopted by the State party, trafficking in human beings, especially women, persists on the territory of Australia (art. 8).

**The State party should strengthen its measures to prevent and eradicate trafficking in human beings, including by adopting a comprehensive strategy, and provide equal assistance and protection to all victims**

**identified regardless of their participation or otherwise in criminal proceedings against perpetrators.**

(23) While noting with satisfaction the State party's commitment to use detention in immigration detention centres only in limited circumstances and for the shortest practicable period, the Committee remains concerned at its mandatory use in all cases of illegal entry, the retention of the excise zone, as well as at the non-statutory decision-making process for people who arrive by boat to the Australian territory and are taken to Christmas Island. The Committee is also concerned at the lack of effective review process available with respect to detention decisions (arts. 9 and 14).

**The State party should:**

**(a) Consider abolishing the remaining elements of its mandatory immigration detention policy;**

**(b) Implement the recommendations of the Human Rights and Equality Commission made in its Immigration Detention Report of 2008;**

**(c) Consider closing down the Christmas Island detention centre;**

**(d) Enact in legislation a comprehensive immigration framework in compliance with the Covenant.**

(24) The Committee expresses concern at the notable gaps in the protection of children and juveniles in the criminal justice system, and that children and juveniles can be detained in adult facilities or held in immigration detention facilities, where they are sometimes subject to abuse (arts. 9, 14 and 24).

**The State party should ensure that children in conflict with the law, including those in detention, are treated in consistence with the Covenant and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. The State party should implement the recommendations of the Human Rights and Equal Opportunity Commission in this regard. The situation of children in detention should be addressed within the State party's proposed new child protection framework.**

(25) The Committee notes with concern the lack of adequate access to justice for marginalized and disadvantaged groups, including indigenous peoples and aliens (arts. 2 and 14).

**The State party should take effective measures to ensure equality in access to justice, by providing adequate services to assist marginalized and disadvantaged people, including indigenous people and aliens. The State party should provide adequate funding for Aboriginal and Torres Strait Islander legal aid, including interpreter services.**

(26) While acknowledging the measures taken by the State party to combat Islamophobia, the Committee remains concerned at reports of an increased number of cases of discrimination of persons of Muslim background. The Committee regrets the lack of hate speech prohibitions of the form envisaged by article 20 of the Covenant (arts. 20 and 26).

**The State party should implement its Freedom of Religion and Belief in the 21st Century project, fully in line with the Covenant and adopt**

**federal-level hate speech laws of the form envisaged by article 20 of the Covenant.**

(27) The Committee notes that the State party lacks a framework and programme to promote knowledge of the Covenant and the Optional Protocol among its population (art. 2).

**The State party should consider adopting a comprehensive plan of action for human rights education including training programmes for public officials, teachers, judges, lawyers and police officers on the rights protected under the Covenant and the Optional Protocol. Human rights education should also be incorporated at every level of general education.**

(28) The State party should widely disseminate the text of its fifth 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 among the general public as well as the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country. Hard copies of those documents should be distributed to universities, public libraries, the Parliamentary library, and all other relevant places.

(29) 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 in paragraphs 11, 14, 17 and 23.

(30) The Committee requests the State party to provide in its sixth periodic report, due to be submitted by 1 April 2013, updated information on all the Committee's recommendations and on the Covenant as a whole, including detailed information on the implementation of the Covenant in Australia and invites the State party to involve civil society and non-governmental organizations operating in the State party in the sixth periodic reporting process.

## 90. Sweden

(1) The Committee considered the sixth periodic report of Sweden (CCPR/C/SWE/6) at its 2612th and 2613th meetings (CCPR/C/SR.2612 and 2613), held on 25 March 2009, and adopted the following concluding observations at its 2625th meeting (CCPR/C/SR.2625), held on 2 April 2009.

### A. Introduction

(2) The Committee welcomes the timely submission of the sixth periodic report of Sweden in accordance with the guidelines and the inclusion in the report of detailed information on the measures adopted to address the concerns expressed in the Committee's previous concluding observations (CCPR/CO/74/SWE). It is grateful to the State party for the written replies submitted in advance in response to the Committee's written questions (CCPR/C/SWE/Q/6 and Add.1), and the additional information provided during the consideration of the report. It also notes the State party's consultation with non-governmental organizations during the preparation of the present periodic report, as well as the delegation's acknowledgment of the work of such organizations in providing the Committee with relevant additional information.

## B. Positive aspects

(3) The Committee welcomes the various legislative, administrative and practical measures taken to improve the promotion and protection of human rights in the State party since the examination of the fifth periodic report, in particular:

(a) The inclusion of a new provision in the Constitution in 2003 (The Instrument of Government, chap. 1, art. 2, para. 4), clarifying that public institutions shall combat discrimination of persons on grounds of gender, colour, national or ethnic origin, linguistic or religious affiliation, functional disability, sexual orientation, age or other circumstance affecting the private person;

(b) The establishment of the second national action plan for human rights 2006-2009, as well as the establishment, in 2006, of a Delegation for Human Rights due to present its report in 2010;

(c) The launch, in 2002, of a human rights website ([www.manskligarattigheter.se](http://www.manskligarattigheter.se)), containing all of the State party's relevant reports, including the reports to the Human Rights Committee, and the Committee's concluding observations thereon, in both Swedish and English;

(d) The entry into force of the new Aliens Act (2005:716) in 2006, which provides for the right to appeal to independent bodies, allows for increased use of oral hearings on appeal, and permits the granting of refugee status to women fleeing gender-based violence as well as persons fleeing from persecution on grounds of sexual orientation;

(e) The adoption, in 2005, of new legislation on sexual crimes strengthening women's and children's protection from sexual abuse, as well as the Government's decision of 2008 to start evaluating the application of the new law.

## C. Principal subjects of concern and recommendations

(4) The Committee has noted the merger, in January 2009, of the four previously existing Ombudsmen against Discrimination into a single Equality Ombudsman with competence to receive and examine individual complaints concerning alleged cases of discrimination, including on the grounds of age and transgender identity or expression. The Committee is concerned, however, that the State party has still not established an independent national institution, with a broad competence in the area of human rights, in accordance with the Paris Principles (General Assembly resolution 48/134; art. 2 of the Covenant).

**The State party should establish a national institution with a broad human rights mandate, and provide it with adequate financial and human resources, in conformity with the Paris Principles.**

(5) While noting the examples provided by the State party of cases where the provisions of the Covenant were mentioned by domestic courts, the Committee reiterates the concern expressed in its previous concluding observations (CCPR/CO/74/SWE) that there is no apparent modality to give effect to the full range of standards of the Covenant in the State party's domestic law. The Committee notes that in certain areas, the Covenant may accord additional protection beyond what is accorded under the European Convention on Human Rights, which has been incorporated directly into Swedish domestic law (art. 2 of the Covenant).

**The State party should ensure that all rights protected under the Covenant are observed in practice and in principle in the law of the State party.**

- (6) The Committee notes that the State party does not intend to withdraw any of its reservations to the Covenant.

**The State party should consider withdrawing its reservations.**

- (7) The Committee remains concerned at the still limited percentage of women in high-ranking positions, particularly in academia and the higher echelons of the judiciary. The Committee is also concerned about the reported wage gap between men and women, and the large proportion of women who have found only part-time work arrangements (arts. 2, 3, 25 and 26).

**The State party should seek ways to further promote access of women to high-level and managerial positions including, where feasible, through targeted measures. The State party should also strengthen its efforts to narrow the wage gap between men and women and to facilitate full-time employment of women.**

- (8) The Committee notes the efforts made by the State party to eliminate violence against women, including through the adoption of a national action plan 2007-2010 to combat men's violence against women, family-based violence that misuses the idea of "honour", and violence in same-sex relationships, and amendment of the Social Services Act (2001:953) to provide support to women and children who are victims of violence. The Committee remains concerned, however, about the high prevalence of violence against women, particularly domestic violence. The Committee is also concerned that the State party has not provided consistent financial assistance to the shelters for victims of violence which are run by non-governmental organizations and that shelters are not available in all municipalities (arts. 3, 6, 7 and 26).

**The State party should intensify its efforts towards the elimination of violence against women, inter alia through awareness-raising campaigns and effective implementation of the action plan 2007-2010 and the special package of measures to increase initiatives for the rehabilitation of men convicted of sexual violence and violent offences in close relationships. The State party should also ensure the availability of a fully adequate number of shelters for women and children subjected to domestic violence, including those with special needs, in particular women and children with disabilities.**

- (9) The Committee commends the State party for the adoption and implementation of the national action plan to combat female genital mutilation, but remains concerned at the continuing occurrence of genital mutilation harming girls and women residing in the State party (arts. 3, 6 and 7).

**The State party should intensify its efforts to prevent and eradicate practices of female genital mutilation, in particular through the strengthening of awareness-raising campaigns for the police and prosecutors, the family members who may encourage these practices and for the girls at risk.**

(10) The Committee notes that the State party has ratified the Convention on the Rights of Persons with Disabilities in December 2008, and has taken steps to increase awareness among persons with disabilities about their rights. The Committee is concerned about reports of physical abuse of disabled persons who reside in institutions and sheltered housing. The Committee is also concerned that persons with disabilities often face difficulties in obtaining adequate services and housing through their municipalities, and face difficulties when they attempt to change their residence to another municipality. The Committee also regrets that the employment rate for persons with disabilities has decreased in recent years (arts. 2 and 26).

**(a) The State party should increase the awareness among persons with disabilities about their rights and the possibilities to seek protection and redress against violations of their rights;**

**(b) The State party should provide updated information on the impact of its awareness-raising programmes, how the accessibility of disabled persons to social services and goods is ensured in practice including at the level of municipalities, and details on the implementation of its disability policy in its next periodic report;**

**(c) The State party should take effective measures to increase the employment rate for persons with disabilities, including those with reduced work capacity.**

(11) The Committee is concerned that the State party has not established any reporting system to monitor the use of electroshock therapy in psychiatric institutions (arts. 2, 3 and 7).

**The State party should establish an adequate monitoring and reporting system on the use of electroshock therapy in psychiatric institutions so as to prevent any abuses.**

(12) The Committee notes that a common action plan has been developed by the State party's Border Control Police, the Migration Board and the Social Services, seeking to safeguard unaccompanied asylum-seeking children against the danger of human trafficking. The Committee is concerned, however, at the lack of detailed information on the effectiveness of the measures taken by the special units of the Migration Board to prevent the disappearance of children travelling without guardians (art. 24).

**The State party should ensure that effective measures are taken to prevent the disappearance of unaccompanied asylum-seeking children.**

(13) While noting new legislation respecting the right to notify family members of any arrest (law No. 2008:67) and the publication in different languages of an information leaflet on the fundamental rights of persons held in custody, the Committee is concerned that criminal suspects held in custody have no guaranteed right to see a doctor and by the fact that a request to see a doctor is left to the discretion of the police officer in charge of the investigation (arts. 6, 7, 9 and 10).

**The State party should take effective measures to ensure that fundamental legal safeguards are guaranteed in practice to all persons held in custody, in particular the right to have access to a medical doctor, and to promptly inform a close relative or a third party concerning their arrest. The State**



**party should also ensure that the information leaflet on fundamental safeguards is made available at all places where persons are deprived of their liberty.**

(14) The Committee is concerned at the reported number of suicides in prisons (arts. 6, 7, and 10).

**The State party should provide adequate training to prison officials on suicide prevention and assure observance of the Standard Minimum Rules for the Treatment of Prisoners and the Basic Principles for the Treatment of Prisoners.**

(15) The Committee notes the existence of a special body (composed of the Chief of the national police, representatives of the police trade unions, and Members of Parliament) to deal with complaints against the police. It is concerned, however, that this body lacks the authority necessary to effectively conduct objective investigations on complaints against members of the police (arts. 2, 7, 9 and 10).

**The State party should consider establishing a civilian complaint board.**

(16) The Committee takes note of the information provided by the State party on the measures taken to implement the Committee's decision in *Alzery v. Sweden* and welcomes the settlement between the Chancellor of Justice and Mr. Alzery in 2008. The Committee notes, however, that the State party has not ruled out the possible future use of diplomatic assurances to permit the sending of persons to places where they may face treatment contrary to article 7 of the Covenant.

**The State party should ensure that no individuals, including persons suspected of terrorism, are exposed to the danger of 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.**

(17) The Committee notes that positive changes have occurred in the Migration Board's policies, decreasing the number of cases in which asylum-seekers are subjected to detention prior to the resolution of their status. The Committee remains concerned that some asylum-seekers have been detained for lengthy periods. The Committee also notes that asylum-seekers said to be a risk to themselves or a threat to others have been placed in remand prisons that also house criminal suspects and convicted criminals. The Committee is further concerned that asylum-seekers have been deported before the final resolution of their claims to refugee status. In addition, the Committee notes that confidential information is sometimes used in expulsion decisions to which the applicant has no access (arts. 13 and 14).

**The State party should permit detention of asylum-seekers only in exceptional circumstances, and limit the length of such detentions, also avoiding any placement in remand prisons. The State party should consider placement alternatives for asylum-seekers, and should assure**

**that asylum-seekers not be deported before the resolution of their claims. In addition, the State party should ensure that asylum-seekers have the right to access adequate information in order to answer arguments and evidence utilized in their case.**

(18) While understanding that security requirements may be aimed at preventing violence and terrorism, the Committee takes note that the Law on Signals Intelligence in Defence Operations (2008:717), will apparently provide the executive with wide powers of surveillance in respect of electronic communications (art. 17).

**The State party should take all appropriate measures to ensure that the gathering, storage and use of personal data not be subject to any abuses, not be used for purposes contrary to the Covenant, and be consistent with obligations under article 17 of the Covenant. To that effect, the State party should guarantee that the processing and gathering of information be subject to review and supervision by an independent body with the necessary guarantees of impartiality and effectiveness.**

(19) The Committee is concerned that, according to information from the Living History Forum, following a Survey<sup>17</sup> conducted in 2004 and examining anti-Semitism, Islamophobia, homophobia and general intolerance among school youths in relation to attitudes, victimization, self-reported crime and the dissemination of extremist propaganda, “intolerance towards minority groups — which may manifest itself in such forms as discrimination, harassment, insults, threats and physical violence — constitutes a serious social problem” in the State party. Furthermore, and while appreciating the State party’s efforts to combat hate crimes, including the establishment of the hate-crime hotline in 2007, the Committee reiterates its concern about the increase of reported racially motivated crimes in recent years as well as the low number of prosecutions compared with the number of reported hate speech incidents (arts. 20 and 26).

**The State party should intensify its efforts to prevent, combat, and prosecute hate speech violating article 20 of the Covenant, and to ensure that relevant criminal law provisions and policy directives are effectively implemented. The State party should significantly increase its efforts to tackle the problem among youth, in particular within the framework of the Living History Forum. The State party should also evaluate the effectiveness of the hate-crime hotline.**

(20) While noting that the State party has delegated some responsibilities for reindeer husbandry to the Sami Parliament, the Committee remains concerned at the limited extent to which the Sami Parliament may participate in the decision-making process on issues affecting land and traditional activities of the Sami people. Furthermore, while noting the State party’s intention to address recommendations concerning Sami land and resource rights through a bill to be submitted to Parliament in March 2010, the Committee notes the limited progress achieved so far in respecting Sami rights as well as the restrictive terms of reference of the Boundary Commission and other inquiries tasked with the study of Sami rights (arts. 1, 25, and 27).

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<sup>17</sup> See [http://www.levandehistoria.se/files/INTOLERANCEENG\\_0.pdf](http://www.levandehistoria.se/files/INTOLERANCEENG_0.pdf).

**The State party should take further steps to involve the Sami in the decisions concerning the natural environment and necessary means of subsistence for the Sami people. The State party should ensure the fair and expeditious resolution of claims concerning land and resources made by the Sami people, by introducing appropriate legislation in consultation with the Sami communities.**

(21) The Committee is concerned about de facto discrimination against the Sami in legal disputes, since the burden of proof for land ownership has been placed wholly on Sami claimants. The Committee also notes that, although legal aid may be granted to individuals who are parties in civil disputes, no such possibility exists for Sami villages, which are the only legal entities empowered to act as litigants in land disputes in respect of Sami lands and grazing rights (arts. 1, 2, 14, 26 and 27).

**The State party should grant adequate legal aid to Sami villages in court disputes concerning land and grazing rights and introduce legislation providing for a flexible burden of proof in cases regarding Sami land and grazing rights, especially where other parties possess relevant information. The State party is also encouraged to consider other means of settling land disputes, such as mediation.**

(22) The State party should widely publicize the text of its sixth periodic report, the written replies it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations. In addition to Swedish, the Committee suggests that the report and the concluding observations be translated into the official minority languages spoken in Sweden.

(23) 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 10, 13, 16, and 17 above.

(24) The Committee requests the State party to include in its seventh periodic report, due to be submitted by 1 April 2014, specific, up-to-date information on follow-up action taken on all the recommendations made and on the implementation of the Covenant as a whole. The Committee also requests that the seventh periodic report be prepared in consultation with civil society organizations operating in the State party.

#### 91. **United Republic of Tanzania**

(1) The Human Rights Committee considered the fourth periodic report of Tanzania (CCPR/C/TZA/4) at its 2628th and 2629th meetings, held on 13 and 14 July 2009 (CCPR/C/SR.2628-2629). At its 2650th meeting, held on 28 July (CCPR/C/SR.2650), it adopted the following concluding observations.

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

(2) The Committee welcomes the submission, albeit with some delay, of the State party's fourth periodic report and the opportunity thus afforded for it to resume its dialogue with the State party. The Committee appreciates the written replies (CCPR/C/TZA/Q/4/Add.1) provided in advance by the State party as well as the answers of the delegation provided to the Committee during the consideration of the report, including the written answers provided subsequently.

**B. Positive aspects**

- (3) The Committee welcomes the enactment of the Spinsters and Single Parent Child Protection Act of 2005 in Zanzibar, abolishing the imprisonment of unmarried women who have become pregnant.
- (4) The Committee notes the de facto moratorium on the death penalty which has been applied since 1994.
- (5) The Committee welcomes the measures taken to increase the representation of women in public bodies and institutions.

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

- (6) The Committee notes with concern that many of its recommendations (CCPR/C/79/Add.97) adopted following the consideration of the State party's third periodic report have not been implemented.

**The State party should give effect to the recommendations adopted by the Committee in its previous concluding observations.**

- (7) While welcoming the fact that national courts refer to the Covenant in their decisions, the Committee notes with concern that not all the Covenant rights have been integrated in the Constitution or other legislation. The Committee also notes with concern that, in spite of the obligation which the State party has undertaken under article 2, paragraph 2, of the Covenant to take necessary steps to adopt such legislative and other measures as may be required to give effect to the rights recognized in the Covenant, the State party seems to subject this undertaking to the will of the people, traditions, and customs that are prejudicial to the realization of a number of Covenant rights, including those affecting women and the protection of individuals for behaviour which does not conform to traditional notions of morality (art. 2).

**In light of the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties, the State party should ensure that all rights protected under the Covenant are given full effect in domestic law. The State party is also requested to provide the Committee with a detailed account of how each Covenant right is protected by legislative or constitutional provisions in its next periodic report. The State party should also consider ratifying the (first) Optional Protocol to the Covenant.**

- (8) While welcoming the establishment of the Commission for Human Rights and Good Governance in 2000, the Committee regrets the under-resourcing of the Commission, and the lack of information on the measures taken by the State party to ensure that its recommendations are fully implemented (art. 2).

**The State party should strengthen the capacity of the Commission for Human Rights and Good Governance to fulfil its mandate fully and effectively in accordance with the Principles relating to the Status of National Institutions (the Paris Principles) (General Assembly resolution 48/134), in particular by endowing it with adequate resources. The State party is also encouraged to enhance the powers of the Commission with a view to ensuring the effective implementation of its recommendations.**

(9) While noting the State party's willingness to take steps to achieve equality between men and women, the Committee reiterates its concern about the persistent pattern of discrimination against women in the area of personal and family laws, relating to marriage, succession and inheritance, and the continuing existence of inequalities between women and men. It also regrets the lack of information on the measures taken by the State party to overcome customary attitudes preventing women from fully pursuing their education (arts. 2, 3, 17, 23, 25 and 26).

**(a) The State party should, as a matter of priority, bring its laws governing the family and personal status in line with articles 3, 17, 23 and 26 of the Covenant, in particular with regard to the minimum age of marriage for women;**

**(b) The State party should step up its efforts to raise popular awareness of, and change, customary attitudes detrimental to women's rights. It should also further promote women's participation in public affairs and ensure their access to education and employment;**

**(c) The State party should inform the Committee of the measures taken in this area and the results achieved in its next periodic report.**

(10) The Committee continues to be concerned about the prevalence of gender-based violence, in particular domestic violence, and the impunity for perpetrators of such violence, despite the steps adopted by the State party in this regard. The Committee also reiterates its concern at the lack of specific provisions on domestic violence, including marital rape, in the current Criminal Code (arts. 3, 7 and 26).

**The State party should take all necessary measures to effectively combat violence against women. In particular, it should define and criminalize domestic violence, including marital rape. The State party should also sensitize society as a whole in this regard, ensure that the perpetrators of such acts are prosecuted and provide assistance and protection to victims. Law enforcement officials should be provided with appropriate training to deal with domestic violence.**

(11) While welcoming the adoption of the Sexual Offences Special Provisions Act of 1998, which criminalizes female genital mutilation, and the National Plan of Action to combat FGM, the Committee is still concerned about the persistent practice of female genital mutilation and the fact that the law does not protect women above the age of 18. It also notes with concern the State party's admission that the law has not been effectively enforced and that impunity for perpetrators prevails (arts. 3, 7 and 26).

**The State party should adopt effective and concrete measures to combat female genital mutilation vigorously, in particular in those regions where the practice remains widespread, and ensure that the perpetrators are brought to justice. It should also amend its legislation with a view to criminalizing female genital mutilation regarding women above the age of 18.**

(12) The Committee regrets the lack of information on the compatibility of the State party's counter-terrorism legislation with the Covenant. In particular, no information has been provided on the extent, if any, to which Covenant rights can be limited under that legislation (arts. 2, 4, 9 and 26).

**The State party should ensure that its counter-terrorism measures are in full conformity with the Covenant, including the right to presumption of innocence. It should also introduce a definition of terrorist acts in its domestic legislation, bearing in mind the need to define such acts in a precise and narrow manner.**

(13) The Committee regrets the lack of detailed information on the compatibility of the Emergency Powers Act with the non-derogable provisions of article 4 of the Covenant (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 derogations during a state of emergency.**

(14) The Committee reiterates its concern that courts continue to impose death sentences and is concerned at the high number of persons remaining on death row. It regrets the lack of sufficient information on the length of time that convicted persons have spent on death row, their treatment in detention, and the procedures in place for the commutation of death sentences in light of the moratorium (arts. 6, 7 and 10).

**The State party should seriously consider abolishing the death penalty and becoming a party to the Second Optional Protocol of the Covenant. It should also ensure that conditions of detention on death row do not amount to treatment contrary to articles 7 and 10 of the Covenant, and consider the early commutation of death sentences of all persons currently sentenced to death.**

(15) While noting the State party's commitment to prevent, investigate and prosecute cases of mutilations and killings of persons with albinism, the Committee is concerned at the high number of reported incidents, and the limited number of court cases and slow proceedings in this regard (arts. 6 and 7).

**The State party should, as a matter of urgency, strengthen its efforts to put a halt to incidents of mutilation and killings of persons with albinism, and to ensure the timely and efficient conduct of investigations and prosecution of the perpetrators. It should also strengthen its public awareness-raising campaign with a view to preventing future attacks.**

(16) While noting the pilot studies on best practice, which are carried out in conjunction with the United Nations Children's Fund in schools in which caning is not applied, the Committee reiterates its concern that corporal punishment is still available as part of judicial sentences and is permitted within the education system, and that it continues to be applied in practice (arts. 7 and 24).

**The State party should take measures towards the abolition of corporal punishment as a lawful sanction. It should also promote non-violent forms of discipline as alternatives to corporal punishment within the educational system and carry out public information campaigns about its harmful impact.**

(17) While welcoming the adoption of the Anti-Trafficking in Persons Act of 2008 and the ratification of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations

Convention against Transnational Organized Crime by the State party, the Committee regrets the lack of information on the concrete measures taken concerning human trafficking and sexual exploitation of women and children, and the lack of more detailed information, including statistics, in this regard (arts. 3, 7, 8, 24 and 26).

**The State party should take all necessary measures to combat trafficking in human beings and sexual exploitation of women and children. In particular, it should ensure the effective implementation of its anti-trafficking legislation, inform law enforcement officials as well as the judiciary about this new law, and adopt a national action plan on trafficking. It should also ensure that the human rights of victims of trafficking are given sufficient attention in the State party's response to this phenomenon.**

(18) In light of reports about cases of ill-treatment of detainees by law enforcement officials, the Committee regrets the lack of sufficient information regarding the independence of the mechanisms in place to investigate and prosecute complaints of torture and ill-treatment in police custody and detention facilities, including prisons. The Committee appreciates that senior police officials, "justices of peace", as well as the Commission for Human Rights and Good Governance have access to detention facilities, but regrets that it has not received any qualitative assessment about the effectiveness of such arrangements (arts. 7, 9 and 10).

**(a) The State party should take firm measures to eradicate all forms of ill-treatment in detention, and in particular should establish a special mechanism for the investigation of complaints concerning actions of law enforcement officials, which is completely independent from the police force and other Government bodies. It should provide the Committee, in its next periodic report, with more detailed information on the system put in place to hear complaints of detainees for acts of violence together with statistics on criminal and disciplinary proceedings initiated for this type of conduct and the results of those proceedings;**

**(b) The State party should enhance the human rights training of its police force.**

(19) While noting the measures taken by the State party to improve the treatment of detainees and prisoners, the Committee remains concerned about the adverse conditions of detention, in particular with regard to the incidence of overcrowding, and the limited application of alternatives to imprisonment by courts (art. 10).

**The State party should intensify its efforts to improve the conditions of persons deprived of liberty before trial and after conviction, so as to bring them in line with the Standard Minimum Rules for the Treatment of Prisoners. In particular, the overcrowding should be addressed as a priority issue. In addition, the State party should promote alternatives to imprisonment. Detailed statistical data showing progress since the adoption of the present recommendations, including on the promotion and implementation of alternative measures to detention, should be submitted to the Committee in the State party's next periodic report.**

(20) The Committee reiterates its concern at the State party's failure to amend the laws which permit imprisonment for failure to pay a debt (art. 11).

**The State party should comply with article 11 of the Covenant by amending its legislation providing for imprisonment for the failure to pay a debt.**

(21) The Committee regrets the lack of information regarding reports according to which the police frequently fail to bring persons suspected of having committed a crime before a magistrate within the legally prescribed 24 hours. The Committee is also concerned that legal aid is not available at all instances of criminal proceedings. It notes with concern the State party's own statement that the quality of legal representation is unequal and could be improved (arts. 9, 10 and 14).

**The State party should ensure the effective implementation of the right of a suspect to be brought promptly before a magistrate, in accordance with article 9 of the Covenant. The State party should also introduce a comprehensive criminal legal aid system for individuals who do not have sufficient means to pay for legal representation. In this regard, the Committee recalls its general comment No. 32 (2007) on the right to equality before courts and tribunals and to a fair trial.**

(22) The Committee reiterates its concern at the criminalization of same-sex sexual relations of consenting adults, and regrets the lack of measures taken to prevent discrimination against them (arts. 2, 17 and 26)

**The State party should decriminalize same-sex sexual relations of consenting adults and take all necessary actions to protect them from discrimination and harassment.**

(23) While noting the information provided by the State party on the Non-Governmental Organizations Act of 2002, the Committee is concerned about reported obstacles to the operation of civil society organizations and their ability to function independently. In particular, it is concerned at the severe penalties for operating an unregistered organization. Furthermore, the Committee notes with concern the legal provision which permits the dissolution of organizations if they do not strive for "public interest", a term which is vague under the 2002 Act (art. 22).

**The State party should take all necessary measures to guarantee in law and in practice the exercise of the right to peaceful association. It should also ensure that any restrictions imposed on the operation of associations and the peaceful pursuit of their activities are compatible with article 22 of the Covenant.**

(24) The Committee is concerned about reports that journalists are subject to harassment, in particular in Zanzibar, and incidents of overly restrictive limitations on freedom of expression (art. 19).

**The State party should put an end to direct and indirect restrictions on freedom of expression and ensure that its legislation and practice give full effect to the requirements of article 19 of the Covenant. It should also adopt appropriate measures to prevent any intimidation of journalists.**

(25) While noting the efforts undertaken by the State party to address the issue of child labour, the Committee expresses its concern at the persisting prevalence of the phenomenon in the State party. The Committee regrets that no information was provided on the problem of street children and measures taken to respond to it. The



Committee notes that the State party has not yet adopted a unified law to protect the rights of children (art. 24).

**The State party should intensify its efforts to eliminate child labour, and in particular it should ensure the effective implementation of its time-bound programme to eliminate the worst forms of child labour by 2010, including by strengthening its public awareness-raising campaign in this regard. It should also speed up the process of adopting the unified law on child matters, and should include information, in its next periodic report, about the problem of street children and measures that have been taken, if any, to address it.**

(26) The Committee recalls its general comment No. 23 (1994) on the rights of minorities and is concerned that the State party does not recognize the existence of indigenous peoples and minorities in its territory and regrets the lack of information about certain vulnerable ethnic groups. It also notes with concern reports that the traditional way of life of indigenous communities has been negatively affected by the establishment of game reserves and other projects (arts. 26 and 27).

**The State party should, as a matter of urgency, carry out a study regarding minorities and indigenous communities in the State party, and adopt specific legislation and special measures to protect, preserve and promote their cultural heritage and traditional way of life. The State party should also consult indigenous communities before establishing game reserves, granting licences for hunting, or other projects on “ancestral” or disputed lands.**

(27) The State party should widely disseminate the text of the fourth periodic report, the written responses it has provided in response to the list of issues drawn up by the Committee, and the present concluding observations among the general public as well as the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country. Copies of those documents should be distributed to universities, public libraries, the Parliamentary library, and all other relevant places. The Committee also suggests that the report and the concluding observations be translated into the official national languages.

(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 11, 16, and 20.

(29) The Committee requests the State party to provide in its fifth periodic report, due to be submitted by 1 August 2013, specific, up-to-date information on all its recommendations and on the Covenant as a whole. The Committee also requests the State party, when preparing the fifth periodic report, to consult civil society and non-governmental organizations operating in the country.

## 92. The Netherlands

(1) The Committee considered the fourth periodic report submitted by the Netherlands (CCPR/C/NET/4, CCPR/C/NET/4/Add.1 and CCPR/C/NET/4/Add.2) at its 2630th and 2631st meetings, held on 14 and 15 July 2009, and adopted at its 2650th meeting, held on 28 July 2009, the following concluding observations.

**A. Introduction**

(2) The Committee welcomes the fourth periodic report of the Netherlands, which gives detailed information on measures adopted by the State party and on its forthcoming plans to further the implementation of the Covenant. The Committee expresses its appreciation for the quality of the written responses to the list of issues and for the responses given orally by the delegation.

**The European part of the Kingdom**

**B. Positive aspects**

(3) The Committee, which notes the sustained attention paid by the State party to the protection of human rights, welcomes the following legislative and other measures:

(a) The Equal Treatment in Employment (Age Discrimination) Act of May 2004, which bans age discrimination in employment, occupation and vocational training;

(b) The Temporary Domestic Exclusion Order Act (2009), which allows for the exclusion from the home of perpetrators of domestic violence in situations where there is a serious threat to the victims, including any children;

(c) The “Everyone Takes Part” Action Programme (2007) aimed at combating ethnic and racial discrimination in access to employment;

(d) The National Action Plan to Combat Trafficking in Human Beings of December 2004, as well as the establishment, in 2008, of a Human Trafficking Task Force to support and coordinate the fight against human trafficking through, inter alia, the exchange of best practices and the provision of support to local and regional agencies.

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

(4) The Committee notes that the State party maintains its reservation, inter alia, to article 10, paragraphs 1 and 2, of the Covenant. With regard to the reservation to article 10, paragraph 2 (a), the Committee takes note of the State party’s statement that, in practice, accused and convicted persons are already detained separately, and welcomes the delegation’s indication that the State party is prepared to reconsider its position in this regard.

**The State party should withdraw its reservation to article 10 and should consider withdrawing its other reservations to the Covenant.**

(5) While acknowledging the State party’s efforts to improve gender parity in access to employment, the Committee notes with concern that the participation of women in the labour market remains considerably lower than that of men, that women remain overrepresented in part-time employment and that a significant gender pay gap persists (art. 3).

**The State party should strengthen the implementation of measures to ensure that women enjoy equal access to the labour market and equal pay for work of equal value. The State party should pay particular attention to encouraging mothers of young children to continue in employment by**

**increasing the options available for full-time and part-time childcare and appropriate after-school programmes.**

(6) The Committee notes the low participation of women in public office at senior levels, particularly in the Senate and the Cabinet. The Committee notes that this is also the case in the private sector, with women occupying considerably fewer senior positions (arts. 3, 25 and 26).

**While recognizing the different conditions in the public and private sectors, the State party should strengthen its efforts to increase the participation of women in political decision-making positions at all levels, as well as in senior positions in the private sector, by, inter alia, conducting awareness-raising campaigns and encouraging more intensive searches for suitable female candidates.**

(7) The Committee remains concerned at the extent of euthanasia and assisted suicides in the State party. Under the law on the Termination of Life on Request and Assisted Suicide, although a second physician must give an opinion, a physician can terminate a patient's life without any independent review by a judge or magistrate to guarantee that this decision was not the subject of undue influence or misapprehension (art. 6).

**The Committee reiterates its previous recommendations in this regard and urges that this legislation be reviewed in light of the Covenant's recognition of the right to life.**

(8) The Committee notes that medical experimentation involving minors is currently permissible in the State party in two cases: either where it would be of direct benefit to the child concerned or, instead, where the participation of children is a necessary component of the research and the experimentation is deemed to have a "negligible" effect. Nevertheless, the Committee remains concerned that the law does not contain adequate safeguards in relation to medical experimentation requiring the involvement of children (arts. 7 and 24).

**The Committee reiterates its recommendation that the State party should ensure that minors are not subjected to any medical experiments which do not directly benefit the individual concerned (non-therapeutic research) and that safeguards in general are fully consistent with the rights of the child, including with regard to matters of consent.**

(9) The Committee notes that under the "accelerated procedure" for the review of asylum applications, claims are evaluated within 48 working hours. The Committee is concerned that both the current procedure and the proposed regular "8-day" procedure may not allow asylum-seekers the opportunity to adequately substantiate their claims and may place them at hazard of being expelled to a country where they may be at risk (art. 7).

**The State party should ensure that the procedure for processing asylum applications enables a thorough and adequate assessment by allowing a period of time adequate for the presentation of evidence. The State party must, in all cases, ensure respect for the principle of non-refoulement.**

(10) The Committee notes with concern that the 2008 Bill on Administrative Measures for National Security provides that the Minister of the Interior and Kingdom Relations, without any prior judicial review, may direct the exclusion from

certain areas or facilities of persons who may be “associated with terrorist activities” or “support of such activities”, and also may impose an obligation to report periodically to the police. Violation of the Minister’s exclusion order allows for a penalty of up to one year’s imprisonment (arts. 9 and 12).

**The State party should reconsider the draft legislation in the light of these concerns. Any amendments should ensure that all restrictions on the right to liberty and to freedom of movement are founded on a reasonable suspicion of participation in criminal activity and that all such measures are in conformity with the Covenant, including articles 9 and 12, paragraph 1.**

(11) The Committee notes that, in the State party, a person suspected of involvement in a criminal offence has no right to have legal counsel present during police questioning. It is only after a public prosecutor has ordered his detention following initial interrogation that a person may consult with counsel. Even then, the lawyer cannot be present during subsequent police questioning, and police may refuse counsel’s request that they cease questioning his client. The Committee notes that the right to counsel is an important safeguard against abuse (arts. 9 and 14).

**The State party should give full effect to the right to contact counsel in the context of a police interrogation. The State party should ensure that a criminal suspect is informed, immediately upon his arrest, that he has a right to legal counsel, and a right not to testify against himself.**

(12) The Committee is concerned that pretrial detention in the State party may last for up to two years, a situation aggravated by the restricted right of access to counsel. The Committee considers this to be an excessive delay in bringing suspects to trial (arts. 9 and 14).

**The State party should ensure that all persons are tried within a reasonable time and that pretrial detention is not inconsistent with the right to be tried without undue delay as set out in article 14.**

(13) The Committee notes that, under the Witness Identity Protection Act, the identity of certain witnesses is kept from the defence for reasons of national security. While the defence may put questions to such witnesses through the examining judge, the defence cannot always attend the examination of the witness. Considering the importance of a witness’ identity and demeanour in assessing the credibility of his evidence, the ability of an accused person to challenge the case against him is significantly impaired by this law (art. 14).

**The State party should apply the law so as to give full effect to the right of a person to examine, or have examined, the witnesses against him in conformity with article 14 (e) of the Covenant.**

(14) The Committee is aware that the State party considers wire and telephone tapping to be an important investigative tool. It is concerned that any use of wire and telephone taps should be minimized so that only pertinent evidence is gathered and that a judge should supervise its use. The Committee is further concerned at the finding of the Data Protection Authority that recordings of telephone conversations involving professionals who have a confidentiality duty, especially lawyers, are not safeguarded in a manner that preserves lawyer-client confidentiality (art. 17).

**The State party should apply the law on wire and telephone tapping in a manner which is compatible with article 17 of the Covenant and should ensure the exclusion of communications protected by the privilege of confidentiality from tapping.**

(15) The Committee is concerned that, as part of measures to combat terrorism, local mayors may issue administrative “disturbance orders” under which an individual may be subjected to interference in his daily life. Such interference can include house calls, approaching the individual’s acquaintances and repeatedly approaching the person in public. Since disturbance orders do not require judicial authorization or oversight, the Committee is concerned at the risk that their application may be inconsistent with the right to privacy (art. 17).

**The State party should amend its legislation to ensure that its counter-terrorism measures do not conflict with article 17 of the Covenant and that effective safeguards, including judicial oversight, are in place to counter abuses.**

(16) The Committee notes the State party’s intention to abolish the article on blasphemy in the Criminal Code, while at the same time revising its anti-discrimination provisions (arts. 19 and 20).

**The State party should closely monitor any legislative reform in this area to ensure that it is compatible with article 19.**

(17) The Committee is concerned at the problem of child sexual abuse in the State party. Even with the “Children Safe at Home” Action Plan, the Committee is concerned that the efforts deployed to protect children are inadequate and that many cases of abuse are not reported (arts. 7 and 24).

**The State party should strengthen its efforts to combat child abuse by improving mechanisms for its early detection, encouraging reporting of suspected and actual abuse, and by requiring authorities to take legal action against those involved in child abuse.**

(18) The Committee is concerned that making the allocation of housing in certain areas subject to additional income qualifications under the 2006 Urban Areas (Special Measures) Act, together with the deliberate housing of low-income persons and families in peripheral and central municipalities, may result in violations of articles 12, paragraph 1, and 26 of the Covenant (arts. 2, 12, paras. 1, 17 and 26).

**The State party should ensure that its regulation of access to housing does not discriminate against low-income families and respects the right to choose one’s residence.**

(19) The Committee is concerned at reports that there is discrimination against ethnic minorities including in recruitment and selection in the workplace (art. 26).

**The State party should take active steps to ensure that ethnic minorities have equal opportunity with others in recruitment and selection in the workplace, including:**

**(a) Conducting awareness-raising activities on this matter with the private sector;**

(b) **Ensuring that public sector opportunities are adequately advertised within ethnic minority communities;**

(c) **Conducting suitably broad searches for candidates from ethnic minority communities.**

#### **The Netherlands Antilles**

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

(20) The Committee welcomes the development of a national referral system in 2006 for victims of trafficking in need of assistance, which is periodically updated in consultation with the International Organization for Migration and the Human Trafficking Coordination Centre.

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

(21) The Committee commends the State party on the amendment to the law allowing for the judicial declaration of paternity in respect of children born out of wedlock. However, it is concerned that children born out of wedlock continue to suffer discrimination through the loss or limitation of their right of inheritance (arts. 2 and 26).

**The State party should amend its legislation with a view to removing all provisions which discriminate against children born out of wedlock in matters of inheritance.**

(22) The Committee notes with concern that human trafficking is not a separate criminal offence under Antillean law and that trafficking in human beings is addressed by charging under other crimes in the Criminal Code, including false imprisonment and sexual offences. The Committee considers that it is important to criminalize trafficking as a discrete offence as this takes account of the specific elements of trafficking and increases the likelihood of successful prosecutions (art. 7).

**The State party should introduce a separate offence of trafficking in human beings into its Criminal Code.**

(23) The Committee is concerned at reports that prison conditions in Bon Futuro Prison and Bonaire Remand Prison remain extremely harsh (arts. 7 and 10).

**The State party should ensure as a matter of urgency that conditions in places of detention are improved to meet the standard set out in article 10, paragraph 1.**

(24) The Committee is, furthermore, concerned about credible reports of physical ill-treatment and verbal abuse by the police at Bon Futuro Prison, Bonaire Remand Prison, and at the prison for irregular migrants ("*Illegalen Barakken*") (art. 10).

**The State party should prevent and punish the ill-treatment of detainees by police and other authorities in charge of prisons and should, as a matter of urgency, ensure that prison personnel receive training with regard to the application of the Standard Minimum Rules for the Treatment of Prisoners.**

(25) The Committee notes the upcoming establishment of new constitutional arrangements in territories of the Netherlands Antilles.

**The State party should ensure that each of the new constitutional arrangements ensures full protection of Covenant rights.**

## Aruba

### B. Positive aspects

(26) The Committee commends the State party on the adoption of the Sexual Offences and Stalking (Criminalization) Ordinance of 2003, which expands the criminal law protection of minors against sexual abuse. The Committee also welcomes the revision of the Police Order on the Treatment of Detainees to take into account the standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment.

### C. Principal subjects of concern and recommendations

(27) The Committee is concerned that pretrial detention, as acknowledged by the State party, is lengthy, averaging 116 days and lasting up to a maximum of 146 days, after which the examining magistrate may extend it for a further 30 days (arts. 9 and 14).

**The State party should limit the duration of pretrial detention in line with article 14, paragraph 3 (c) of the Covenant and should ensure that the provisions of article 9 are fully respected.**

(28) The Committee requests the State party to publish the fourth periodic report and these concluding observations, making them widely available to the general public and to the judicial, legislative and administrative authorities. Printed copies should be distributed to universities, public libraries, the Library of Parliament and other relevant places in each country of the State party. The Committee also requests the State party to make the fourth periodic report and these concluding observations available to civil society and to the non-governmental organizations operating in the State party.

(29) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, information on the current situation and on its implementation of the Committee's recommendations given in paragraphs 7, 9 and 23 above.

(30) The Committee requests the State party, in its next periodic report due to be submitted by 31 July 2014, to provide information on action taken to implement the remaining recommendations and on its compliance with the Covenant as a whole. In this regard, the Committee also requests the State party to submit a single, consolidated report in respect of all parts of the Netherlands.

## 93. Chad

(1) The Human Rights Committee considered the initial report of Chad (CCPR/C/TCD/1) at its 2634th, 2635th and 2636th meetings (CCPR/C/SR.2634, 2635 and 2636), held on 16 and 17 July 2009, and adopted the following concluding observations at its 2652nd meeting (CCPR/C/SR.2652), held on 29 July 2009.

**A. Introduction**

(2) The Committee welcomes the submission of the initial report of Chad, while regretting that it was submitted 12 years late. The Committee invites the State party to take account of the timetable set by the Committee for the submission of reports. It thanks the State party for having submitted its written replies (CCPR/C/TCD/Q/1/Add.1) to the list of issues (CCPR/C/TCD/Q/1) far enough in advance to allow for their translation into the Committee's other working languages. The Committee appreciates the detailed information which the State party provided on its legislation. It regrets, however, that insufficient information was provided on the effective implementation of the Covenant.

(3) The Committee welcomes the frank dialogue opened with the delegation of the State party on the various problems confronting the State party. It regrets, however, that a delegation from the State party could not be present in New York on 18 and 19 March 2009, when the report of Chad had initially been scheduled for consideration during the Committee's ninety-fifth session, since this hampered the smooth functioning of its work.

(4) The Committee looks forward to the outcome of the human rights forum the State party is planning to hold in November 2009, and hopes that all due attention will be paid to the need to ensure compliance with the provisions of the Covenant.

**B. Positive aspects**

(5) The Committee notes that, pursuant to article 222 of the 1996 Constitution, as amended in 2005, the Covenant takes precedence over domestic laws.

(6) The Committee notes with satisfaction the adoption of Act No. 06/PR/2002 of 15 April 2002 prohibiting female genital mutilation, early marriage and domestic and sexual violence.

(7) The Committee notes with interest the establishment of the National Commission of Inquiry to investigate the human rights violations that took place in the State party during the events of February 2008.

(8) The Committee notes with interest the establishment in 2005 of the Ministry for Human Rights and Freedoms, as well as the formation of an inter-ministerial technical committee to follow up on international instruments.

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

(9) The Committee notes with concern that the rights protected by the Covenant have not been fully integrated into domestic law and that the Covenant has not been publicized widely enough to be readily invoked before the courts and authorities of the State party (art. 2).

**The State party should ensure that remedies are available to guarantee the exercise of the rights recognized in the Covenant. It should provide information on the Covenant to the entire population, particularly law enforcement personnel, and should ensure its effective implementation.**

(10) The Committee notes with concern, particularly in the context of armed conflict, that serious human rights violations have been and continue to be committed with impunity on Chadian territory, including murder, rape, enforced



disappearance, arbitrary detention, torture, destruction of property, forced displacement and attacks on the civilian population. The Committee is especially concerned about the State party's inability to combat impunity on its territory and about the lack of examples of cases in which perpetrators of serious crimes have been prosecuted and punished (arts. 2, 3, 6, 7 and 12).

**The State party should take all appropriate steps to put a stop to such violations and to guarantee that all human rights violations brought to its attention are investigated and that the perpetrators are prosecuted and punished under criminal law. It should also ensure that State bodies and agents provide the necessary protection to victims of human rights violations and should undertake to guarantee in all circumstances that victims have effective access to remedies and to appropriate reparations.**

(11) While noting with satisfaction the adoption of Act No. 004/PR/00 of 16 February 2000 penalizing the misappropriation of public funds, corruption, extortion, influence-peddling and similar offences, and the establishment of the ministry responsible for State oversight and ethics, the Committee remains concerned about the persistence of a high level of corruption in the State party and about its adverse impact on the full enjoyment of the rights guaranteed by the Covenant (art. 2).

**The State party should take all necessary and appropriate measures to combat effectively the misappropriation of public funds, extortion, influence-peddling and the high level of corruption, including measures to change societal patterns of behaviour, so that corruption will no longer be seen as inevitable.**

(12) While noting that the mandate of the National Human Rights Commission is to promote human rights, the Committee remains concerned that this institution does not discharge its functions effectively and is not in full compliance with the Paris Principles (art. 2).

**The State party should promptly take the necessary measures to guarantee the proper functioning of the National Human Rights Commission. In particular, it should provide the Commission with its own budget, strengthen its mandate, broaden its oversight powers and take all necessary steps to guarantee its full independence, in line with the Paris Principles.**

(13) The Committee notes with concern that, between 2007 and 2008, some 160,000 Chadians were internally displaced, primarily in the Dar Sila and Ouaddai regions. It regrets that measures have not been taken to protect displaced persons and to enable them to return home in safety and dignity. The Committee notes with concern that most displaced persons are under the age of 18 and that displaced women have been victims of rape and other forms of sexual violence perpetrated by militias and armed groups (arts. 2, 3, 7, 12 and 24).

**The State party should, in accordance with all international standards on the subject, including the Guiding Principles on Internal Displacement, take all necessary and appropriate measures to:**

**(a) Increase protection for displaced persons both within and around their camps;**

**(b) Strengthen its capacity to protect displaced women, conduct investigations, institute proceedings, punish all perpetrators of sexual violence and provide victims with all necessary assistance;**

**(c) Formulate and adopt a legal framework and a national strategy covering all phases of displacement;**

**(d) Create conditions that offer lasting solutions to displaced persons, including their voluntary and safe return.**

(14) The Committee notes with concern that the level of domestic violence against women is high, despite the existence of laws penalizing this practice (arts. 3, 7 and 26).

**The State party should take effective measures to eradicate domestic violence. It should encourage victims to report such acts and should provide them with effective assistance. The State party should also adopt implementing regulations expanding access to remedies under Act No. 06/PR/2002, and should ensure that the perpetrators of domestic violence are effectively penalized.**

(15) While taking note of Act No. 06/PR/2002 of 15 April 2002, the Committee remains concerned that female genital mutilation is practised on a considerable number of women in Chad and that, in violation of human dignity, it is carried out in one of its most severe forms (infibulation) (arts. 3, 7 and 24).

**The State party should strictly enforce Act No. 06/PR/2002 and bring perpetrators of genital mutilation to justice. It should also take the necessary measures to raise the Chadian population's awareness with a view to the total eradication of this practice, particularly in border communities in the eastern part of the country, where it is still very widespread.**

(16) The Committee regrets the existence of polygamy within the State party, as it is a discriminatory practice that undermines women's dignity and is incompatible with the principles laid down in the Covenant (arts. 3 and 26).

**The State party should take the necessary legislative and other measures to abolish polygamy and should adopt and implement public education measures with a view to preventing it. In this connection, the Committee draws the attention of the State party to its general comment No. 28 (2000) concerning equality of rights between men and women.**

(17) While noting the State party's willingness to undertake a process of reflection on the status of women and, in particular, its intention to review and codify customary law in accordance with its Constitution, the Committee remains concerned that the implementation of rights under the Covenant is not guaranteed in the State party, in part because of customary practices and rules that violate the Covenant and are extremely detrimental to women, in particular, in matters such as inheritance and property. The Committee is also concerned about the low level of women's representation in public life (arts. 3, 25 and 26).

**The State party should:**

(a) **Redouble its efforts to bring customary law and customary practices into line with the rights laid down in the Covenant, attaching high priority to this issue;**

(b) **Pay special attention to the full participation of women in the current process of reviewing and codifying customary law and customary practices; and**

(c) **Make further efforts to promote women's participation in public life, improve their education and guarantee their access to employment.**

(18) The Committee notes with concern the lack of clarity in the legal provisions allowing the authorities to declare a state of emergency and to derogate from obligations provided for in the Covenant (art. 4).

**The State party should ensure, in accordance with article 4 of the Covenant and bearing in mind general comment No. 29 (2001) concerning states of emergency, that its legislation is in conformity with the provisions of the Covenant in order to ensure, in particular, that non-derogable rights are not violated.**

(19) While noting with interest that the State party intends to take measures leading to the abolition of the death penalty, the Committee remains concerned about reports of extrajudicial executions in the State party. It also regrets that the State party has ended the de facto moratorium on the death penalty. Moreover, the Committee notes with concern reports that a number of people were executed in November 2003 after a summary trial and before the court had ruled on their appeal in cassation (arts. 6 and 14).

**The State party should consider abolishing the death penalty or at least reinstating the moratorium on the death penalty. It should ensure that the death penalty is applied, if at all, for only the most serious crimes and that, whenever it is imposed, the requirements of articles 6 and 14 are fully met. In addition, the State party should consider commuting all death sentences and ratifying the Second Optional Protocol to the Covenant aiming at the abolition of the death penalty.**

(20) The Committee is concerned about reports that many people have been victims of enforced disappearance and have sometimes been kept in secret detention centres, and regrets that the recommendations of the Commission of Inquiry on the human rights violations that took place during the events of February 2008 have not been implemented by the State party and that information has yet to be provided on the fate of disappeared persons, including Ibni Oumar Mahamat Saleh. The Committee notes with concern that these recommendations have not resulted in the prosecution of State agents responsible for serious human rights violations during that period (arts. 6 and 9).

**The State party should take all necessary and effective measures to bring to justice all those responsible for serious human rights violations, including the violations committed during the events of February 2008. It should promptly implement the recommendations made by the Commission of Inquiry in 2008.**

(21) While noting that torture is prohibited under article 18 of the Constitution, the Committee is concerned that torture is not defined as an offence under the Criminal Code and that no remedies are available to victims of torture. The Committee notes with concern reports that detainees, particularly prisoners of war and political opponents within the State party, are frequently subjected to torture and to cruel, inhuman or degrading treatment (art. 7).

**The State party should:**

**(a) Define torture as a separate offence, in order to comply with article 7 of the Covenant;**

**(b) Guarantee that all allegations of torture and of cruel, inhuman or degrading treatment are investigated by an independent authority, that the perpetrators of such acts are prosecuted and punished accordingly and that the victims receive adequate reparations;**

**(c) Improve the training of State agents in this regard, to ensure that anyone who is arrested or detained is informed of his or her rights;**

**(d) Provide, in its next report, detailed information on complaints filed for such violations, the number of individuals prosecuted and convicted, including members of the national security forces, and the reparations awarded to the victims.**

(22) The Committee is concerned that, in practice, police custody can last for long periods, during which the detainee has no access to counsel or to medical attention (art. 9).

**The State party should take all necessary and appropriate measures to ensure that the rights of persons in police custody are respected. Information on the methods for supervising the conditions of police custody and on their results should be provided in the next periodic report.**

(23) The Committee is concerned about reports of deplorable conditions of detention in gendarmerie and police stations and in detention centres in the State party, including overcrowding, severe lack of hygiene, very limited access to medical care and insufficient and low-quality food. The Committee is particularly concerned about reports that prisoners are shackled in some prisons, including the Mao prison (arts. 7 and 10).

**The State party should take urgent and effective measures to address overcrowding in detention centres and to ensure that conditions of detention are compatible with respect for human dignity, in accordance with article 10 of the Covenant. It should, in particular, take measures to ensure that the United Nations Standard Minimum Rules for the Treatment of Prisoners are implemented. Regular and independent inspections should be carried out for this purpose.**

(24) The Committee notes with concern that, while the principle of separating accused persons from convicted persons is established in article 234 of the Chadian Code of Criminal Procedure, detention centres do not have suitable structures for separating accused persons from convicted persons or juveniles from adults (art. 10).

**The State party should institute a system for ensuring that accused persons are separated from convicted persons and juveniles are separated from other detainees, in accordance with article 10 of the Covenant.**

(25) The Committee notes with concern that imprisonment for non-payment of debts is common (art. 11).

**The State party should take appropriate measures to end the practice of imprisonment for non-payment of debts, in accordance with article 11 of the Covenant.**

(26) The Committee is concerned about reports that the State party's judicial institutions are dysfunctional owing to a shortage of judges and prosecutors and to unmet infrastructure needs, as well as the lack of defence counsel in the eastern part of the country. The Committee is particularly concerned about the extent of corruption and interference with the independence of judges (art. 14).

**The State party should take all necessary and effective measures to ensure respect for due process and to provide full guarantees of the appropriate and independent functioning of the justice system. In particular, the State party should promptly implement the judicial reform recommended for the period 2005-2015 by the Forum on Justice held in 2003. A timetable should be established for its implementation.**

(27) The Committee notes with concern that a very large number of births go unregistered, particularly in rural areas (arts. 16 and 24).

**The State party should take the necessary budgetary and other measures to guarantee that all births and all unregistered adults are registered. The deployment of mobile registration units of the civil registry should be strengthened. The Committee invites the State party to provide, in its next report, information on the results of the projects to modernize the civil registry and support measures to strengthen it, which are being implemented with support from the specialized agencies of the United Nations and the European Union.**

(28) The Committee notes with concern that cases of arbitrary or unlawful interference in private life are common in Chad, as recognized by the State party. It is particularly concerned about cases of unlawful entry, break-ins (sometimes accompanied by rapes) and evictions, particularly those that took place in N'Djamena during the events of February 2008 (art. 17).

**The State party should ensure respect for the provisions of article 17 of the Covenant and should take effective measures to eliminate arbitrary or unlawful interference, to make remedies available to victims and to prosecute and punish those responsible for such violations.**

(29) The Committee notes with concern that freedom of association and peaceful assembly cannot be exercised without prior authorization and that states of emergency are allegedly being used to control and censor the free press. It regrets the numerous violations of freedom of expression, particularly freedom of the press, that reportedly took place during the events of February 2008, particularly as a result of the adoption of Ordinance No. 5 of 20 February 2008 on the press regime, which increases the penalties applicable to journalists for press offences (art. 19).

**The State party should take all necessary and effective legislative and other measures to guarantee the exercise of freedom of association and freedom of expression and to ensure the effective exercise of freedom of the press, pursuant to article 19 of the Covenant.**

(30) The Committee is concerned about reports that many human rights defenders are unable to carry out their activities without impediment because they have been subjected to harassment, intimidation and aggression and have been forbidden by the security services from holding demonstrations (arts. 21 and 22).

**The State party should respect and protect the activities of human rights defenders and should ensure that any restrictions on their activities are compatible with the provisions of articles 21 and 22 of the Covenant.**

(31) The Committee is concerned about the situation of Chadian children, which is characterized by human rights violations such as commercial sexual exploitation, kidnapping, trafficking, early marriage and modern forms of slavery in the case of child cattle-herders and domestic workers. In addition, the Committee notes that kidnappings can easily be disguised as adoptions and that street children are especially likely to be victims of such acts.

**The State party should take all necessary and appropriate measures to:**

(a) **Eradicate the exploitation of child cattle-herders and domestic workers and find lasting solutions for poor families so that they can properly care for and protect such children;**

(b) **Investigate kidnappings and cases of missing children;**

(c) **Enact a legal framework and implementing regulations for the adoption of children in accordance with article 24 of the Covenant;**

(d) **Strictly enforce its criminal laws by punishing the perpetrators of crimes and violence against children and providing the necessary assistance to victims.**

(32) The Committee expresses its concern about the case of one child, Khadidja Ousmane Mahamat, who was forced into an early marriage at the age of 13½ and was accused of poisoning her 70-year-old husband. While no decision has yet been handed down in her case, since 2004 she has been in prison, where she has been raped by a prison official and has borne a child as a result, and continues to be sexually abused (arts. 2, 7, 8 and 24).

**The State party should protect Khadidja Ousmane Mahamat, provide her with all necessary assistance and prosecute and punish those who have committed violence against her. The State party is invited to include information on this case in its next periodic report.**

(33) The Committee notes with concern the presence of child soldiers in armed groups and the recruitment of children into the Chadian National Army, particularly from displaced person camps (arts. 8, 9 and 24).

**The State party should put a stop to all recruitment of child soldiers, including girls, into armed groups. To this end, it should set up a monitoring system, including regular follow-up visits to military camps and military training centres, to prevent any further recruitment of**

**minors. The State party should take steps to assist and reintegrate children who have been in the army.**

(34) The Committee is concerned that the State party has not taken effective measures to spread awareness of human rights in general, and the Covenant in particular, among State agents and the population at large.

**The State party should institute a nationwide human rights education programme. Training sessions on all the subjects addressed in these concluding observations should be organized for all State agents, including the police, judges and lawyers, and for traditional leaders and the general public. The State party should widely disseminate the text of the initial report, its written replies to the list of issues drawn up by the Committee and the present concluding observations.**

(35) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, information on the follow-up action it has taken on the recommendations contained in paragraphs 10, 13, 20 and 32 above.

(36) The Committee requests the State party to include in its second periodic report, due to be submitted by 31 July 2012, specific, up-to-date information on the implementation of all the recommendations made and of the Covenant as a whole. The Committee also requests the State party to prepare the second periodic report in consultation with civil society and non-governmental organizations operating in the country.

#### 94. **Azerbaijan**

(1) The Committee considered the third periodic report of Azerbaijan (CCPR/C/AZE/3) at its 2638th, 2639th and 2640th meetings (CCPR/C/SR.2638-2640), held on 20 and 21 July 2009, and adopted the following concluding observations at its 2653rd meeting (CCPR/C/SR.2653), held on 30 July 2009.

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

(2) The Committee welcomes the submission of the third periodic report of Azerbaijan, submitted in accordance with the guidelines and the inclusion in the report of information on a number of measures taken to address the concerns expressed in the Committee's previous concluding observations (CCPR/CO/73/AZE). The Committee also notes the delegation's explanation that non-governmental organizations were consulted in the preparation of the present report as well as the fact that the report was placed on the Internet site of the Ministry of Foreign Affairs. It welcomes the dialogue with the delegation, including the written replies (CCPR/C/AZE/Q/3/Add.1) submitted in response to the Committee's list of issues, as well the additional information and clarifications provided during the consideration of the report.

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

(3) The Committee commends the State party for the continuing process of bringing its domestic legislation into line with the provisions of the Covenant and other human rights treaties. It welcomes the various constitutional amendments, as well as legislative, administrative and practical measures taken to improve the

promotion and protection of human rights in the State party since the examination of the second periodic report, in particular:

(a) The agreement between the State party and the International Committee of the Red Cross (ICRC), and the possibility for the ICRC to conduct regular visits in prisons and detention facilities;

(b) The efforts made in order to improve the conditions of detention of prisoners and the measures taken in cooperation with the ICRC resulting in the reduction by a factor of 15.8, in the last 10 years, of the rate of tuberculosis mortality in prisons;

(c) The adoption, in 2007, of a national programme to combat domestic violence and of the action plan on family and women's issues 2009-2012; the ongoing project "Combating violence against women in the twenty-first century" conducted in cooperation with the United Nations Population Fund;

(d) The measures adopted regarding children with special needs and persons with disabilities that seek to eradicate stereotypes, rehabilitate persons with disabilities and children with special needs and to provide them with increased opportunities to take part in all areas of public life and to gain better access to employment. The Committee also welcomes the accession of the State party to the Convention on the Rights of Persons with Disabilities and its Optional Protocol in January 2009;

(e) The adoption of the Gender Equality Act in 2006;

(f) The progress made in combating trafficking in human beings, through the adoption of the law on the Fight against Human Trafficking in 2005, the amendment of the Criminal Code (2005), and the creation of a relief fund for victims of human trafficking.

### C. Principal subjects of concern and recommendations

(4) The Committee regrets the lack of comprehensive information and detailed statistical data on the number of complaints received and processed by the State party's Office of the Human Rights Commissioner (Ombudsman) during the reporting period. It regrets the lack of information on the outcome of such complaints as well on the impact of the Ombudsman's recommendations (art. 2).

**The State party should provide the Committee with detailed information on the number and the outcome of complaints received and determined by the Office of the Human Rights Commissioner, as well as on the concrete action taken by the authorities in each case.**

(5) The Committee is concerned that, despite the effort undertaken, both in terms of legislative measures and measures taken in practice, violence against women still continues, in particular domestic violence. The Committee further notes with concern that only a very limited number of complaints of rape are registered by the authorities. It is also concerned at the absence of a sufficient number of safe shelters for victims of domestic violence (arts. 3, 6, 7 and 26).

**The State party should intensify its efforts towards the elimination of violence against women, inter alia, through effective implementation of the action plan on family and women's issues 2009-2012. The State party**



**should undertake focused information campaigns aiming at raising the awareness of women regarding their rights. It should also continue providing specific training in this regard to law enforcement authorities, as well as to medical and social workers. The State party should also consider strengthening its legislation and its application to deal effectively with domestic violence. Finally, it should increase the number of shelters equipped to receive women and children victims of domestic violence.**

(6) While acknowledging the appointment of gender policy coordinators in all executive bodies, the constitutional amendment of March 2009, and the adoption of the Gender Equality Act (2006), the Committee remains concerned that, in practice, women are still victims of discrimination in numerous areas of life. The Committee is also concerned about the limited percentage of women in Parliament, as well as in high-ranking positions, particularly in the higher echelons of the judiciary and decision-making posts in the public sector (arts. 2, 3, 25 and 26).

**The State party should seek ways to promote the access of women to high-level and managerial positions in the public sector including, where possible, through targeted measures, with a view to ensuring, in practice, that women and men receive equal treatment and are offered equal opportunities in all areas of public life.**

(7) The Committee notes with concern that a large number of under-age marriages which cannot be registered occur each year in the State party, in particular for girls belonging to the families of internally displaced persons. It is also concerned at the fact that the legal age for marriage of girls is 17, whereas for boys it is 18 (arts. 2, 3, 17, 23, 24 and 26).

**The State party should take urgent measures to eradicate the practice of unregistered marriages and to take measures, including awareness-raising campaigns, to ensure that marriages do not take place before the legal age. It is also invited to align the legal age of marriage of girls to that of boys.**

(8) The Committee is concerned that, although the Constitution entitles every suspect or accused person to legal assistance immediately after his/her apprehension, this is not systematically respected in practice. It is also concerned that, as acknowledged by the delegation, an apparent shortage of lawyers exists, especially outside the capital. In addition, the Committee notes that under the State party's law, a person suspected of a criminal offence may be kept in police facilities for 48 hours before being brought before a judge, and that if the detention is confirmed, the police have a further 24 hours to bring the individual concerned to a remand detention centre. The Committee notes with concern that such situations can result in detention of individuals by the police for up to 72 hours, without representation by a lawyer (arts. 9, 14 and 26).

**The State party should take urgent measures to ensure that all individuals concerned are systematically provided with legal aid, as required by the State party's Constitution, without discrimination. The State party should envisage the immediate transfer to remand centres of all individuals placed in pretrial detention by a court.**

(9) The Committee is concerned about information that individuals, who have been denied access to the relevant asylum procedures in the State party, have been expelled to countries where they could face the risk of torture or ill-treatment. It

regrets that the delegation did not provide any concrete information on how, in practice, individuals in such a situation are effectively protected (arts. 7 and 13).

**The State party should not extradite, expel, deport or forcibly return aliens to a country where they would face the real risk of torture or ill-treatment. The Committee recalls that article 2 requires that States parties should respect and ensure the Covenant rights for all persons in their territory and all persons under their control. It, therefore, entails an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated by 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 (general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant). The Committee further recalls that the relevant judicial and administrative authorities should be made aware of the need to ensure compliance with the Covenant obligations in such matters. The State party should also establish a mechanism allowing aliens who claim that their forced removal would put them at risk of torture or ill-treatment to file an appeal with suspensive effect.**

(10) While noting the delegation's reference to the possibilities of a review on the matter, the Committee remains concerned about the existence of a pretrial investigation centre under the jurisdiction of the Ministry of National Security instead of the Ministry of Justice (arts. 7, 9 and 10).

**The State party should close down the pretrial detention centre of the Ministry of National Security or place it under the jurisdiction of the Ministry of Justice.**

(11) The Committee is concerned at persistent reports of confessions obtained under torture and ill-treatment during investigation. It is also concerned at information that such confessions have served as evidence in court on a number of occasions, and that torture and ill-treatment complaints are not being duly and systematically investigated. The Committee is also concerned about reports of deaths in police detention centres, remand centres, or prison facilities. Finally, it remains concerned at the lack of a fully independent mechanism for investigating complaints against acts by members of the police or prison guards, despite the explanations of the delegation as to the existence of an inspectorate to control the execution of punishments and a department of human rights and public relations (Ministry of Justice) with certain prerogatives in this respect (arts. 2, 6, 7, 9, 10 and 14).

**The State party should establish without delay an independent body with authority to receive and investigate all complaints of use of force incompatible with the Code of Conduct for Law Enforcement Officials (General Assembly resolution 34/169) and the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990), and other abuses of power by law enforcement officials. The State party should ensure that all complaints relating to torture or ill-treatment are examined promptly and thoroughly and that the victims are compensated. Those responsible should be prosecuted and punished. The State party should**

**ensure that all places of detention are subject to regular independent inspection. The State party should provide adequate training to its law enforcement and prison officials and ensure that the rights under the Covenant are fully protected. The introduction of systematic use of audio and video equipment in police stations and detention facilities should also be seriously considered.**

(12) The Committee remains concerned that, despite the reforms undertaken and the progress made during the reporting period, through, inter alia, the amendments in the Judges Act, the adoption of the Judicial Council Act, the establishment of the statute of the Judges' Selection Committee, the Code of Ethics for Judges, the State party's judiciary does not appear to be fully independent from the executive branch or from political pressure. The Committee is also concerned about reports that corruption within the judiciary remains a problem (art. 14).

**The State party should strengthen its efforts to ensure a fully independent judiciary. Given the important prerogatives of the Judicial Council, in particular regarding selection, promotion, and disciplining of members of the judiciary, the State party should ensure that the Judicial Council, in its composition and work, is fully independent from the executive so as to create conditions ensuring full independence of the judiciary. The State party should increase efforts to combat corruption, in particular within its judiciary, by investigating promptly and thoroughly all incidents of suspected corruption. If corruption is established, the officials concerned should face criminal and not only disciplinary sanctions.**

(13) The Committee notes with concern that, notwithstanding the delegation's explanation that the practice of religion is not restricted in the State party, religious communities are requested to register and obtain legal personality in order to be able to function freely, as the lack of legal personality may prevent such communities from the enjoyment of a large number of rights. The Committee is further concerned at the obligation for Muslim religious communities to obtain a prior authorization from the Caucasus Muslim Board before applying for official registration. It regrets the absence of any information on the exact composition, criteria and prerogatives of this Board, or on the possibilities for appealing against the negative decisions of the Board. The Committee is concerned at the information that no person may teach religion in the State party if he or she has graduated abroad (art. 18).

**The State party should take steps to ensure full respect for the right of freedom of religion or belief and ensure that its legislation and practices conform fully to the requirements of article 18 of the Covenant.**

(14) The Committee remains concerned that no legal provision regulates the status of conscientious objectors to military service (art. 18).

**The Committee recommends that a law exempting conscientious objectors from compulsory military service and providing for alternative civilian service of equivalent length be adopted at an early date in compliance with article 18 of the Covenant and the Committee's general comment No. 22 (1993) on article 18 (Freedom of thought, conscience or religion).**

(15) The Committee remains concerned at the extensive limitations to the right to freedom of expression of the media, the closure of independent newspapers, and the removal of licences to broadcast locally for a number of foreign radio stations. It

also remains concerned at reports of a pattern of harassment and criminal libel suits or hooliganism charges against journalists. Furthermore, the Committee is concerned at reports of killings or beatings of journalists which have not been elucidated. Finally, the Committee is concerned at the recent arrest and detention on remand of individuals who had expressed opinions in non-conventional media, especially since no explanation was provided as to why the arrest took place after the individuals had reported to the police attacks on themselves and why the judicial proceedings against them for hooliganism were not held in public (art. 19).

**The Committee urges the State party to take the necessary measures to put an end to direct and indirect restrictions on freedom of expression. Legislation on defamation should be brought into line with article 19 by ensuring a proper balance between the protection of a person's reputation and freedom of expression. In this respect, the State party is urged to consider finding a balance between information on the acts of so-called "public figures", and the right of a democratic society to be informed on issues of public interest. The State party is also urged to effectively protect media workers against attempts on their integrity and life, and to pay special attention and react vigorously if such acts occur. The State party should not unreasonably restrain independent newspapers, as well as local broadcasting of radio stations. Finally, the State party should treat users of non-conventional media in strict compliance with article 19 of the Covenant.**

(16) The Committee is concerned at persistent reports according to which the State party's authorities unreasonably restrict the right of individuals to freedom of peaceful assembly, by refusing to deliver authorizations, or by dispersing peaceful demonstrations with excessive use of force (art. 21).

**The State party should re-examine its regulations, policy and practice, and ensure that all individuals under its jurisdiction fully enjoy their rights under article 21 of the Covenant, and make sure that the exercise of this right is not subjected to restrictions other than the ones permissible under the Covenant.**

(17) The Committee is concerned at numerous reports regarding irregularities, in particular during the State party's 2005 parliamentary elections, but also in the context of the 2008 Presidential elections (art. 25).

**The State party should take the necessary measures to ensure enjoyment by all its citizens of the rights provided for in article 25 of the Covenant, taking due account of the Committee's general comment No. 25 (1996) on article 25 (Participation in public affairs and the right to vote).**

(18) The Committee remains concerned that, in spite of the achievements by the State party's authorities in addressing the problems of the large number of internally displaced persons following the 1991-1994 conflict with Armenia in particular in Nagorny Karabakh, such people continue to face problems in obtaining address registration (*propiska*), which may expose them to corrupt practices, depriving them of a large number of social entitlements and allowances and of the enjoyment of a number of rights, including in the areas of employment and health. In general, the Committee reiterates its concern that the existence of the address registration

(*propiska*) system violates the right to freedom of movement and choice of residence under article 12 of the Covenant (arts. 2, 12 and 26).

**The State party should simplify its address registration procedure, so as to enable all individuals who reside legally in Azerbaijan, including internally displaced persons, to fully exercise their rights and freedoms under the Covenant.**

(19) The Committee is concerned at reports that individuals have been harassed by police and prison officials because of their sexual orientation (art. 26).

**The State party should take measures in this respect by providing training activities to its law enforcement and penitentiary authorities and by elaborating a relevant code of conduct.**

(20) The Committee is concerned at the lack of information on the situation of members of minorities living in the State party or on the measures taken by the State party following the examination of its second periodic report. It regrets also the incomplete answers provided by the delegation on the measures taken following the adoption of the 2003 opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities. It further regrets the absence of clarification by the delegation on the steps taken to address significant concerns, in particular on the reductions in the legal guarantees relating to the protection of minorities in the State party's Law on the State Language (2002) and on the absence of consultative structures for representatives of minorities in the State party (art. 27).

**The State party should ensure that members of minorities enjoy their rights in full compliance with article 27 of the Covenant. The State party should create a national consultative organ including representatives of minorities, in order to better take into account their specific needs and to enable them to take part in the decision-making process in respect of issues of interest to them.**

(21) The Committee requests the State party to publish its third periodic report and these concluding observations, making them widely available to the general public and to the judicial, legislative and administrative authorities. Printed copies should be distributed to universities, public libraries, the library of Parliament, lawyers' associations, and other relevant places. The Committee also requests the State party to make the third periodic report and these concluding observations available to civil society and to the non-governmental organizations operating in the State party. In addition to Azerbaijani, the Committee recommends that the report and the concluding observations be translated into the main minority languages spoken in Azerbaijan.

(22) 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 recommendations of the Committee made in paragraphs 9, 11, 15 and 18 above.

(23) The Committee requests the State party to include in its fourth periodic report, due to be submitted by 1 August 2013, specific, up-to-date information on follow-up action taken on all the recommendations made and on the implementation of the

Covenant as a whole. The Committee also requests that the fourth periodic report be prepared in consultation with civil society 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**

**95. Grenada**

(1) The Human Rights Committee considered the situation of civil and political rights under the International Covenant on Civil and Political Rights in Grenada in the absence of a report at its 2467th meeting (CCPR/C/SR.2467), held on 18 July 2007. At its 2478th meeting (CCPR/C/SR.2478), held on 25 July 2007, it adopted the following provisional concluding observations pursuant to rule 70, paragraph 1, of its rules of procedure.

**A. Introduction**

(2) The Committee regrets that the State party, despite numerous reminders, has not submitted its initial report, which was due on 5 December 1992. The Committee considers that this amounts to a serious breach by the State party of its obligations under article 40 of the Covenant.

(3) The Committee regrets that although notice was given of the consideration by the Committee of the situation in Grenada, no delegation attended the meeting. It welcomes however the submission of written responses to its list of issues, albeit brief and in many respects insufficient.

**B. Positive aspects**

(4) The Committee welcomes the abolition of the mandatory death penalty in 2002.

(5) The Committee welcomes the adoption of the Domestic Violence Act 2001 and the Domestic Violence Summary Procedure Rules, as well as of the Child Protection Act of 1998. The Committee would welcome information on the implementation of these Acts and their practical impact on the protection of the Covenant rights in question.

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

(6) The Committee notes that the Covenant is not directly applicable by the courts in domestic law and that many of the rights enunciated in the Covenant are contained in the Constitution. It is concerned by the conclusion drawn by the State party that the Covenant has persuasive rather than binding authority at the domestic level of the State party. While recalling that the dualist approach adopted by the State party does not of itself prevent the full observance and implementation of the Covenant, the Committee regrets that the State party has not embarked on a process aiming at assessing the extent to which the Covenant has been made applicable, in a full and appropriate manner, either in its Constitution or its other domestic laws (art. 2).

**The State party should consider incorporating Covenant rights into domestic law, so as to give full effect to the obligations it has undertaken upon ratification of the Covenant. It should assess the extent to which its domestic law incorporates the rights protected under the Covenant, due consideration being given, in particular, to the requirement that limitations in the exercise of these rights do not go beyond what is permissible under the Covenant.**

(7) While appreciating that the State party has established various institutions aimed at guaranteeing human rights, the Committee notes that it has not yet created a national human rights institution (art. 2).

**The State party should consider establishing an independent national human rights institution, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles, annexed to General Assembly resolution 48/134). Consultations with civil society should be organized to this end.**

(8) The Committee notes the assessment made by the State party that inconsistencies between Section 14 of the Constitution, allowing for derogations to the right not to be discriminated against on the basis of race, colour, sex, language, religion and social origin and article 4 of the Covenant, do not have any practical effect as emergency measures must in all cases be reasonably justifiable. The Committee notes with concern that the state of emergency proclaimed in 2004 in Grenada was not brought to the attention of the Secretary-General of the United Nations (art. 4).

**The State party should provide the Committee with more detailed information on the way it ensures that measures derogating from its obligations under the Covenant do not involve discrimination solely on the ground of race, colour, sex, language, religion and social origin. It should also establish a mechanism by which it informs other States parties to the Covenant, through the intermediary of the Secretary-General, of the rights it has derogated from in time of public emergency, as required by article 4 (3) of the Covenant.**

(9) The Committee expresses concern about the potentially overbroad reach of the definition of terrorism under the Terrorism Act of 2003, which may extend to conduct, e.g. in the context of political dissent, which, although unlawful, should not be understood as constituting terrorism. The Committee is also concerned at the seemingly mandatory nature of life imprisonment sentences for those convicted of terrorist acts.

**The State party should ensure that counter-terrorism measures 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 assimilated to terrorism and attracting the often grave consequences associated with it. It should allow for some degree of judicial discretion in sentencing to life imprisonment. The State party is also requested to inform the Committee on whether the Terrorism Act has ever been applied.**

(10) The Committee notes with satisfaction that a de facto moratorium on the death penalty is in force in Grenada. It remains concerned however that there are still at

least 10 persons on death row. The Committee recalls that all measures taken towards abolition of the death penalty are considered to be progress in the enjoyment of the right to life (art. 6).

**The Committee invites the State party to consider formally abolishing the death penalty and ratifying the Second Optional Protocol to the Covenant. The State party should also consider the commutation of the death sentences of all those currently on death row.**

(11) The Committee is concerned that corporal punishment, including flogging and whipping, is still administered in Grenada in accordance with the Criminal Code, the Prisons Act, and the Education Act of 2002. Particularly worrisome is the whipping of boys as a criminal punishment, and the use of corporal punishment in schools. The Committee further expresses its concern that the law provides for the sentencing of women and girls to solitary confinement in lieu of corporal punishment (arts. 7, 10 and 24).

**The State party should immediately eliminate corporal punishment from its law and prohibit its use in places of detention and in schools, as well as in any other institution. Judicial sentences of solitary confinement should not be resorted to.**

(12) The Committee remains concerned at the reported persistence of domestic violence in Grenada (arts. 3 and 7).

**The State party should increase its efforts to reduce domestic violence. It should ensure that police and other officials dealing with situations of domestic violence are adequately trained, and adopt measures to sensitize the public on gender issues. The State party is also requested to provide the Committee with detailed information, including statistical data, on complaints, investigations, prosecutions, sentences and protection orders granted over the past few years.**

(13) The Committee is concerned about the lack of policy and legislation in the State party regarding trafficking in human beings. It notes in particular that, although the State party has acceded to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, it has not yet incorporated the crime of trafficking in persons into its Criminal Code (art. 8).

**The State party should take concrete measures in order to assess the existence of trafficking of human beings on its territory, and adopt appropriate policy and legislation to tackle this issue. It should consider incorporating the crime of trafficking in persons into its Criminal Code.**

(14) The Committee notes with concern that, despite indications that the convictions of the “Grenada 17” rested on a trial not respecting all the guarantees of the Covenant, 10 of the original “Grenada 17” remain detained, having recently been re-sentenced to 40-year terms, of which they have already served the majority. The Committee notes that, though the sentencing of the “Grenada 17” has been reviewed in court, the underlying convictions have yet to be subjected to a full, independent judicial review. It is concerned that the State party has failed to follow the recommendations issued by its own Truth and Reconciliation Commission



(TRC), in 2006, to provide legal redress for the “Grenada 17” in the form of a “fair trial, regardless of the outcome” (arts. 7 and 14).

**The State party should provide without further delay for an independent judicial review of the convictions of the 10 members of the “Grenada 17” still in detention.**

(15) The Committee expresses its concern about the low six-month maximum sentences provided for in cases of police convicted of using “unnecessary violence” against prisoners. This is especially troubling in light of reports of police beatings of persons in custody. The Committee is also concerned that, according to information received, no appropriate and effective complaint mechanism has been set up to receive and hear allegations of abuse in detention (arts. 2 (3) and 7).

**The State party should take appropriate steps to ensure that any act of ill-treatment committed against a prisoner is duly investigated, prosecuted and punished. It should undertake legislative initiatives to ensure that officials found guilty of ill-treatment are sanctioned in an appropriate manner, in keeping with the seriousness of the offence.**

(16) The Committee is concerned about information received according to which overcrowding is a serious problem in places of detention in Grenada, and about reported poor conditions of detention. The Committee also expresses its concern that under domestic law, reduction of the diet of a detainee for up to three weeks without even the medical supervision contemplated by the Standard Minimum Rules for the Treatment of Prisoners adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders (Rule 32.(1)) may be and has been imposed as a punishment for violation of prison regulations (art. 10).

**The State party should alleviate overcrowding through, inter alia, encouraging alternative sentences to incarceration. It should also guarantee the right of detainees to be treated humanely and with dignity, particularly their right to live in healthy conditions. It should also review its prisons’ regulations to prohibit the reduction of diet as punishment or at least ensure that any reductions are consistent with the requirements of the Standard Minimum Rules for the Treatment of Prisoners.**

(17) The Committee is concerned that the State party’s domestic law exceptionally allows for the detention of juveniles together with adults, and that this is reported to have become a regular practice (arts. 10 and 24).

**The State party should ensure that juveniles are detained separately from adults, without exception.**

(18) The Committee notes with concern that the minimum age of criminal responsibility is seven years. It notes the State party’s intention to enact comprehensive legislation on juvenile justice through a Juvenile Justice Bill (art. 24).

**The State party should take immediate action to raise the minimum age of criminal responsibility to an acceptable level under international standards. The State party is encouraged to fulfil its promise to enact comprehensive juvenile justice legislation in accordance with the Covenant and other United Nations standards in this field, such as the United Nations Standard Minimum Rules for the Administration of**

**Juvenile Justice (“the Beijing Rules”), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty.**

(19) The Committee notes with concern references in the Prisons Act to “civil prisoners” (art. 11).

**The State party, giving due consideration to article 11 of the Covenant, according to which no one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation, should provide the Committee with information clarifying the meaning of this term. It should ensure the full implementation of article 11 of the Covenant.**

(20) The Committee is concerned that legal aid is provided by a non-governmental organization only, albeit subsidized by the State party, and that statistics provided by the State party on legal aid do not appear to include criminal matters (art. 14 (3) (d)).

**The State party should ensure that legal aid is accessible for those charged with a serious criminal offence, and provide more detailed information on this matter as requested by the Committee.**

(21) The Committee notes with concern that the Criminal Code penalizes same-sex sexual activities between consenting adults (arts. 17 and 26).

**The State party should repeal these provisions of its laws.**

(22) The Committee notes with concern that libel may be pursued in criminal courts (art. 19).

**The State party should ensure that libel and other similar cases are handled in a civil rather than criminal manner so as to ensure compliance with article 19 of the Covenant.**

(23) The Committee encourages the State party to solicit technical cooperation from the appropriate United Nations organs, in particular the Office of the United Nations High Commissioner for Human Rights, to assist it in meeting its reporting obligations under the Covenant.

(24) The Committee further requests the State party to submit its initial report in pursuance of article 40 of the Covenant, including responses to the concerns raised above, by 31 December 2008.

## Chapter V

### Consideration of communications under the Optional Protocol

96. 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 164 States that have ratified, acceded to or succeeded to the Covenant, 112 have accepted the Committee's competence to deal with individual complaints by becoming parties to the Optional Protocol (see annex I, section B).

97. 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.

98. 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, under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities.

#### A. Progress of work

99. The Committee started its work under the Optional Protocol at its second session, in 1977. Since then, 1,888 communications concerning 83 States parties have been registered for consideration by the Committee, including 88 registered during the period covered by the present report. At present, the status of the 1,888 communications registered is as follows:

(a) Consideration concluded by the adoption of Views under article 5, paragraph 4, of the Optional Protocol: 681, including 543 in which violations of the Covenant were found;

(b) Declared inadmissible: 533;

(c) Discontinued or withdrawn: 264;

(d) Not yet concluded: 410.

100. 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.

101. At its ninety-fourth, ninety-fifth and ninety-sixth sessions, the Committee adopted Views on 46 cases. These Views are reproduced in annex VII (vol. II).

102. The Committee also concluded consideration of 29 cases by declaring them inadmissible. These decisions are reproduced in annex VIII (vol. II).

103. 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.

104. The Committee decided to discontinue the consideration of 3 communications following withdrawal by the author and 10 communications either because counsel lost contact with the author, or because the author or counsel failed to respond to the Committee despite repeated reminders.

105. In two 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 the Democratic Republic of the Congo and the Central African Republic. 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**

106. 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 88 communications have been registered.

**Communications dealt with 2001-2008**

<i>Year</i>	<i>New cases registered</i>	<i>Cases concluded<sup>a</sup></i>	<i>Pending cases at 31 December</i>
<b>2008</b>	<b>87</b>	<b>88</b>	<b>439</b>
<b>2007</b>	<b>206</b>	<b>47</b>	<b>455</b>
<b>2006</b>	<b>96</b>	<b>109</b>	<b>296</b>
<b>2005</b>	<b>106</b>	<b>96</b>	<b>309</b>
<b>2004</b>	<b>100</b>	<b>78</b>	<b>299</b>
<b>2003</b>	<b>88</b>	<b>89</b>	<b>277</b>
<b>2002</b>	<b>107</b>	<b>51</b>	<b>278</b>
<b>2001</b>	<b>81</b>	<b>41</b>	<b>222</b>

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

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

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

107. 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 ninety-third session, in July 2008, Ms. Christine Chanet was designated Special Rapporteur. In the period covered by the present report, the Special Rapporteur transmitted 82 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 13 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>18</sup>

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

108. 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.

109. The Working Group also makes recommendations to the Committee concerning the inadmissibility of certain communications. At its eighty-third session

<sup>18</sup> *Official Records of the General Assembly, Fifty second Session, Supplement No. 40 (A/52/40)*, vol. I, para. 467.

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**

110. 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.

111. During the period under review, individual opinions were appended to the Committee’s Views concerning cases Nos. 1122/2002 (*Lagunas Castedo v. Spain*), 1334/2004 (*Mavlonov and Sa’di I v. Uzbekistan*), 1364/2005 (*Carpintero Uclés v. Spain*), 1366/2005 (*Piscioneri v. Spain*), 1378/2005 (*Kasimov v. Uzbekistan*), 1388/2005 (*De León Castro v. Spain*), 1406/2005 (*Weerawansa v. Sri Lanka*), 1472/2006 (*Sayadi et al v. Belgium*), 1479/2006 (*Persan v. Czech Republic*), 1493/2006 (*Williams Lecraft v. Spain*), 1512/2006 (*Dean v. New Zealand*), 1536/2006 (*Cifuentes Elgueta v. Chile*), 1539/2006 (*Munaf v. Romania*), 1570/2007 (*Vassilari et al v. Greece*), 1574/2007 (*Slezák v. Czech Republic*), 1582/2007 (*Kudrna v. Czech Republic*), 1587/2007 (*Mamour v. Central African Republic*), 1771/2008 (*Sama Gbondo v. Germany*), 1792/2008 (*Dauphin v. Canada*).

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

112. A review of the Committee’s work under the Optional Protocol from its second session in 1977 to its ninety-third session in July 2008 can be found in the Committee’s annual reports for 1984 to 2008, 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)).

113. Nine 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), from the seventy-fifth to the eighty-fourth sessions (July 2002 to July 2005) and from the eighty-fifth to ninety-first sessions (October 2005 to October 2007) 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.

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

## 1. Procedural issues

### (a) Inadmissibility for lack of standing as a victim (Optional Protocol, art. 1)

115. In conformity with its consistent jurisprudence, the Committee can only examine individual petitions presented by the alleged victims themselves or by duly authorized representatives. In case No. 1163/2003 (*Isaev and Karimov v. Uzbekistan*) the authors did not submit a written authorization to act on behalf of one of the alleged victims, neither in her initial submission nor at a later stage, and no explanation was provided to the Committee on that particular issue. Accordingly, the part of the communication related to that alleged victim was declared inadmissible under article 1 of the Optional Protocol. In case No. 1510/2006 (*Vojnović v. Croatia*), the Committee considered that the author did not have standing to act on his adult son's behalf.

116. In case No. 1877/2009 (*Bagishbekov v. Kyrgyzstan*), the author complained that, despite his request, the Kyrgyz administration had not provided him with information on the number of death sentences pronounced after the adoption of the new Constitution abolishing the capital punishment. The Committee noted that the author had not explained why exactly he, personally, needed the information in question; rather he contended that this was a matter of public interest. The Committee considered that the communication constituted an *action popularis* and declared it inadmissible under article 1 of the Optional Protocol.

### (b) Inadmissibility *ratione temporis* (Optional Protocol, art. 1)

117. In case No. 1536/2006 (*Cifuentes Elgueta v. Chile*), the author claimed that her son was a victim of enforced disappearance. The Committee noted that the disappearance occurred in February 1981, at which time the Covenant was in force for the State party. However, this was not true of the Optional Protocol, which entered into force for the State party on 28 August 1992 and cannot be applied retroactively, unless the acts that gave rise to the complaint continued after its entry into force. Furthermore, the Optional Protocol was ratified with the following declaration: "In recognizing the competence of the Human Rights Committee to receive and consider communications from individuals, it is the understanding of the Government of Chile that this competence applies in respect of acts occurring after the entry into force for that State of the Optional Protocol or, in any event, to acts which began after 11 March 1990." The State party therefore understood that the competence of the Committee to receive and consider communications is applicable to acts that took place after 28 August 1992 or, in any event, to acts which began

after 11 March 1990. In the present case, the original act of deprivation of liberty and the subsequent refusal to give information about the whereabouts of the victim occurred prior to the entry into force of the Optional Protocol and even before 11 March 1990. In addition, the author made no reference to any action by the State party after these dates that would constitute a perpetuation by the State party of the enforced disappearance. Accordingly, the Committee considered that even though the Chilean courts, like the Committee, regard enforced disappearance as a continuing offence, the State party's invocation of its declaration *ratione temporis* required the Committee to take account of that declaration. In the light of the foregoing and in accordance with its jurisprudence, the Committee found the communication inadmissible *ratione temporis*, under article 1 of the Optional Protocol.

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

118. 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". 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.

119. In case No. 1018/2001 (*N.G. v. Uzbekistan*), the Committee noted the author's allegations that her son was beaten and tortured and, thus, forced to confess guilt in the crimes he was later convicted for. It observed however that the author did not formulate these particular allegations in her initial communication but only at a later stage, and that she did not provide detailed information in that regard, such as the identity of those responsible or the methods of torture used. The author had also failed to explain whether any attempt to have her son examined by a medical doctor was ever made, or whether any complaint was filed in this connection. It remained also unclear whether these allegations had been drawn to the attention of the trial court. In addition, the Committee noted that the appeal filed to the Appeal Body of the Tashkent City Court did not contain any reference to acts of ill-treatment or otherwise unlawful methods of investigation. In the absence of any other pertinent information in this connection, the Committee considered that the author had failed to sufficiently substantiate her claims, for purposes of admissibility.

120. In case No. 1200/2003 (*Sattorov v. Tajikistan*), the Committee noted the author's claims under article 9, according to which her son was kept unlawfully for four weeks on premises of the Ministry of Internal Affairs and was charged formally only later. The State party refuted these allegations and provided the exact sequence of the author son's arrest and placement in custody. In the absence of any further information, in particular on the eventual steps taken by the alleged victim, his representatives, or his family, to bring these issues to the attention of the competent authorities during the investigation and the trial, the Committee considered that this part of the communication was inadmissible as insufficiently substantiated.



121. Other claims were declared inadmissible for lack of substantiation in cases Nos. 1122/2002 (*Lagunas Castedo v. Spain*), 1163/2003 (*Isaev and Karimov v. Uzbekistan*), 1178/2003 (*Smantser v. Belarus*), 1195/2003 (*Dunaev v. Tajikistan*), 1233/2003 (*A.K. and A.R. v. Uzbekistan*), 1263-1264/2004 (*Khuseynov and Butaev v. Tajikistan*), 1278/2004 (*Reshetnikov v. Russian Federation*), 1280/2004 (*Tolipkhuzhaev v. Uzbekistan*), 1406/2005 (*Weerawansa v. Sri Lanka*), 1407/2005 (*Asensi v. Paraguay*), 1447/2006 (*Amirov v. Russian Federation*), 1473/2006 (*Morales Tornel v. Spain*), 1489/2006 (*Rodriguez Rodriguez v. Spain*), 1490/2006 (*Pindado Martinez v. Spain*), 1504/2006 (*Cornejo Montecino v. Chile*), 1510/2006 (*Vojnović v. Croatia*), 1511/2006 (*García Perea v. Spain*), 1512/2006 (*Dean v. New Zealand*), 1550/2007 (*Brian Hill v. Spain*), 1553/2007 (*Korneenko and Milinkevich v. Belarus*), 1570/2007 (*Vassilari et al. v. Greece*); 1576/2007 (*Kly v. Canada*), 1585/2007 (*Batyrov v. Uzbekistan*), 1587/2007 (*Mamour v. Central African Republic*), 1614/2007 (*Dvorak v. Czech Republic*), 1638/2007 (*Wilfred v. Canada*), 1774/2008 (*Boyer v. Canada*), 1766/2008 (*Anani v. Canada*), and 1871/2009 (*Vaid v. Canada*).

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

122. 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. 1178/2003 (*Smantser v. Belarus*), 1263-1264/2004 (*Khuseynov and Butaev v. Tajikistan*), 1276/2004 (*Idiev v. Tajikistan*), 1278/2004 (*Reshetnikov v. Russian Federation*), 1309/2004 (*Podolnova v. Russian Federation*), 1432/2005 (*Gunaratna v. Sri Lanka*), 1455/2006 (*Kaur v. Canada*), 1529/2006 (*Cridge v. Canada*), 1540/2007 (*Nakrash and Liu v. Sweden*), 1551/2007 (*Tarlue v. Canada*) and 1018/2001 (*N.G. v. Uzbekistan*).

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

123. 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. 1529/2006 (*Cridge v. Canada*) regarding the author's claim concerning her loss of property; 1551/2007 (*Tarlue v. Canada*) and 1455/2006 (*Kaur v. Canada*) regarding the fact that deportation proceedings do not constitute the "determination of a criminal charge" within the meaning of article 14; 1406/2005 (*Weerawansa v. Sri Lanka*) where the Committee held that the Covenant does not confer the right to trial by jury in either civil or criminal proceedings, rather the touchstone is that all judicial proceedings, with or without a jury, comport with the guarantees of fair trial.

124. Claims were also declared inadmissible *ratione materiae* in cases Nos. 1576/2007 (*Kly v. Canada*) and 1766/2008 (*Anani v. Canada*).

**(f) Inadmissibility for abuse of the right to submit a communication (Optional Protocol, art. 3)**

125. 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. During the period under consideration, the question of abuse was raised in connection with a number of cases where several years had elapsed between the exhaustion of domestic remedies and the submission of the communication to the Committee.

126. In case No. 1479/2006 (*Persan v. Czech Republic*), the State party claimed that the author waited over five years after the inadmissibility decision of the European Court of Human Rights (over six years after exhaustion of domestic remedies) before submitting his complaint to the Committee. The author argued that the delay was caused by the lack of information available. The Committee reiterated that the Optional Protocol did not establish any deadline for the submission of communications, and that the period of time elapsing before doing so, other than in exceptional cases, did not in itself constitute an abuse of the right to submit a communication. It did not consider the delay in question as an abuse of the right of submission. The Committee reached a similar conclusion in case No. 1574/2007 (*Slezák v. Czech Republic*), where there had been a delay of nearly six and a half years since the exhaustion of domestic remedies.

127. In case No. 1506/2006 (*Shergill et al. v. Canada*) the Committee did not consider the delay of two years and three months after exhaustion of remedies, having regard to the reasons given by the author, to amount to an abuse.

**(g) Inadmissibility because of submission to another procedure of international investigation or settlement (Optional Protocol, art. 5, para. 2 (a))**

128. 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.

129. Thus, by virtue of the reservation made by Spain, case No. 1490/2006 (*Pindado Martinez v. Spain*) was declared inadmissible in view of the fact that it had previously been examined by the European Court of Human Rights. The Committee also recalled in this case that when the European Court bases a declaration of inadmissibility not solely on procedural grounds but also on reasons that include a certain consideration of the merits of the case, then the same matter should be deemed to have been "examined" within the meaning of article 5, paragraph 2 (a). However, where the rights protected under the European Convention differ from those established in the Covenant, a matter that has been declared inadmissible by the European Court as incompatible with the Convention or its protocols cannot be deemed to have been "examined" such as to preclude the Committee considering it.

130. In case No. 1510/2006 (*Vojnović v. Croatia*), the Committee noted that the European Court did not examine the case in the sense of article 5, paragraph 2 (a), inasmuch as its decision pertained only to an issue of procedure.

**(h) The requirement of exhaustion of domestic remedies (Optional Protocol, art. 5, para. 2 (b))**

131. 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. Furthermore, the Committee has held that authors must exercise due diligence in the pursuit of available remedies. Mere doubts or assumptions about their effectiveness do not absolve the authors from exhausting them.

132. In case No. 1382/2005 (*Salikh v. Uzbekistan*) the Committee noted that the State party had challenged the admissibility of the communication for non-exhaustion of domestic remedies, as the author's conviction had not been appealed to a higher tribunal and to the Ombudsman. Counsel in turn argued that she could not access her client's files and appeal his conviction with any reasonable prospect of success, as the State party deliberately prevented her from accessing the files, without which she would be unable to submit an appeal for supervisory review. Contrary to the applicable law, she was requested to present a power of attorney from the author authorizing her to act on his behalf, which had to be certified by consular staff of the Republic of Uzbekistan. As this requirement was not provided for by law, the Committee did not consider it to be a bar to admissibility. It also considered that domestic remedies had been exhausted.

133. In case No. 1511/2006 (*García Perea v. Spain*) the Committee recalled its jurisprudence that although there is no obligation to exhaust domestic remedies if they have no chance of being successful, mere doubts as to the effectiveness of those remedies do not absolve the authors from the obligation to exhaust them. Since the author had not provided the Committee with evidence enabling it to conclude that the remedies would have been ineffective, the case was declared inadmissible. The Committee applied this jurisprudence also in case No. 1576/2007 (*Kly v. Canada*). It added in this case that financial considerations did not absolve the author from exhausting remedies and that failure to adhere to procedural time limits for filing of complaints amounted to failure to exhaust domestic remedies.

134. In case No. 1575/2007 (*Aster v. Czech Republic*), declared inadmissible for non-exhaustion of remedies, the Committee recalled that article 5, paragraph 2 (b), by referring to "all available domestic remedies", referred in the first place to judicial remedies.

135. In case No. 1432/2005 (*Gunaratna v. Sri Lanka*), the author alleged to have been illegally arrested and tortured and to have received threats from those who tortured him. He initiated a fundamental rights action in the Supreme Court, to no avail. The Committee noted that the Supreme Court handed down its judgement in November 2006, six years after the complaint was lodged. Subsequently, the Attorney-General announced that all the police officers against whom there were adverse findings by the Supreme Court would be indicted. However, eight years after the events no such indictments had been made. The Committee also noted that the State party had not provided any reasons why the fundamental rights case could

not have been disposed of more expeditiously, or why the indictments against the police officers had not been lodged, nor had it claimed the existence of any elements of the case which might have complicated the investigation or the judicial determination of the case for such a long period. The Committee therefore found that the delay in the determination of the fundamental rights complaint and in the filing of the indictments amounted to an unreasonably prolonged delay within the meaning of article 5, paragraph 2 (b), of the Optional Protocol and concluded that the author had exhausted the domestic remedies available to him.

136. In case No. 1550/2007 (*Brian Hill v. Spain*), the author asserted that his arrest violated article 9, paragraph 1 and article 14, paragraph 7 of the Covenant because, when it occurred, the offence of which he was accused was time-barred. He had filed several applications for reconsideration regarding the arrest warrant and a suspension of his sentence. Subsequently, he had submitted an application for *amparo*. The Committee noted, however, that such application had been filed after the legal deadline had passed and that the author did not explain his reasons for not complying with this legal requirement. It therefore considered that domestic remedies were not exhausted.

137. During the period under review, other communications or claims were declared inadmissible for failure to exhaust domestic remedies, including cases Nos. 1506/2006 (*Shergill et al. v. Canada*), 1529/2006 (*Cridge v. Canada*), 1551/2007 (*Tarlue v. Canada*), 1570/2007 (*Vassilari et al. v. Greece*); 1578/2007 (*Dastgir v. Canada*), 1580/2007 (*F.M. v. Canada*), 1584/2007 (*Chen v. The Netherlands*) and 1639/2007 (*Vargay v. Canada*).

**(i) Burden of proof**

138. Under the Optional Protocol, the Committee bases its Views on all written information made available by the parties. This implies that if a State party does not provide an answer to an author's allegations, the Committee will give due weight to the uncontested allegations as long as they are substantiated. In the period under review, the Committee recalled this principle in its Views on cases Nos. 1483/2006 (*Basongo Kibaya v. Democratic Republic of the Congo*) and 1587/2007 (*Mamour v. Central African Republic*).

**(j) Interim measures under rule 92 of the Committee's rules of procedure**

139. Under rule 92 of its 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.

140. In cases Nos. 1018/2001 (*N.G. v. Uzbekistan*), 1163/2003 (*Isaev et al v. Uzbekistan*), 1195/2003 (*Dunaev v. Tajikistan*), 1200/2003 (*Sattorov v. Tajikistan*),

1263/2004 and 1264/2004 (*Khuseynov and Butaev v. Tajikistan*), 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 death sentences had been commuted to prison sentences. In case No. 1276/2004 (*Idiev v. Tajikistan*), in which a similar request was made, the State party informed the Committee that the death sentence had been carried out on an unspecified date, as the Committee's request had arrived too late. In case No. 1280/2004 (*Tolipkhuzhaev v. Uzbekistan*), the State party informed the Committee, after having initially indicated that the execution had been stayed pending the consideration of the case by the Committee, that the interim measures request had reached the Supreme Court only after Mr. Tolipkhuzhaev's execution.

141. In case No. 1432/2005 (*Gunaratna v. Sri Lanka*), the Committee requested the State party to afford the author and his family protection against intimidation and threats.

142. In cases Nos. 1455/2006 (*Kaur v. Canada*) and 1540/2007 (*Nakrash and Liu v. Sweden*), concerning the deportation of the authors to countries where they would be at risk of serious human rights violations, the Committee requested the States parties not to carry out the deportation while the cases were under consideration by the Committee. The States parties acceded to the request.

## **2. Substantive issues**

### **(a) The right to an effective remedy (Covenant, art. 2, para. 3)**

143. In a number of instances the Committee found violations of article 2, paragraph 3, read together with other provisions of the Covenant, including cases Nos. 1469/2006 (*Sharma v. Nepal*), 1495/2006 (*Madoui v. Algeria*) and 1560/2007 (*Marcellana and Gumanoy v. The Philippines*). In case No. 1432/2005 (*Gunaratna v. Sri Lanka*), the Committee recalled that expedition and effectiveness were particularly important in the adjudication of cases involving torture. The State party cannot avoid its responsibility under the Covenant by putting forward the argument that the domestic authorities have already dealt or are still dealing with the matter, when it is clear that the remedies provided by the State party have been unduly prolonged without any valid reason or justification, indicating failure to implement these remedies. For these reasons, the Committee found that the State party violated article 2, paragraph 3, read together with articles 7 and 9 of the Covenant.

### **(b) Right to life (Covenant, art. 6)**

144. In case No. 1276/2004 (*Idiev v. Tajikistan*), the Committee recalled its jurisprudence that the imposition of a death sentence after a trial that did not meet the requirements of a fair trial amounted to a violation of article 6 of the Covenant. Mr. Idiev's death sentence was passed in violation of the guarantees set out in articles 7 and 14, paragraphs 3 (d), (e) and (g), of the Covenant, and thus also in breach of article 6, paragraph 2, of the Covenant. The Covenant reached a similar conclusion in case No. 1280/2004 (*Tolipkhuzhaev v. Uzbekistan*).

145. In case No. 1406/2005 (*Weerawansa v. Sri Lanka*) the Committee noted that the author was convicted of conspiracy to commit murder and of abetting murder, on the basis of which he received a mandatory death sentence. The State party did not contest that the death sentence is mandatory for the offence of which he was

convicted, but argued that it had applied a moratorium on the death penalty for nearly 30 years. The Committee recalled its jurisprudence that the automatic and mandatory imposition of the death penalty constitutes a violation of article 6, paragraph 1, of the Covenant, in circumstances where the death penalty is imposed without any possibility of taking into account the defendant's personal circumstances or the circumstances of the particular offence. Thus, while observing the fact that the State party had imposed a moratorium on executions, the Committee found that the imposition of the death penalty itself, in the circumstances, violated the author's right under article 6, paragraph 1, of the Covenant.

146. In case No. 1447/2006 (*Amirov v. Russian Federation*), regarding the killing of the author's wife, a Russian national of Chechen origin, in the course of a military operation, the Committee considered that the death by firearms warranted at the very minimum an effective investigation of the potential involvement of the State party's federal forces. The Committee noted the failure of the State party even to secure the testimony of the agents of the Ministry of Emergency Situations and of the Staropromyslovsky Temporary Department of Internal Affairs of Grozny who had been present at the crime scene. It also noted the uncontested evidence submitted by the author of a pattern of alleged violations by the State party of the sort asserted in the present case, as well as a pattern of perfunctory and unproductive investigations whose genuineness was doubtful. Furthermore, although over nine years had elapsed since the events, the author still did not know the exact circumstances surrounding the death and the State party's authorities had not indicted, prosecuted or brought to justice anyone. The criminal case remained suspended without any indication from the State party when it will be completed. The Committee concluded that there had been a breach of article 6, read in conjunction with article 2, paragraph 3. As to the author's attribution of his wife's arbitrary deprivation of life to the State party's federal forces, the Committee recalled its jurisprudence that the burden of proof cannot rest alone on the authors of the communication, especially considering that the authors and the State party do not always have equal access to evidence and that frequently the State party alone has access to relevant information. The Committee took into account the evidence provided by the author pointing to the State party's direct responsibility for Mrs. Amirova's death, but considered that the evidence did not reach the threshold that would allow it to conclude that there had been a direct violation of article 6.

147. The Committee also found a violation of article 6, as well as article 2, paragraph 3, read together with article 6, paragraph 1, of the Covenant, in case No. 1275/2004 (*Umetaliev et al. v. Kyrgyzstan*). Although over six years had elapsed since their son's killing, the authors still did not know the exact circumstances surrounding the death and the State party's authorities had not indicted, prosecuted or brought to justice anyone in connection with these events. The criminal case remained suspended without any indication from the State party as to when it would be completed. The Committee found that the persistent failure of the State party's authorities properly to investigate the circumstances of the death effectively denied the authors a remedy. It also noted that the authors' civil claim for compensation from the State party's authorities was suspended until the completion of the criminal case.

148. In case No. 1473/2006 (*Morales Tornel v. Spain*), the authors claimed that the rights of their deceased relative, who served a prison sentence, were violated under article 6, paragraph 1, of the Covenant because of the refusal to grant him

conditional release when he had only a few months to live, and because he did not receive the medical care that his condition required. The Committee noted that Mr. Morales Tornel had been diagnosed as incurably ill and that, given the characteristics of his disease, there were no grounds for establishing a causal relationship between his death and his continuing incarceration. With regard to the claim that he did not receive the medical care in prison that his condition required, the Committee noted the lack of sufficient information in the file to enable it to find that the medical treatment was inadequate and that the evaluation of facts and evidence by the domestic courts in that regard suffered from arbitrariness. The Committee therefore did not have sufficient evidence to affirm that Mr. Morales Tornel's rights were violated with respect to article 6 of the Covenant.

**(c) Right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Covenant, art. 7)**

149. In case No. 1163/2003 (*Isaev and Karimov v. Uzbekistan*) the author claimed that her son was beaten and tortured by investigators and thus forced to confess guilt in the murder he was accused to have committed. She provided the name of one of the investigators who allegedly had beaten her son. The author also contended, and this was not refuted by the State party, that her son's explanations in this respect were not taken into account, and his initial confessions were used by the court in determining his role in the crime. The Committee recalled that once a complaint about ill-treatment contrary to article 7 is filed, a State party is duty bound to investigate it promptly and impartially. In this case, the State party had not specifically, by way of presenting the detailed consideration by the courts or otherwise, refuted the author's allegations nor had it presented any particular information to demonstrate that it conducted any inquiry in this respect. In these circumstances due weight had to be given to the author's allegations, and the Committee considered that the facts disclosed a violation of the author's son's rights under article 7 and article 14, paragraph 3 (g), of the Covenant.

150. In case No. 1195/2003 (*Dunaev v. Tajikistan*), the author claimed that his son was severely beaten after his arrest and throughout the preliminary investigation, by police officers and investigators, to the point that he sustained two broken ribs and was forced to confess guilt in the crime he was accused to have committed. The State party merely replied that these allegations were groundless and that a medical expertise disclosed no injuries on Mr. Dunaev. The Committee noted, however, that the State party had neither provided a copy of the expertise in question nor explained under which circumstances and in what context that expertise was carried out. The Committee recalled that the burden of proof cannot rest alone with the author of a communication, especially considering that the author and the State party do not always have equal access to evidence and that frequently the State party alone has access to relevant information. In light of the fairly detailed description of the author about the circumstances of his son's ill-treatment, the unavailability of any trial transcript or other court records and in the absence of any further explanations from the State party in this connection, the Committee considered that due weight had to be given to the author's allegations. Therefore, the Committee concluded that the facts, as presented, revealed a violation of the alleged victim's rights under articles 7 and 14, paragraph 3 (g), of the Covenant.

151. In case No. 1200/2003 (*Sattorov v. Tajikistan*), the author claimed that her son was beaten and tortured and thus forced to confess guilt in a number of crimes. She

provided a detailed description of the methods of torture used and contended that, although in court her son retracted his confessions made during the preliminary investigation and explained that they had been obtained under torture, his claims were ignored. She also claimed that her son showed marks of torture to the court and his lawyer asked, without success, to have him examined by a forensic expert to confirm these claims. The author provided copies of the judgement and appeal. The Committee noted that the judgement referred to the fact that the author's son retracted his confessions in court as obtained under coercion, however, this issue remained unanswered by the court. The Committee further noted that the author's allegations of torture had been brought before the Supreme Court. The State party had simply replied, without providing further explanations, that the author's son was not tortured and that neither he nor his lawyer ever complained about torture or ill-treatment. The Committee recalled that once a complaint against ill-treatment contrary to article 7 is filed, a State party is duty bound to investigate it promptly and impartially. In this case, the State party had not specifically, by way of presenting the detailed consideration by the courts, or otherwise, refuted the author's allegations nor had it presented any particular information to demonstrate that it conducted any inquiry in this respect. In these circumstances, due weight had to be given to the author's allegations, and the Committee concluded that the facts as presented by the author disclosed a violation of her son's rights under article 7 and article 14, paragraph 3 (g), of the Covenant. The Committee reached a similar conclusion in cases Nos. 1263-1264/2004 (*Khuseynov and Butae v. Tajikistan*) and 1280/2004 (*Tolipkhuzhaev v. Uzbekistan*).

152. In case No. 1447/2006 (*Amirov v. Russian Federation*), regarding the alleged torture of a Russian national of Chechen origin in the course of a military operation, the Committee considered that the State party had failed in its duty to adequately investigate the allegations of torture and concluded that the facts as presented disclosed a violation of article 7, read in conjunction with article 2, paragraph 3 of the Covenant regarding Mrs. Amirova. However, in view of insufficient evidence pointing to the State party's direct responsibility for Mrs. Amirova's torture and subsequent death, the Committee was not in a position to find a violation of article 7 on its own. Furthermore, the Committee noted the horrific conditions in which the author, Mrs. Amirova's husband, came to find his wife's mutilated remains, followed by the dilatory, sporadic measures undertaken to investigate the circumstances that had led to the findings of violations of articles 6 and 7, read together with article 2, paragraph 3. The Committee considered that, taken together, the circumstances required it to conclude that the author's own rights under article 7 had also been violated.

153. Other cases in which the Committee found a violation of article 7 include cases Nos. 1469/2006 (*Sharma v. Nepal*) and 1495/2006 (*Madoui v. Algeria*), both concerning the disappearance of the alleged victims; 1418/2005 (*Iskiyaev v. Uzbekistan*), 1483/2006 (*Basongo Kibaya v. Democratic Republic of the Congo*) and 1276/2004 (*Idiev v. Tajikistan*).

**(d) Liberty and security of person (Covenant, art. 9, para. 1)**

154. In case No. 1276/2004 (*Idiev v. Tajikistan*) the Committee noted the author's claim that on 14 August 2001, her son was arrested arbitrarily, kept in detention unlawfully in the premises of the Ministry of Internal Affairs for nine days, without being formally charged, and forced to confess guilty. He was formally charged only



on 3 September 2001. These allegations were not refuted by the State party. In the circumstances, and in the absence of any other pertinent information in the file, due weight had to be given to the author's allegations. Accordingly, the Committee considered that the facts as presented revealed a violation of the author's son's rights under article 9, paragraphs 1 and 2, of the Covenant.

155. In case No. 1432/2005 (*Gunaratna v. Sri Lanka*), the Committee recalled its jurisprudence that article 9, paragraph 1, of the Covenant protects the right to security of the person also outside the context of formal deprivation of liberty. Article 9, on its proper interpretation, does not allow the State party to ignore threats to the personal security of non-detained persons subject to its jurisdiction. The author had alleged having been threatened and pressurized to withdraw his complaints. In the circumstances, the Committee concluded that the failure of the State party to investigate these threats and provide protection violated the author's right to security of person under article 9, paragraph 1.

156. Also in case No. 1560/2007 (*Marcellana and Gumanoy v. The Philippines*), the Committee recalled that an interpretation of article 9 which would allow a State party to ignore threats to the personal security of non-detained persons subject to its jurisdiction would render ineffective the guarantees of the Covenant. Given that the victims in this case were human rights workers and that at least one of them had been threatened in the past, there appeared to have been an objective need for them to be afforded protective measures to guarantee their security by the State. However, there was no indication that such protection was provided at any time. On the contrary, the authors claimed that the military was the source of the threats received by Ms. Marcellana. In these circumstances, the Committee concluded that the State party had failed to take appropriate measures to ensure the victims' right to security of person.

157. In case No. 1460/2006 (*Yklymova v. Turkmenistan*), the Committee recalled that house arrest may also give rise to a finding of a violation of article 9. It noted that, apart from a mere denial that the author was ever charged or persecuted by Turkmen authorities, the State party did not dispute the author's claim that she was arrested and detained from 25 November 2002 to 30 December 2002, and was placed under house arrest from the summer of 2003 to July 2007 without any legal basis. For this reason, the Committee considered that the author was deprived of her liberty during these two periods and that her detentions were arbitrary and in breach of article 9, paragraph 1, of the Covenant.

**(e) Right to be brought before a judge (Covenant, art. 9, paras. 3 and 4)**

158. In case No. 1278/2004 (*Reshetnikov v. Russian Federation*) the author claimed that he was arrested and placed in custody by decision of a prosecutor. The State party explained that this was done in accordance with the law then in force. The Committee noted that the State party had not provided sufficient information showing that the prosecutor had the institutional objectivity and impartiality necessary to be considered an "officer authorized to exercise judicial power" within the meaning of article 9, paragraph 3, of the Covenant. It concluded that the facts as submitted revealed a violation of the author's rights under paragraph 3 of article 9 of the Covenant.

159. In case No. 1178/2003 (*Smantser v. Belarus*), the Committee noted that 13 months passed between the author's arrest on 3 December 2002 and his first

conviction on 12 January 2004. Altogether, the author was kept in custody for 22 months before his conviction and his requests for release on bail were repeatedly denied by the Prosecutor's Office and by the courts. The Committee reaffirmed its jurisprudence that pretrial detention should remain the exception and that bail should be granted, except in situations where the likelihood exists that the accused would abscond or tamper with evidence, influence witnesses or flee from the jurisdiction of the State party. The State party had argued that the author was charged with a particularly serious crime, and that there was a concern that he might obstruct investigations and abscond if released on bail. However, it had provided no information on what particular elements this concern was based and why it could not be addressed by fixing an appropriate amount of bail and other conditions of release. The mere assumption by the State party that the author would interfere with the investigations or abscond if released on bail did not justify an exception to the rule in article 9, paragraph 3, of the Covenant.

160. In case No. 1512/2006 (*Dean v. New Zealand*), the Committee recalled that the sentence of preventive detention does not per se amount to a violation of the Covenant, if such detention is justified by compelling reasons that are reviewable by a judicial authority. It observed that the maximum finite sentence for the author's offence was seven years' imprisonment at the time he was convicted. Accordingly, the author had served three years of detention for preventive purposes, at the time of his first parole hearing in 2005. The author's inability to challenge the existence of substantive justification for his continued detention for preventive reasons during that time was in violation of his right under article 9, paragraph 4, of the Covenant to approach a court for a determination of the lawfulness of his detention period.

161. In case No. 1460/2006 (*Yklymova v. Turkmenistan*), the Committee noted the author's allegations that she had no opportunity to challenge the lawfulness of her detention. It recalled that under article 9, paragraph 4, judicial review of the lawfulness of detention must provide for the possibility of ordering the release of the detainee if his or her detention is declared incompatible with the provisions of the Covenant, in particular those of article 9, paragraph 1. Accordingly, and in the absence of any satisfactory explanations by the State party, the Committee concluded that the author's rights under article 9, paragraph 4, of the Covenant were violated.

162. The Committee found also a violation of article 9, paragraph 3, in case No. 1397/2005 (*Engo v. Cameroon*), where the author stayed in prison for almost seven years before an initial judgement was handed down.

163. Other cases in which the Committee found violations of article 9 include cases Nos. 1469/2006 (*Sharma v. Nepal*) and 1495/2006 (*Madoui v. Algeria*), both involving the disappearance of the alleged victims, and 1587/2007 (*Mamour v. Central African Republic*), regarding the detention of a civil servant suspected by the authorities of colluding with the rebels.

**(f) Treatment during imprisonment (Covenant, art. 10)**

164. In case No. 1406/2005 (*Weerawansa v. Sri Lanka*), the Committee noted that the State party had not contested the information provided by the author on his deplorable conditions of detention, such as that he was incarcerated in a small and filthy cell, in which he was kept for twenty-three and a half hours a day with inadequate food. Nor had the State party contested the claim that these conditions

had an effect on the author's physical and mental health. The Committee considered that the author's conditions of detention, as described, violated his right to be treated with humanity and with respect for the inherent dignity of the human person, and were therefore contrary to article 10, paragraph 1.

165. In case No. 1397/2005 (*Engo v. Cameroon*), the author claimed that the conditions of his detention had been inhumane, particularly owing to the fact that he had been denied access to appropriate medical care, leading to the severe deterioration of his eyesight. The State party did not demonstrate how it had met the need for medical care required by the author's condition, despite the author's requests. In the Committee's view, this constitutes a violation of article 10, paragraph 1.

166. In case No. 1418/2005 (*Iskiyaev v. Uzbekistan*), the Committee noted the author's submissions with details of the poor conditions of the two correctional facilities in which he was imprisoned. In particular, he described the unsanitary conditions and stated that tuberculosis was rife. He provided copies of letters signed by penitentiary administration to accompany his complaints allegedly on poor conditions in correctional facilities to several different authorities and claimed that none of them reached their addressees. Allegedly, he was called by the chief of the administration and threatened if he complained again. The State party did not comment on these allegations. Taking into consideration the detailed description of the conditions in prisons and the measures taken by the author, the Committee concluded that the facts amounted to a violation of article 10, paragraph 1 of the Covenant.

167. In case No. 1469/2006 (*Sharma v. Nepal*), the Committee recalled that all persons deprived of their liberty have the right to be treated with humanity and with respect for the inherent dignity of the human person. The author's husband disappeared and possibly died while he was in the custody of the State party. In the absence of any comments by the State party on his disappearance, the Committee considered that this disappearance constituted a violation of article 10.

**(g) Right to liberty of movement (Covenant, art. 12)**

168. In case No. 1472/2006 (*Sayadi et al. v. Belgium*), the authors were respectively the director and the secretary of "Foundation Secours International". Their names had been submitted by Belgium to the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities. They claimed that they never saw the information justifying the notification of their names and all personal details to the Al-Qaida and Taliban Sanctions Committee and they were never convicted of any crime, whether in Belgium or elsewhere. The consolidated list was annexed to the Security Council resolution, a European Union Council Regulation and a Belgian ministerial order. As a result, the authors' financial assets were frozen and they were prevented from travelling outside Belgium. The Committee recalled that the travel ban for persons on the sanctions list, particularly the authors, is provided by Security Council resolutions to which the State party considers itself bound under the Charter of the United Nations. Nevertheless, the Committee considered that, whatever the argument, it is competent to consider the compatibility with the Covenant of the national measures taken to implement a Security Council resolution. It is the duty of the Committee, as guarantor of the rights protected by

the Covenant, to consider to what extent the obligations imposed on the State party by the Security Council resolutions may justify the infringement of the right to liberty of movement, which is protected by article 12 of the Covenant. The Committee noted that the obligation to comply with the Security Council decisions adopted under Chapter VII of the Charter may constitute a “restriction” covered by article 12, paragraph 3, which is necessary to protect national security or public order. It recalled, however, that the travel ban resulted from the fact that the State party first transmitted the authors’ names to the Sanctions Committee. The Committee found that, even though the State party is not competent to remove the authors’ names from the United Nations and European lists, it is responsible for the presence of the authors’ names on those lists and for the resulting travel ban.

169. The Committee noted that a criminal investigation initiated against the authors at the request of the Public Prosecutor’s Office was dismissed in 2005, and that the authors thus did not pose any threat to national security or public order. Moreover, on two occasions the State party itself requested the removal of the authors’ names from the consolidated list, considering that they should no longer be subject, *inter alia*, to restrictions of the right to leave the country. The dismissal of the case and the Belgian authorities’ requests for the removal of the authors’ names from the consolidated list showed that such restrictions were not covered by article 12, paragraph 3. The Committee considered that the facts, taken together, did not disclose that the restrictions of the authors’ rights to leave the country were necessary to protect national security or public order. It thus concluded that there had been a violation by Belgium of article 12 of the Covenant.

170. The Committee also found a violation of article 12, paragraph 1, in case No. 1460/2006 (*Yklymova v. Turkmenistan*), regarding the author’s claim that she had been subjected to restrictions of her freedom of movement and residence despite the fact that there was no criminal charge against her. In case No. 1585/2007 (*Batirov v. Uzbekistan*), the Committee found violations of article 12, paragraphs 2 and 3, as the author’s father was convicted for travelling abroad on business.

**(h) Guarantees of a fair trial (Covenant, art. 14, para. 1)**

171. Case No. 1510/2006 (*Vojnović v. Croatia*), submitted by a Croatian citizen of Serb national origin, concerned proceedings in relation with the termination of the tenancy of the State-owned apartment in which he lived with his family in Zagreb. The Committee observed that, in addition to refusing to hear witnesses summoned to testify on the author’s forced departure from the State party, the Court also rejected the reception of additional information on other persons of Serb nationality who abandoned their apartments in similar circumstances, stating that this information was not part of the debate. The Committee recalled that it is generally for the courts of States parties to the Covenant 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, given the circumstances in the State party when the facts occurred and the conditions in which the family had to leave the apartment and relocate to Belgrade, the Committee considered that the decision of the Court not to hear witnesses proposed by the author was arbitrary and violated the principles of fair trial and equality before courts contained in article 14, paragraph 1, in conjunction with article 2, paragraph 1, of the Covenant.

172. Furthermore, the Committee noted the author's claim that the proceedings were not conducted in reasonable time. It observed that the State party had not provided any explanation justifying the overall length of almost seven years, starting from the date of the author's application for review on 7 December 1998. The Committee recalled that the right to a fair hearing under article 14, paragraph 1, entails a number of requirements, including the condition that the procedure before the national tribunals must be conducted expeditiously. This guarantee relates to all stages of the proceedings, including the time until the final appeal decision. Whether a delay is unreasonable must be assessed in the light of the circumstances of each case, taking into account, inter alia, its complexity, the conduct of the parties, the manner in which the case was dealt with by the administrative and judicial authorities and any detrimental effects that the delay may have had on the legal position of the complainant. The Committee thus found that in light of the author's diligent conduct and of the negative effects the delay had on the family's return to Croatia, as well as in the absence of an explanation by the State party justifying the delay, the overall length in the proceedings was unreasonable and in breach of article 14, paragraph 1 in conjunction with article 2, paragraph 1, of the Covenant.

173. In case No. 1122/2002 (*Lagunas Castedo v. Spain*), concerning the author's disagreement with the marks awarded in a public competition to obtain a university lectureship, the Committee held that 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. The Committee was of the view that, since the reporting judge was an employee of the university, where he worked as an associate lecturer (one of the parties to the proceedings before the High Court of Justice of Murcia), the author could reasonably have harboured doubts as to the impartiality of the court. It concluded that, in the circumstances, the author's apprehensions as to the impartiality of the judge were objectively justified and it therefore could not be considered that there was an impartial court in the meaning of article 14, paragraph 1, of the Covenant.

174. In case No. 1280/2004 (*Tolipkhuzhaev v. Uzbekistan*), concerning the sentence to death and subsequent execution of the author's son, the Committee considered that the courts had failed to address the victim's complaints related to his ill-treatment by the police and did not pay due attention to the numerous requests of the author's son and his defence counsel to have a number of witnesses interrogated and other evidence examined in court. As a consequence, the criminal procedures were vitiated by irregularities, which placed in doubt the fairness of the criminal trial as a whole. In the absence of any pertinent observations from the State party in this respect, the Committee found that a violation of article 14, paragraph 1, of the Covenant had taken place.

**(i) Right to be presumed innocent until proved guilty (Covenant, art. 14, para. 2)**

175. In case No. 1397/2005 (*Engo v. Cameroon*), the author claimed that his right to the presumption of innocence had been violated, as the State media had carried out a propaganda campaign against him, portraying the author as guilty before being tried. He wrote letters to the competent authorities requesting them to put a stop to the publication of such information; however, these letters met with no response. The State party did not contest these facts. The Committee concluded that, in the

circumstances of the case, these facts amounted to a violation of article 14, paragraph 2.

**(j) Right of everyone charged with a criminal offence to be informed promptly and in detail of the nature and cause of the charge against oneself (Covenant, art. 14, para. 3 (a))**

176. In case No. 1382/2005 (*Salikh v. Uzbekistan*), the Committee found that the State party failed to make sufficient efforts with a view to informing the author about the impending court proceedings against him, thus preventing him from preparing his defence or otherwise participating in the proceedings. In the view of the Committee, therefore, the State party had violated the author's rights under article 14, paragraph 3 (a), 3 (b), 3 (d) and 3 (e), of the Covenant.

177. The Committee also found a violation of article 14, paragraph 3 (a), in case No. 1397/2005 (*Engo v. Cameroon*), as the author had to wait several months to be informed of the charges against him and to be given access to his case file.

**(k) Right to communicate with counsel (Covenant, art. 14, para. 3 (b))**

178. In cases Nos. 1263-1264 (*Khuseynov et al. v. Tajikistan*), the authors alleged that their sons were subject to several charges that carried the death penalty, without any effective legal defence. The Committee reiterated that steps must be taken to ensure that counsel, once assigned, provides effective representation, in the interests of justice. Accordingly, the Committee was of the view that the facts before it revealed a violation of the alleged victim's rights under article 14, paragraph 3 (b), of the Covenant.

**(l) Right to be tried without undue delay (Covenant, art. 14, para. 3 (c))**

179. In case No. 1397/2005 (*Engo v. Cameroon*), the State party justified the delay in the various proceedings against the author in view of the complexity of the cases and the numerous appeals filed by the author. The Committee held, however, that the exercise of the right to appeal cannot be used as justification for unreasonable delays in the conduct of proceedings, since the rule set out in article 14, paragraph 3 (c) also applies to the appeal proceedings. Consequently, the Committee considered that the fact that a period of eight years elapsed between the author's arrest and the delivery of a final judgement by either the court of appeal or the court of cassation, and that appeal proceedings had been in progress since 2000, constituted a violation of the above-mentioned provision.

**(m) Right of everyone charged with a criminal offence to have legal assistance (Covenant, art. 14, para. 3 (d))**

180. In case No. 1276/2004 (*Idiev v. Tajikistan*), the Committee noted the author's claim that her son was not granted access to a lawyer until 3 September 2001, despite the fact that he was detained on 14 August 2001 and faced a number of serious charges that could result in a death sentence. The State party did not refute these allegations specifically but merely affirmed that on 3 September 2001, as well as in court, Mr. Idiev confessed his full guilt freely, in the presence of a lawyer. The Committee recalled that, particularly in cases involving capital punishment, it was axiomatic that the accused had to be effectively assisted by a lawyer at all stages of the proceedings. In the absence of any other pertinent information on file, the

Committee considered that the facts as presented revealed a violation of the author's rights under article 14, paragraph 3 (d), of the Covenant.

181. The Committee also found violations of article 14, paragraphs 3 (b) and (d) in communication No. 1397/2005 (*Engo v. Cameroon*), in view of the difficulties alleged by the author to communicate with the counsels of his choice.

**(n) Right to examine witnesses or have witnesses examined (Covenant, art. 14, para. 3 (e))**

182. In case No. 1276/2004 (*Idiev v. Tajikistan*), the Committee recalled the importance of the guarantee contained in article 14, paragraph 3 (e), for ensuring the accused the same legal power of compelling the attendance of witnesses and of examining or cross-examining witnesses as available to the prosecution. This provision does not, however, provide an unlimited right to obtain the attendance of any witness requested by the accused or counsel, but only a right to have witnesses examined who are relevant for the defence, and to be given a proper opportunity to question and challenge witnesses against them at some stage of the proceedings. Within such limits, and subject to the limitations on the use of statements, confessions and other evidence obtained in violation of article 7, it is primarily for the domestic legislature of States parties to determine the admissibility of evidence and how their courts assess such evidence. In the present case, the Committee observed that all the individuals mentioned in the motion submitted by Mr. Idiev's lawyer and rejected by the court, could have provided information relevant to his claim of being forced to confess under torture during the pretrial investigation. The Committee therefore concluded that the State party's courts did not respect the requirement of equality between the prosecution and the defence in producing evidence and that this amounted to a denial of justice. The Committee therefore concluded that Mr. Idiev's right under article 14, paragraph 3 (e), was violated.

183. In cases Nos. 1263-1264 (*Khuseynov and Butaev v. Tajikistan*), the Committee observed that most of the witnesses and the forensic expert requested in the motion submitted by the defence lawyer, which was denied by the court, could have provided information relevant to one of the alleged victim's claim of being forced to confess under torture at the pretrial investigation. This factor led the Committee to the conclusion that the State party's courts did not respect the requirement of equality between prosecution and defence in producing evidence and that this amounted to a denial of justice and the violation of article 14, paragraph 3 (e).

184. In case No. 1311/2004 (*Osiyuk v. Belarus*), the Committee examined whether the proceedings on the basis of which the Moskovsky District Court of Brest found that the author had committed an administrative offence for moving his car across the customs frontier of Belarus in evasion of customs control and ordered him to pay a fine, together with the seizure of the car, disclosed any breach of rights protected under the Covenant. The Committee recalled its jurisprudence according to which the effective exercise of the rights under article 14 presupposes that the necessary steps should be taken to inform the accused of the charges against him and notify him of the proceedings. A judgement in absentia requires that, notwithstanding the absence of the accused, all due notifications have been made to inform him or his family of the date and place of his trial and to request his attendance. In the present case, the Committee noted that, as a result of not being informed of the date of the hearing, neither the author himself nor any witnesses on

his behalf, were ever heard at the trial by the Moskovsky District Court. Accordingly, the Committee concluded that the State party failed to make sufficient efforts with a view to informing the author about the impending court proceedings, thus preventing him from preparing his defence or otherwise participating in the proceedings. In the view of the Committee, the State party violated the author's rights under article 14, paragraphs 3 (b), (d) and (e), of the Covenant.

**(o) Right not to be compelled to testify against oneself or to confess guilt (Covenant, art. 14, para. 3 (g))**

185. In case No. 1276/2004 (*Idiev v. Tajikistan*), the author claimed a violation of the alleged victim's rights under article 14, paragraph 3 (g), in that he was forced to sign a confession under torture. The Committee recalled its jurisprudence that the wording of article 14, paragraph 3 (g), that no one shall "be compelled to testify against himself or confess guilt", must be understood in terms of the absence of any direct or indirect physical or psychological coercion by the investigating authorities of the accused with a view to obtaining a confession of guilt. It also recalled that in cases of alleged forced confessions, the burden is on the State to prove that statements made by the accused have been given of their own free will and that it is implicit in article 4, paragraph 2, of the Optional Protocol that the State party has the duty to investigate in good faith all allegations of violation of the Covenant made against it and its authorities, and to furnish to the Committee the information available. The Committee noted that the State party had not provided any arguments, corroborated by pertinent documentation to refute the author's claim that her son was compelled to confess guilt, although it had the opportunity to do so, and the author had sufficiently substantiated this claim. In the circumstances, the Committee concluded that the facts before it disclosed a violation of article 7 and article 14, paragraph 3 (g), of the Covenant.<sup>19</sup> The Committee reached a similar conclusion in case No. 1378/2005 (*Kasimov v. Uzbekistan*).

**(p) Right to appeal (Covenant, art. 14, para. 5)**

186. Article 14, paragraph 5, provides that everyone convicted of a crime shall have the right to have his/her conviction and sentence reviewed by a higher tribunal according to law. In case No. 1388/2005 (*de León Castro v. Spain*), the author, who had been sentenced to imprisonment for fraud, claimed that the Supreme Court had not carried out a full review of the sentence handed down by the Provincial Court. However, in the Committee's view it was clear from its judgement that the Supreme Court had reviewed in detail the Provincial Court's assessment of the evidence. Consequently, the Committee did not find a violation of article 14, paragraph 5. The Committee reached a similar conclusion in case No. 1366/2005 (*Piscioneri v. Spain*), whereas in case No. 1364/2005 (*Carpintero Uclés v. Spain*) it found that the revision carried out by the Supreme Court was insufficient and that a breach of article 14, paragraph 5, had taken place.

**(q) Right to recognition as a person before the law (Covenant, art. 16)**

187. In case No. 1495/2006 (*Madoui v. Algeria*), the Committee was of the view that if a person is arrested by the authorities and there is subsequently no news of

<sup>19</sup> See also paragraphs 149 and 151 above.



that person's fate, the authorities' failure to provide information effectively places the disappeared person outside the protection of the law. Consequently, the Committee concluded that the facts before it revealed a violation of article 16 of the Covenant.

**(r) Right not to be subjected to unlawful attacks on one's honour and reputation (Covenant, art. 17)**

188. In case No. 1472/2006 (*Sayadi et al. v. Belgium*), regarding the inclusion of the authors' names in the Consolidated List of Individuals and Entities Belonging to or Associated with the Taliban and Al-Qaida Organization as Established and Maintained by the 1267 Committee, the Committee noted that the consolidated list is available to everyone on the Internet and that the authors' names were included in a ministerial order concerning restrictive measures against the Taliban of Afghanistan, and published in the State party's *Official Gazette*. The Committee found that, even though the State party was not competent to remove the authors' names from the United Nations and European lists, it was responsible for the presence of the authors' names on those lists. It concluded that, as a result of the actions of the State party, there had been an unlawful attack on the authors' honour and reputation, in breach of article 17 of the Covenant.

**(s) Right to family life (Covenant, art. 17)**

189. In case No. 1473/2006 (*Morales Tornel v. Spain*), the Committee had to decide whether the failure by the prison administration to inform the authors of the seriousness of Mr. Morales Tornel's condition during the final months of his life constituted a violation of the right of the authors not to be subjected to arbitrary interference with their family. The Committee recalled its jurisprudence that arbitrariness within the meaning of article 17 is not confined to procedural arbitrariness, but extends to the reasonableness of the interference with the person's rights under article 17 and its compatibility with the purposes, aims and objectives of the Covenant. The Committee noted that in April 1993 Mr. Morales Tornel was diagnosed as an incurably ill patient whose health was seriously deteriorating. In May 1993 the prison in which he was incarcerated conveyed this information to his family, which stated its willingness to take care of the patient if he were granted conditional release. Although his condition continued to deteriorate, the prison authorities, according to the information in the file, did not resume contact with the family. Nor did they inform the Directorate General of Penal Institutions of this deterioration. The prison authorities also failed to inform the family of his final admission to hospital, when the patient was already terminally ill. Under the circumstances, the Committee considered that the passive attitude of the prison authorities deprived the authors of information, which undoubtedly had a significant impact on their family life and may be characterized as arbitrary interference with the family and as a violation of article 17, paragraph 1, of the Covenant. At the same time, the State party had not demonstrated that such interference was reasonable or compatible with the purposes, aims and objectives of the Covenant.

190. In case No. 1510/2006 (*Vojnović v. Croatia*) the Committee noted the author's claims that he and his family left the State-owned apartment in which they were living in Zagreb due to threats they had received because they belonged to the Serb national minority. It also noted the threats, intimidation and unjustified dismissal experienced by the author's son, as confirmed by a domestic court, and that despite

the author's inability to travel to Croatia for lack of personal identification documents, he informed the State party of the reasons of his departure from the apartment in question. Furthermore, as ascertained by the Zagreb Municipal Court, the author was unjustifiably not convoked to participate in the 1995 court proceedings before the latter. The Committee therefore concluded that the deprivation of the author's tenancy rights was arbitrary and amounted to a violation of article 17 in conjunction with article 2, paragraph 1, of the Covenant.

191. In case No. 1460/2006 (*Yklymova v. Turkmenistan*), the Committee considered that the searches of the author's home without legal grounds, the deprivation of her telephone contacts and the confiscation of her apartment, passport and ID amounted to an arbitrary interference with her privacy, family and home.

**(t) Freedom of opinion and expression (Covenant, art. 19)**

192. In case No. 1233/2003 (*A.K. and A.R. v. Uzbekistan*), the authors had been convicted of offences related to the dissemination of the ideology propagated by the international Sunni pan-Islamist political party known as Hizb ut-Tahrir. The issue before the Committee was whether the restrictions that the convictions represented were necessary for one of the purposes listed in article 19, paragraph 3. The Committee noted that the courts, while not explicitly addressing article 19, were concerned with a perceived threat to national security (violent overthrow of the constitutional order) and to the rights of others. It also noted the consultation process conducted as well as the fact that, on appeal, one of the authors appeared not to have challenged his conviction but rather appealed for a fairer sentence, while the other accepted his conviction. Under these circumstances, the Committee could not conclude that the restrictions imposed on the author's expression were incompatible with article 19, paragraph 3.

193. In case No. 1334/2004 (*Mavlonov and Sa'di v. Uzbekistan*), the authors claimed that the refusal by the authorities to re-register "Oina", a newspaper published in the Tajik language, was in violation of article 19 of the Covenant in its failure to be "provided by law" and to pursue any legitimate aim, as understood under article 19, paragraph 3. The Committee considered that issues related to the registration and/or re-registration of mass media fall within the scope of the right to freedom of expression protected by article 19. In the present case, the application of the procedure of registration and re-registration of "Oina" did not allow Mr. Mavlonov, as the editor, and Mr. Sa'di, as a reader, to practise their freedom of expression, as defined in article 19, paragraph 2. The Committee noted that the State party had not made any attempt to address the authors' specific claims, nor had it advanced arguments as to the compatibility of the restrictions on the right to freedom of expression applicable to the authors with any of the criteria listed in article 19, paragraph 3. It therefore found that the right to freedom of expression, respectively, Mr. Mavlonov's ability to publish "Oina" and to impart information, and Mr. Sa'di's right to receive information and ideas in print, had been violated. The Committee noted that the public had a right to receive information as a corollary of the specific function of a journalist and/or editor to impart information.

194. In case No. 1553/2007 (*Korneenko v. Belarus*), concerning the seizure and destruction of the campaign materials of a Presidential candidate, the State party presented no explanation as to why the restriction of the alleged victim's right to disseminate information was justified under article 19, paragraph 3, except its

affirmation that the seizure and the destruction of the leaflets was lawful. In the circumstances and in the absence of any further information in this regard, the Committee concluded that a violation of article 19, paragraph 2, of the Covenant, had taken place, which also resulted in a violation of article 25, read together with article 26.

**(u) Family's right to protection by society and the State (Covenant, art. 23, para. 1) and right of every child to measures of protection of the part of his family, society and the State (Covenant, art. 24, para. 1)**

195. In case No. 1407/2005 (*Asensi v. Paraguay*), the Committee had to determine whether in the course of the author's efforts to maintain contact with his minor daughters and exercise his right of custody, a right granted by Spanish courts, the State party violated the right of the author and his daughters, as a family, to the protection of the State under article 23, paragraph 1, of the Covenant. The Committee noted that the family first lived in Paraguay and in September 1999 moved to Spain. Starting in January 2001, when his ex-wife left Spain for good with their daughters, the author made numerous attempts to keep in contact with the children, obtain their return and meet their material and emotional needs. In the State party, the author applied to the courts in proceedings of two kinds: (a) to obtain the return of the children and (b) to obtain effective access to them and assert his right of custody. The former gave rise to judgements in three courts, of which the Appeal Court and Supreme Court rulings found against the return of the children. Both the Appeal Court and the Supreme Court state that they have taken account of the children's best interests and that taking them to Spain would in their view have put them at psychological risk given their young age. Yet the judgements do not explain what either court understands by "best interests" and "psychological risk" or what evidence was considered in reaching the conclusion that there was in fact such a risk. There was also nothing to show that the author's complaints concerning the children's unsafe living conditions in Paraguay were duly examined. The Committee further noted that the Supreme Court took nearly four years to hand down its ruling, too long for a case such as this. As to the remedies invoked by the author in the State party with a view to making contact with his daughters and obtaining custody, the Committee noted that there had been no decision by the State party authorities on custody rights or visiting arrangements for the author. Accordingly, the Committee concluded that the State party had not taken the necessary steps to guarantee the family's right to protection under article 23 of the Covenant, in respect of the author and his daughters, or the daughters' right, as minors, to protection under article 24, paragraph 1, of the Covenant.

**(v) The right to equality before the law and the prohibition of discrimination (Covenant, art. 26)**

196. In case No. 1570/2007 (*Vassilari v. Greece*) the facts concerned a letter sent by representatives of local associations to a newspaper in which they accused residents of a Roma settlement of committing crimes and demanded that they be evicted. The authors claimed to be victims of a violation of article 26 read in conjunction with article 2, because the Anti-Racism Law was inadequate for the purpose of protecting individuals against discrimination and because the courts application of the law failed to protect them. The Committee noted that the Anti-Racism Law provides for sanctions in the event of a violation and that the signatories of the impugned letter

were tried under article 2 of this law but were subsequently acquitted. An acquittal in itself does not amount to a violation of article 26 and, in this regard, the Committee recalled that there is no right under the Covenant to see another person prosecuted. The authors challenged the failure of the Court to convict the defendants on the basis of the Court's interpretation of the domestic law, in particular, whether the requirement of "intent" was a necessary prerequisite for the finding of a violation of article 2 of the Anti-Racism Law. Both the authors and State party provided conflicting views in this regard. The Committee was not in a position to reconcile these disputed issues of fact and law and found that the authors had failed to demonstrate that either the terms of the Anti-Racism Law 927/79 or the application of the law by the courts discriminated against them within the terms of article 26.

197. In case No. 1479/2006 (*Persan v. Czech Republic*) the author claimed to have been denied the right to restitution of the property which had been confiscated when he left the former Czechoslovakia and took up residence in another country, of which he became a citizen. The Committee recalled its jurisprudence that it would be incompatible with the Covenant to require the author to obtain Czech citizenship as a prerequisite for the restitution of his property or, alternatively, for the payment of appropriate compensation. Bearing in mind that the author's original entitlement to his properties had not been predicated on citizenship, it found that the citizenship requirement was unreasonable. Accordingly, the Committee considered that the facts disclosed a violation of article 26 of the Covenant. The Committee reached a similar conclusion in cases Nos. 1508/2006 (*Amundson v. Czech Republic*) and 1574/2007 (*Slezák v. Czech Republic*).

198. In case No. 1493/2006 (*Williams Lecraft v. Spain*), the author claimed to have been subjected to racial discrimination because she had been singled out for a police identity check in a railway station solely on the basis of her skin colour. The Committee found a violation of article 26, read in conjunction with article 2, paragraph 3, of the Covenant, on the basis of the following considerations:

"The Committee considers that identity checks carried out for public security or crime prevention purposes in general, or to control illegal immigration, serve a legitimate purpose. However, when the authorities carry out such checks, the physical or ethnic characteristics of the persons subjected thereto should not by themselves be deemed indicative of their possible illegal presence in the country. Nor should they be carried out in such a way as to target only persons with specific physical or ethnic characteristics. To act otherwise would not only negatively affect the dignity of the persons concerned, but would also contribute to the spread of xenophobic attitudes in the public at large and would run counter to an effective policy aimed at combating racial discrimination.

199. A State's international responsibility for violating the International Covenant on Civil and Political Rights is to be judged objectively and may arise from actions or omissions by any of its organs of authority. In the present case, although there does not appear to have been any written order in Spain expressly requiring identity checks to be carried out by police officers based on the criterion of skin colour, it appears that the police officer considered himself to be acting in accordance with that criterion, a criterion considered justified by the courts which heard the case. The responsibility of the State party is evidently engaged. It is therefore for the

Committee to decide whether that action is contrary to one or more provisions of the Covenant.

200. In the present case, it can be inferred from the file that the identity check in question was of a general nature. The author alleges that no one else in her immediate vicinity had their identity checked and that the police officer who stopped and questioned her referred to her physical features in order to explain why she, and no one else in the vicinity, was being asked to show her identity papers. These claims were not refuted by the administrative and judicial bodies before which the author submitted her case, or in the proceedings before the Committee. In the circumstances, the Committee can only conclude that the author was singled out for the identity check in question solely on the ground of her racial characteristics and that these characteristics were the decisive factor in her being suspected of unlawful conduct. Furthermore, the Committee recalls its jurisprudence that not every differentiation of treatment will constitute discrimination, if the criteria for such differentiation are reasonable and objective and if the aim is to achieve a purpose that is legitimate under the Covenant. In the case under consideration, the Committee is of the view that the criteria of reasonableness and objectivity were not met. Moreover, the author has been offered no satisfaction, for example, by way of apology as a remedy.”

**(x) Right of persons belonging to minorities to enjoy their own culture (Covenant, art. 27)**

201. In case No. 1457/2006 (*Poma v. Peru*), the author claimed that the diversion of water carried out by the authorities through the construction of the Special Tacna Project wells, caused the death of thousands of head of livestock and the degradation of 10,000 hectares of Aymara pasture land. This had ruined her way of life and the economy of the community to which she belonged, forcing its members to abandon their land and their traditional economic activity. The Committee recognized that a State may legitimately take steps to promote its economic development. Nevertheless, economic development may not undermine the rights protected by article 27. Thus the leeway the State has in this area should be commensurate with the obligations it must assume under article 27. Measures whose impact amounts to a denial of the right of a community to enjoy its own culture are incompatible with article 27, whereas measures with only a limited impact on the way of life and livelihood of persons belonging to that community would not necessarily amount to a denial of the rights under article 27.

202. In the Committee’s view, the admissibility of measures which substantially compromise or interfere with the culturally significant economic activities of a minority or indigenous community depends on whether the members of the community in question have had the opportunity to participate in the decision-making process in relation to these measures and whether they will continue to benefit from their traditional economy. Participation in the decision-making process must be effective, which requires not mere consultation but the free, prior and informed consent of the members of the community. In addition, the measures must respect the principle of proportionality so as not to endanger the very survival of the community and its members. The Committee observed that neither the author nor the community to which she belonged was consulted at any time by the State party concerning the construction of the wells. Moreover, the State did not require studies to be undertaken by a competent independent body in order to determine the impact

that the construction of the wells would have on traditional economic activity, nor did it take measures to minimize the negative consequences and repair the harm done. The Committee also observed that the author had been unable to continue benefiting from her traditional economic activity owing to the drying out of the land and loss of her livestock. It therefore considered that the State's action had substantively compromised the way of life and culture of the author, as a member of her community. The Committee concluded that the activities carried out by the State party violated the right of the author to enjoy her own culture together with the other members of her group, in accordance with article 27 of the Covenant.

**(y) State party's responsibility for extraterritorial violations of the Covenant**

203. In case No. 1539/2006 (*Munaf v. Romania*), the author, an Iraqi-American dual national detained in Baghdad, had travelled to Iraq in 2005 with three Romanian journalists as their translator and guide. The travellers were kidnapped, released a few weeks later and taken to the Romanian Embassy in Baghdad. The Embassy immediately handed the author over to United States military officers who took him to a detention facility in Baghdad under accusations of involvement in the kidnapping. The author claimed that the State party's decision to transfer him to the custody of United States officers without making inquiries and seeking assurances that his rights would be respected, was in breach of articles 6; 7; 9; 10, paragraphs 1 and 2; and 14, paragraphs 2 and 3 (b), (d) and (e) of the Covenant.

204. The main issue to be considered by the Committee was whether, by allowing the author to leave the premises of the Romanian Embassy in Baghdad, the State party exercised jurisdiction over him in a way that exposed him to a real risk of becoming a victim of violations of his rights under the Covenant and could reasonably have been anticipated. The Committee recalled its jurisprudence that a State party may be responsible for extraterritorial violations of the Covenant, if it is a link in the causal chain that would make possible violations in another jurisdiction. Thus, the risk of an extraterritorial violation must be a necessary and foreseeable consequence and must be judged on the knowledge the State party had at the time: in this case at the time of the author's departure from the Embassy. The Committee held that, while there was disagreement about some of the facts of the case, the following was agreed by both parties: the author was brought to the Embassy, where he remained for a few hours; he specifically requested to go to the United States Embassy on account of his dual citizenship; and he was unaware himself at the time that he might subsequently be charged with a criminal offence in Iraq and thus might have needed the protection of the State party. The Committee noted that at the time of his departure from the Embassy, the State party was of the view that the author would merely take part in a debriefing procedure and had no reason to deny his specific request to go to the United States Embassy, in particular given his status as a dual national. The Committee considered that the author's claims that the State party knew otherwise were speculative. The fact that the proceedings against the author had not yet been completed and that upon review at least some of his claims had been addressed by the Iraqi Court of Cassation, lent further support to the State party's argument that it could not have known at the time of the author's departure from the Embassy that he ran a risk of his rights under the Covenant being violated. The Committee therefore could not conclude that the State party exercised jurisdiction over the author in a way that exposed him to a real risk of becoming a victim of any violations under the Covenant. Accordingly, it

concluded that the facts before it did not reveal a breach of any articles of the Covenant.

## **F. Remedies called for under the Committee's Views**

205. 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.”

206. During the period under review the Committee took the following decisions regarding remedies.

207. In several communications concerning violations of articles 7 and 14, paragraph 3 (g), such as cases Nos. 1163/2003 (*Isaev v. Uzbekistan*), 1195/2003 (*Dunaev v. Tajikistan*), 1200/2003 (*Sattorov v. Tajikistan*), 1276/2004 (*Idiev v. Tajikistan*) and 1378/2005 (*Kasimov v. Uzbekistan*), the Committee asked the State party to provide the alleged victim with an effective remedy, including compensation and initiation and pursuit of criminal proceedings to establish responsibility for his ill-treatment, and his retrial. An effective remedy, including compensation was also requested in cases No. 1178/2003 (*Smanster v. Belarus*) and 1263-1264/2004 (*Khuseynov and Butaev v. Tajikistan*). In case No. 1200/2003 (*Sattorov v. Tajikistan*), the Committee asked for a retrial of the victim with the guarantees enshrined in the Covenant, or his release. In case No. 1280/2004 (*Tolipkhuzhaev v. Uzbekistan*), where the Committee found violations of article 6, in addition to articles 7 and 14, paragraphs 1 and 3 (g), the Committee also asked the State party to provide the victim's mother with an effective remedy, including the payment of adequate compensation and initiation of criminal proceedings to establish responsibility for the victim's ill-treatment.

208. Case No. 1278/2004 (*Reshetnikov v. Russian Federation*), concerned the violation of article 9, paragraph 3, as it had not been shown that the prosecutor had the institutional objectivity and impartiality necessary to be considered an “officer authorized to exercise judicial power”. The Committee asked the State party to provide the author with an effective remedy, including appropriate compensation. A similar request was made in case No. 1587/2007 (*Mamour v. Central African Republic*), regarding also a violation of article 9.

209. In case No. 1311/2004 (*Osiyuk v. Belarus*), where the Committee found violations of article 14, paragraph 3 (b), (d) and (e), because the author was not informed of the date of the hearing in the administrative trial against him, the

Committee asked the State party to provide the author with an effective remedy, including adequate compensation.

210. In case No. 1334/2004 (*Mavlonov v. Uzbekistan*), concerning the denial of registration of the “Oina” newspaper and the finding of violations of articles 19 and 27, the Committee declared that the State party was under an obligation to provide the authors with an effective remedy, including the reconsideration of “Oina’s” application for re-registration and compensation for the author.

211. In case No. 1364/2005 (*Carpintero Uclés v. Spain*), where the Committee found a violation of article 14, paragraph 5 of the Covenant, it declared that the State party was required to furnish the author with an effective remedy which allows a review of his conviction by a higher tribunal.

212. The obligation to provide the author with an effective remedy, including compensation, was also referred to in cases No. 1382/2005 (*Salikh v. Uzbekistan*), involving violations of several fair trial guarantees, and 1460/2006 (*Yklymova v. Turkmenistan*), concerning violations of article 9, paragraphs 1, 2 and 4; article 12, paragraph 1; and article 17 of the Covenant.

213. In case No. 1406/2005 (*Weerawansa v. Sri Lanka*), concerning the imposition of the death penalty following an unfair trial, the Committee asked the State party to provide the author with an effective and appropriate remedy, including commutation of his death sentence and compensation. The Committee also stated that, as long as the author was in prison, he should be treated with humanity and with respect for the inherent dignity of the human person.

214. In case No. 1407/2005 (*Asensi v. Paraguay*), concerning violations of the author’s family’s right to State protection, the Committee held that the State party was under an obligation to provide the author with an effective remedy, including the facilitation of contact between the author and his daughters.

215. In case No. 1418/2005 (*Iskiyaev v. Uzbekistan*), where the Committee found violations of articles 7 and 10 in connection with the author’s detention, the Committee asked the State party to provide the author with an effective remedy, including initiation and pursuit of criminal proceedings to establish responsibility for the author’s ill-treatment, and payment of appropriate compensation. The Committee reiterated that the State party should review its legislation and practice to ensure that all persons enjoy both equality before the law and equal protection of the law.

216. In case No. 1432/2005 (*Gunaratna v. Sri Lanka*), where the Committee found a violation of the right to an effective remedy in connection with the ill-treatment of the author while in detention, the Committee determined that the State party was under an obligation to take effective measures to ensure that the author and his family were protected from threats and intimidation, that the proceedings against the perpetrators of the violations were pursued without delay and that the author was granted effective reparation, including compensation.

217. In case No. 1447/2006 (*Amirov v. Russian Federation*), involving breaches of the State party’s obligations, under articles 6 and 7, read in conjunction with article 2, paragraph 3, properly to investigate the death of the author’s wife and the allegations of torture, as well as breaches of article 7 in connection with the author himself, the Committee held that the State party was under an obligation to provide



the author with an effective remedy in the form, inter alia, of an impartial investigation into the circumstances of his wife's death, prosecution of those responsible and adequate compensation. A similar request was made in case No. 1275/2004 (*Umetaliev et al v. Kyrgyzstan*), involving violations of the author's rights under article 2, paragraph 3 read together with article 6, paragraph 1.

218. In case No. 1457/2006 (*Poma v. Peru*), where the Committee found a violation of the author's right to enjoy her own culture together with the other members of her group, the Committee stated that the State party was required to provide the author with an effective remedy and reparation measures commensurate with the harm sustained.

219. In cases Nos. 1469/2006 (*Sharma v. Nepal*), 1495/2006 (*Madoui v. Algeria*), concerning the disappearance of the alleged victims, the Committee held that the State party was under an obligation, inter alia to prosecute, try and punish those responsible for the violations.

220. In case No. 1472/2006 (*Sayadi et al v. Belgium*), concerning the application to have the authors' names removed from the Consolidated List of Individuals and Entities Belonging to or Associated with the Taliban and Al-Qaida Organization as Established and Maintained by the 1267 Committee, the Committee held that the State party was bound to provide the authors with an effective remedy. It considered that although the State party was itself not competent to remove the names, it had the duty to do all it could in that respect, to provide the authors with some form of compensation and to make public the requests for removal.

221. In case No. 1473/2006 (*Morales Tornel v. Spain*), concerning the violation of the authors' right under article 17, paragraph 1 as a result of the death of their relative while in prison, the Committee stated that the State party was under an obligation to provide the authors with an effective remedy, including appropriate compensation.

222. In cases Nos. 1479/2006 (*Persan*), 1508/2006 (*Amundson*) and 1574/2007 (*Slezák*) 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 in question could not be returned. Furthermore, the Committee reiterated that the State party should review its legislation and practice to ensure that all persons enjoy both equality before the law and equal protection of the law.

223. In case No. 1483/2006 (*Basongo v. Democratic Republic of the Congo*), concerning the violation of article 7, the Committee requested the State party to take measures in order to comply with the decision of the military court which sentenced to imprisonment those responsible for whipping the victim.

224. In case No. 1493/2006 (*Williams Lecraft v. Spain*), concerning the violation of article 26 as a result of a police identity check based on racial grounds, the Committee considered that the State party was under an obligation to provide the author with an effective remedy, including a public expression of regret. The State party was also under an obligation to adopt measures so that State agents were instructed not to commit acts similar to the one in this case.

225. In case No. 1510/2006 (*Vojnović v. Croatia*), where the Committee found violations of several articles of the Covenant in connection with the termination of his specially protected tenancy, the Committee decided that the State party was under an obligation to provide the author with an effective remedy, including adequate compensation.

226. In case No. 1553/2007 (*Korneenko and Milinkevich v. Belarus*), involving violations of the authors' right to freedom of expression and political participation, the Committee held that the State party was under the obligation to provide the authors with an effective remedy, including compensation amounting to a sum not less than the present value of the fine imposed to them and legal costs.

227. In case No. 1560/2007 (*Marcellana and Gumanoy v. The Philippines*), concerning the deprivation of life of the victims, the Committee pointed out that the State party was under an obligation to provide the authors with an effective remedy, including initiation and pursuit of criminal proceedings to establish responsibility for the kidnapping and death of the victims and payment of appropriate compensation.

228. In case No. 1585/2007 (*Batirov v. Uzbekistan*), concerning violations of article 12, paragraphs 2 and 3, the Committee held that the State party was under an obligation to provide the author with an effective remedy, including compensation, as well as to amend its legislation concerning exit from the country to comply with the provisions of the Covenant.

229. In a number of cases the Committee referred only to the obligation of the State party to provide the author with an effective remedy, including cases Nos. 1512/2006 (*Dean v. New Zealand*) and 1122/2002 (*Lagunas Castedo v. Spain*).

## Chapter VI

### Follow-up activities under the Optional Protocol

230. 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 on Views to this effect. Ms. Ruth Wedgwood has been the Special Rapporteur since July 2009 (ninety-sixth session).

231. 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; 543 Views out of the 681 Views adopted since 1979 concluded that there had been a violation of the Covenant.

232. 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.

233. 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.

234. 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.

235. 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 the ninety-sixth session (13-31 July 2009), 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 on Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

236. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/63/40) is set out in annex IX to volume II of the present annual report.

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
Algeria (10)	992/2001, <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 A/64/40	
	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	
	1495/2006, <i>Madaoui</i> A/64/40				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
Australia (24)	488/1992, <i>Toonen</i> A/49/40	X A/51/40	X			
	560/1993, <i>A.</i> A/52/40	X A/53/40, A/55/40, A/56/40		X		X

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>	
Australia ( <i>cont'd</i> )	802/1998, <i>Rogerson</i> A/58/40	Finding of a violation was considered sufficient.	X				
	900/1999, <i>C.</i> 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*		X	
	*Note: 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.						
	1036/2001, <i>Faure</i> A/61/40	X A/61/40					X
1050/2002, <i>Rafie and Safdel</i> A/61/40	X A/62/40 and A/63/40					X	

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Australia ( <i>cont'd</i> )	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	
	<i>*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.</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

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Austria ( <i>cont'd</i> )	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 (17)	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
	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
1178/2003, <i>Smanster</i> A/64/40				X		

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
Belarus ( <i>cont'd</i> )	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	X A/63/40				X
	1311/2004, <i>Osiyuk</i> A/64/40	Not yet due				X
	1553/2007, <i>Korneenko, Milinkevich</i> A/64/40				X	
Belgium (1)	1472/2006, <i>Sayadi et al.</i> A/64/40				X	
Bolivia (2)	176/1984, <i>Peñarrieta</i> A/43/40	X A/52/40				X
	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			
Cameroon (6)	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	



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Cameroon ( <i>cont'd</i> )	1397/2005, <i>Engo A/64/40</i>	Not yet due				
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.					
	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				

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
Canada ( <i>cont'd</i> )	469/1991, Ng 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, Gauthier A/54/40	X A/55/40, A/56/40, A/57/40	X A/59/40			
	694/1996, Waldman A/55/40	X A/55/40, A/56/40, A/57/40, A/59/40, A/61/40		X		X
	829/1998, Judge 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, Ahani 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, Tcholatch A/62/40	Not due				
Central African Republic (2)	428/1990, Bozize A/49/40	X A/51/40	X A/51/40			
	1587/2007, Mamour A/64/40	Not yet due				X

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
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.					
	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, paragraph 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, paragraph 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.					

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
Colombia ( <i>cont'd</i> )	181/1984, <i>Sanjuán Arévalo brothers</i> 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.						
	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, 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

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Colombia ( <i>cont'd</i> )	859/1999, <i>Jiménez Vaca</i> A/57/40	X A/58/40, A/59/40, A/61/40		X		X
	1298/2004, <i>Becerra</i> A/61/40	X A/62/40				X A/62/40
	1361/2005, <i>Casadiago</i> A/62/40	X A/63/40				X
Croatia (2)	727/1996, <i>Paraga</i> A/56/40	X A/56/40, A/58/40				X
	1510/2006, <i>Vojnović</i> , A/64/40				X	
Czech Republic (21)*	<i>*Note: For all of these property cases, see also follow-up to concluding observations for the State party's reply in A/59/40.</i>					
	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
	<i>*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.</i>					
	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

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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	
	1479/2006, <i>Persan</i> A/64/40				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	
	1497/2006, <i>Preiss</i> A/63/40	Not due				
	1508/2006, <i>Amundson</i> A/64/40				X	

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Czech Republic (cont'd)	1533/2006, <i>Ondracka</i> A/63/40				X	
Democratic Republic of the Congo (14)*	*Note: See A/59/40 for details of follow-up consultations.					
	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
	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

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>	
Democratic Republic of the Congo ( <i>cont'd</i> )	641/1995, <i>Gedumbe</i> A/57/40				X A/61/40	X	
	933/2000, <i>Adrien Mundy 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				
<i>*Note: State party requested a reopening of consideration of the case.</i>							
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	
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	
	<i>*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.</i>						
	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				



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Ecuador ( <i>cont'd</i> )	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			
	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			

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
France ( <i>cont'd</i> )	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
	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	X A/64/40				X
Greece (2)	1070/2002, <i>Kouldis</i> A/61/40	X A/61/40				X
	1486/2006, <i>Kalamiotis</i> A/63/40	X A/64/40				X
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

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Guyana ( <i>cont'd</i> )	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
	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, A/64/40				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

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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.					
	695/1996, <i>Simpson</i> A/57/40	X A/57/40, A/58/40, A/59/40, A/63/40, A/64/40				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 (5)	1461, 1462, 1476 and 1477/2006, <i>Maksudov,</i> <i>Rahimov, Tashbaev,</i> <i>Pirmatov</i> A/63/40	Not due				
	1275/2004, <i>Umetaliev</i> A/64/40				X	
Latvia (1)	884/1999, <i>Ignatane</i> A/56/40	X A/57/40	X A/60/40*			
	*Note: The Committee decided that this case should be considered no further under the follow-up procedure.					
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

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Libyan Arab Jamahiriya ( <i>cont'd</i> )	1143/2002, <i>Dernawi</i> A/62/40				X		
	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	
	115/1982, <i>Wight</i> Twenty-fourth session Selected Decisions, vol. 2	A/52/40			X*	X	
	<i>*Note: The author indicated that he had been released (see A/52/40). No further information provided.</i>						
	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				
Namibia (2)	760/1997, <i>Diergaardt</i> A/55/40	X A/57/40	X A/57/40				
	919/2000, <i>Muller and Engelhard</i> A/57/40	X A/58/40	X A/59/40				

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Nepal (1)	1469/2006, <i>Sharma</i> A/64/40					X
Netherlands (8)	172/1984, <i>Broeks</i> A/42/40	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</i> A/42/40	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</i> A/45/40	X A/46/40	X			
	453/1991, <i>Coeriel</i> A/50/40	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.					
	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	

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New Zealand (3)	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
	1512/2006, <i>Dean</i> A/64/40				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
Paraguay (1)	1407/2005, <i>Asensi</i> A/64/40				X	
Peru (15)	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

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Peru ( <i>cont'd</i> )	309/1988, Orihuela Valenzuela A/48/40	X A/52/40, A/59/40				X
	540/1993, Celis Laureano A/51/40				X A/59/40	X
	577/1994, Polay Campos A/53/40	X A/53/40, A/59/40				X
	678/1996, Gutiérrez Vivanco A/57/40				X A/58/40, A/59/40	X
	688/1996, de Arguedas A/55/40	X A/58/40, A/59/40	X			
	906/1999, Vargas-Machuca A/57/40				X A/58/40, A/59/40	X
	981/2001, Gómez Casafranca A/58/40				X A/59/40	X
	1125/2002, Quispe A/61/40	X A/61/40				X
	1126/2002, Carranza A/61/40	X A/61/40, A/62/40				X
	1153/2003, K.N.L.H. A/61/40	X A/61/40, A/62/40 and A/63/40				X
	1058/2002, Vargas A/61/40	X A/61/40 and A/62/40				X
	1457/2006, Poma A/64/40				X	
Philippines (11)	788/1997, Cagas A/57/40	X A/59/40, A/60/40, A/61/40				X



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Philippines ( <i>cont'd</i> )	868/1999, <i>Wilson A/59/40</i>	X A/60/40, A/61/40, A/62/40		X A/62/40		X A/62/40
	869/1999, <i>Piandiong et al. A/56/40</i>	X N/A				
	1077/2002, <i>Carpó et al. A/58/40</i>	X A/59/40, A/60/40, A/61/40	X A/61/40			
	1110/2002, <i>Rolando A/60/40</i>	X A/61/40	X A/61/40			
	1167/2003, <i>Ramil Rayos A/59/40</i>	X A/61/40	X (A/61/40)			
	1089/2002, <i>Rouse A/60/40</i>				X	X
	1320/2004, <i>Pimentel et al. A/62/40</i>	X A/63/40, A/64/40			X A/63/40	X
	1421/2005, <i>Larrañaga A/61/40</i>				X	
	1466/2006, <i>Lumanog A/63/40</i>					
	1560/2007, <i>Marcellana and Gumanoy A/64/40</i>				X	
Poland (1)	1061/2002, <i>Fijalkovska A/60/40</i>	X A/62/40	X A/62/40			
Portugal (1)	1123/2002, <i>Correia de Matos A/61/40</i>	X A/62/40			X	X A/62/40
Republic of Korea (8)	518/1992, <i>Sohn A/50/40</i>	X A/60/40, A/62/40				X
	574/1994, <i>Kim A/54/40</i>	X A/60/40, A/62/40, A/64/40				X

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Republic of Korea ( <i>cont'd</i> )	628/1995, <i>Park</i> A/54/40	X A/54/40, A/64/40				X
	878/1999, <i>Kang</i> A/58/40	X A/59/40, A/64/40				X
	926/2000, <i>Shin</i> A/59/40	X A/60/40, A/62/40, A/64/40				X
	1119/2002, <i>Lee</i> A/60/40	X A/61/40, A/64/40				X
	1321-1322/2004, <i>Yoon,</i> <i>Yeo-Bzum and Choi,</i> <i>Myung-Jin</i> A/62/40	X A/62/40, A/63/40 A/64/40				X
Romania (1)	1158/2003, <i>Blaga</i> A/60/40				X	X
Russian Federation (10)	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				
	1278/2004, <i>Reshnetnikov,</i> A/64/40				X	

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Russian Federation ( <i>cont'd</i> )	1310/2004, <i>Babkin</i> A/63/40	Not due				
	1447/2006, <i>Amirov</i> A/64/40				X	
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			
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 (21)	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>Michael and Brian Hill</i> A/52/40	X A/53/40, A/56/40, A/58/40, A/59/40, A/60/40, A/61/40, A/64/40				X

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Spain ( <i>cont'd</i> )	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
	1006/2001, <i>Muñoz</i> A/59/40				X A/61/40	
	1007/2001, <i>Sineiro</i> <i>Fernando</i> A/58/40	X A/59/40, A/60/40, A/61/40				X
	1073/2002, <i>Terón Jesús</i> A/60/40				X A/61/40	X
	1095/2002, <i>Gomariz</i> A/60/40				X A/61/40	
	1101/2002, <i>Alba Cabriada</i> A/60/40				X A/61/40	X
	1104/2002, <i>Martínez</i> <i>Fernández</i> A/60/40				X A/61/40	X
	1122/2002, <i>Lagunas</i> <i>Castedo</i> A/64/40				X	
	1211/2003, <i>Oliveró</i> A/61/40				X	X
	1325/2004, <i>Conde</i> A/62/40				X	X
	1332/2004, <i>Garcia and</i> <i>others</i> A/62/40				X	X

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Spain ( <i>cont'd</i> )	1351 and 1352/2005, <i>Hens and Corujo</i> A/63/40	Not due				
	1364/2005, <i>Carpintero Uclés</i> A/64/40	Not yet due				X
	1381/2005, <i>Hachuel</i> A/62/40				X	
	1473/2006, <i>Morales Tornel</i> , A/64/40				X (not due)	
	1493/2006, <i>Williams Lecraft</i> , A/64/40	Not yet due				X
Sri Lanka (13)	916/2000, <i>Jayawardena</i> A/57/40	X A/58/40, A/59/40, A/60/40, A/61/40				X
	950/2000, <i>Sarma</i> A/58/40	X A/59/40, A/60/40, A/63/40				X
	909/2000, <i>Kankanamge</i> A/59/40	X A/60/40				X
	1033/2001, <i>Nallarathnam</i> A/59/40	X A/60/40				X
	1189/2003, <i>Fernando</i> A/60/40	X A/61/40		X A/61/40		X
	1249/2004, <i>Immaculate Joseph et al.</i> A/61/40	X A/61/40				X
	1250/2004, <i>Rajapakse</i> A/61/40				X	
	1373/2005, <i>Dissanakye</i> A/63/40	Not due				

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Sri Lanka ( <i>cont'd</i> )	1376/2005, <i>Bandaranayake</i> A/63/40	Not due				
	1406/2005, <i>Weerawanza</i> , A/64/40				X	
	1426/2005, <i>Dingiri Banda</i> A/63/40				X	
	1432/2005, <i>Gunaratna</i> , A/64/40				X	
	1436/2005, <i>Sathasivam</i> A/63/40	Not due				
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 (20)	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

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Tajikistan ( <i>cont'd</i> )	1117/2002, <i>Khomidov A/59/40</i>	X A/60/40				X
	1195/2003, <i>Dunaev A/64/40</i>				X	
	1042/2002, <i>Boymurudov A/61/40</i>	X A/62/40, A/63/40				X
	1044/2002, <i>Nazriev A/61/40</i>	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.						
	1200/2003, <i>Sattorov A/64/40</i>				X	
	1208/2003, <i>Kurbanov A/61/40</i>	X A/62/40		X A/62/40		X
	1209/2003, 1231/2003 and 1241/2004, <i>Rakhmatov, Safarovs and Mukhammadiev A/63/40</i>	Not due				
	1263/2004 and 1264/2004, <i>Khuseynov and Butaev A/64/40</i>				X	
	1276/2004, <i>Idiev A/64/40</i>				X	
	1348/2005, <i>Ashurov A/62/40</i>				X	
Togo (4)	422 to 424/1990, <i>Aduayom et al. A/51/40</i>	X A/56/40, A/57/40		X A/59/40		X
	505/1992, <i>Ackla A/51/40</i>	X A/56/40, A/57/40		X A/59/40		X

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
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
	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	



<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
Trinidad and Tobago (cont'd)	683/1996, <i>Wanza</i> A/57/40				X	X
	684/1996, <i>Sahadath</i> A/57/40				X	X
	721/1996, <i>Boodoo</i> A/57/40				X	X
	752/1997, <i>Henry</i> A/54/40				X	X
	818/1998, <i>Sextus</i> A/56/40				X	X
	845/1998, <i>Kennedy</i> A/57/40				X A/58/40	X
	899/1999, <i>Francis et al.</i> A/57/40				X A/58/40	X
	908/2000, <i>Evans</i> A/58/40				X	X
	928/2000, <i>Sooklal</i> A/57/40				X	X
	938/2000, <i>Girjadat Siewpers et al.</i> A/59/40				X A/51/40, A/53/40	X
Turkmenistan (2)	1450/2006, <i>Komarovsky</i> A/63/40	Not due				
	1460/2006, <i>Yklymova,</i> A/64/40	Not yet due				X
Ukraine (2)	726/1996, <i>Zheludkov</i> A/58/40	X A/58/40	X A/59/40			
	781/1997, <i>Aliev</i> A/58/40	X A/60/40		X A/60/40		X

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
Uruguay (52)	<b>A.</b> [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]	X 43 follow-up replies received, see A/59/40*	X (relating to cases D and G)	X (relating to cases A, B, C, E, F)		X
	<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> ]					

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
Uruguay ( <i>cont'd</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]					
	<b>F.</b> [30/1978, <i>Bleier</i> Fifteenth session 84/1981, <i>Barbato</i> Seventeenth session 107/1981, <i>Quinteros</i> Nineteenth session]					

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
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>					
	159/1983, <i>Cariboni</i> A/43/40 Selected Decisions, vol. 2					X
322/1988, <i>Rodríguez</i> A/51/40 A/49/40					X A/51/40	X
Uzbekistan (22) [7 NEW]	907/2000, <i>Sirageva</i> A/61/40	X A/61/40				

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
Uzbekistan (22)	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	
	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	
	1140/2002, <i>Iskandar Khudayberganov</i> A/62/40				X	
	1150/2002, <i>Azamat Uteev</i> A/63/40				X	
	1163/2003, <i>Isaev and Karimov</i> A/64/40				X	

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
Uzbekistan ( <i>cont'd</i> )	1280/2004, <i>Tolipkhuzhaev</i> A/64/40					X
	1334/2004, <i>Mavlonov and Sa'di</i> A/64/40				X	
	1378/2005, <i>Kasimov</i> A/64/40	Not yet due				X
	1382/2005, <i>Salikh</i> A/64/40				X	
	1418/2005, <i>Yuri Iskiyaev</i> A/64/40				X	
	1585/2007, <i>Batyrov</i> A/64/40	Not yet due				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.					

<i>State party and number of cases with violation</i>	<i>Communication number, author and relevant Committee report</i>	<i>Follow-up response received from State party</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No response</i>	<i>Follow-up dialogue ongoing</i>
<i>Zambia (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



## Chapter VII

### Follow-up to concluding observations

237. 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/63/40, 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 2009.

238. 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-fourth, ninety-fifth and ninety-sixth 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.

239. 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 2008, 16 States parties (Austria, Barbados, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, France, Georgia, Honduras, Hong Kong Special Administrative Region (China), Ireland, Libyan Arab Jamahiriya, Madagascar, Tunisia, Ukraine and United States of America), 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, 11 States parties (Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Panama, Sudan, the former Yugoslav Republic of Macedonia, Yemen and Zambia) 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.<sup>22</sup>

240. 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

<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.

<sup>22</sup> As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Mali, Sri Lanka, Suriname, Namibia, Paraguay, and the Democratic Republic of the Congo.

before 1 August 2008 to take no further action prior to the period covered by this report.

241. 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).

### Seventy-fifth session (July 2002)

<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><u>22 September 2008</u> The Special Rapporteur informed the State party that, at its ninety-third session, the Committee had declared 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.</p> <p><u>February 2009</u> The matter has been referred to the High Commissioner for Human Rights.</p>
<p><b>Recommended action: No further action is recommended.</b></p>
<p><b>Next report due:</b> 31 December 2002</p>

**Seventy-sixth session (October 2002) (all State party reports were considered)  
Seventy-seventh session (March 2003)**

<b>State party: Mali</b>
<b>Report considered:</b> Second periodic (due since 1986), submitted on 3 January 2003.
<p><b>Information requested:</b></p> <p>Para. 10 (a): Expedite the adoption of a new Family Code abolishing polygamy (arts. 3, 23 and 26).</p> <p>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).</p> <p>Para. 11: Measures to prohibit and criminalize the practice of female genital mutilation (arts. 3 and 7).</p> <p>Para. 12: Adoption of specific legislation expressly prohibiting and punishing domestic violence; ensure adequate protection of victims (arts. 3 and 7).</p>
<b>Date information due:</b> 3 April 2004
<p><b>Date information received:</b></p> <p><u>12 November 2007</u> Partial reply (response incomplete with regard to paragraphs 10 (a) and (d), 11 and 12).</p>
<p><b>Action taken:</b></p> <p><u>18 October 2004</u> A reminder was sent.</p> <p><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.</p> <p><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.</p> <p><u>20 September 2006</u> A further reminder was sent.</p> <p><u>Between February 2007 and March 2008</u> The Special Rapporteur sent five letters requesting a meeting with a representative of the State party.</p> <p><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.</p>
<p><u>Between June and December 2008</u> Three reminders were sent (11 June, 22 September 2008), requesting the State party to submit its third periodic report, due since 1 April 2005, and to include the outstanding information on paragraphs 10 (a) and (d), 11 and 12 in the report.</p>
<p><b>Recommended action: The follow-up procedure with respect to the second periodic report is terminated. A note verbale will be sent to the State party reminding it that its third periodic report is overdue and should be submitted promptly, and that the requested follow-up information should be included in the periodic report.</b></p>
<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.
<p><b>Information requested:</b></p> <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
<p><b>Date information received:</b></p> <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>
<p><b>Action taken:</b></p> <p><u>Between March 2005 and September 2007</u>, 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 and 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> <p><u>31 March 2008</u> 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).</p> <p><u>Between June and December 2008</u> Three reminders were sent, requesting the State party to include the outstanding information on paragraphs 9 and 10 in the report.</p>

**Recommended action: The follow-up procedure with respect to the fourth and fifth periodic reports is terminated. A note verbale will be sent to the State party reminding it that its sixth periodic report is overdue and should be submitted promptly, and that the requested follow-up information should be included in the periodic report.**

**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 to be submitted by 1 August 2004 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.

22 September 2008 The Special Rapporteur informed the State party that, at its ninety-third session, the Committee had declared 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.

February 2009 The matter has been referred to the High Commissioner for Human Rights for appropriate action.

**Recommended action: No further action is recommended.**

**Next report due:** 1 August 2004

### Eightieth session (March 2004)

<b>State party: Suriname</b>
<b>Report considered:</b> Second periodic (due since 1985), submitted on 1 July 2003.
<p><b>Information requested:</b></p> <p>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).</p> <p>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).</p>
<b>Date information due:</b> 1 April 2005
<p><b>Date information received:</b></p> <p><u>5 May 2008</u> Partial reply (response incomplete with regard to paragraphs 11 and 14).</p>
<p><b>Action taken:</b></p> <p>Between May 2005 and February 2006, three reminders were sent.</p> <p><u>March 2006</u> 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.</p> <p>Between July 2006 and September 2007, five 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>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 (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.</p> <p><u>23 September 2008</u> The Special Rapporteur reminded the State party to submit its third periodic report, due since 1 April 2008, and to include the outstanding information on paragraphs 11 and 14 in the report.</p> <p><u>16 December 2008</u> A further reminder was sent.</p>
<p><b>Recommended action: The follow-up procedure with respect to the second periodic report is terminated. A note verbale will be sent to the State party reminding it that its third periodic report is overdue and should be submitted promptly, and that the requested follow-up information should be included in the periodic report.</b></p>
<b>Next report due:</b> 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> <p>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).</p> <p>Para. 11: Make torture a specific statutory crime (art. 7).</p>
<b>Date information due:</b> 29 July 2005
<b>Date information received: NONE RECEIVED</b>
<b>Action taken:</b> <p>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.</p> <p><u>Between January and December 2008</u> The Special Rapporteur sent three letters requesting a meeting with a representative of the State party.</p> <p><u>Between February and March 2009</u> The Special Rapporteur continued requesting a meeting with a representative of the State party to be convened during the ninety-fifth session.</p>
<b>Recommended action: The follow-up procedure with respect to the initial report is terminated. A note verbale will be sent to the State party reminding it that its second periodic report is overdue and should be submitted promptly, and that the requested follow-up information should be included in the periodic report.</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) (all State party reports were considered)****Eighty-fourth session (July 2005)**

<b>State party: Yemen</b>
<b>Report considered:</b> Fourth periodic (on time), submitted on 4 August 2004.
<b>Information requested:</b> <p>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).</p> <p>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).</p>

<p>Para. 14: Full and impartial investigation into the killing of four persons participating in a demonstration on 21 March 2003 (art. 6).</p> <p>Para. 16: Measures to end corporal punishment, such as flogging or amputation of limb; amendment of relevant legislation (art. 7).</p>
<p><b>Date information due:</b> 20 July 2006</p>
<p><b>Date information received:</b> NONE RECEIVED</p>
<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> <p><u>22 September 2008</u> The Special Rapporteur requested a meeting with a representative of the State party.</p> <p><u>24 October 2008</u> During the ninety-fourth session, the Special Rapporteur met with a representative of the State party, who indicated that the State party will inform the Special Rapporteur about the time-scale envisaged for the submission of the replies to the Committee's follow-up questions.</p> <p><u>6 May 2009</u> A reminder was sent to the State party.</p>
<p><b>Recommended action:</b> A note verbale has been sent by the State party to request an extension for submitting its next periodic report. As no information has been received, the follow-up procedure with respect to the fourth periodic report is considered to be terminated.</p>
<p><b>Next report due:</b> 1 July 2009</p>

### Eighty-fifth session (October 2005)

<p><b>State party:</b> Brazil</p>
<p><b>Report considered:</b> Second periodic (due since 1998), submitted on 15 November 2004.</p>
<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>



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).

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).

**Date information due:** 3 November 2006

**Date information received:**

18 April 2008 Partial reply (response incomplete with regard to paragraphs 6, 12, 16 and 18).

**Action taken:**

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.

18 October 2007 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.

22 September 2008 A letter was sent to the State party to request additional information on paragraphs 6, 12, 16 and 18.

16 December 2008 A further reminder was sent.

6 May 2009 A reminder was sent to the State party.

**Recommended action: If no information is received, consultations should be scheduled for the ninety-seventh session.**

**Next report due:** 31 October 2009

**State party: Paraguay**

**Report considered:** Second periodic (due since 1998), submitted on 9 July 2004.

**Information requested:**

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).

**Date information due:** 1 November 2006

<p><b>Date information received:</b></p> <p><u>1 November 2006</u> Partial reply (response incomplete with regard to paragraphs 7, 17 and 21 and no response to paragraph 12).</p> <p><u>25 June 2008</u> Partial reply (response incomplete with regard to paragraphs 12, 17 and 21).</p>
<p><b>Action taken:</b></p> <p><u>6 December 2006</u> A reminder was sent.</p> <p><u>28 September 2007</u> A further reminder was sent, and the Special Rapporteur requested a meeting with a representative of the State party.</p> <p><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.</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> <p><u>23 September 2008</u> The Special Rapporteur requested the State party to include the outstanding information on paragraphs 12, 17 and 21 in its third periodic report, due on 31 October 2008.</p> <p><u>16 December 2008</u> The Special Rapporteur reminded the State party to submit its third periodic report, due since 31 October 2008, and to include the outstanding information on paragraphs 7, 12, 17 and 21 in the report.</p>
<p><b>Recommended action:</b> The follow-up procedure with respect to the second periodic report is terminated. A note verbale will be sent to the State party reminding it that its third periodic report is overdue and should be submitted promptly, and that the requested follow-up information should be included in the periodic report.</p>
<p><b>Next report due:</b> 31 October 2008</p>

### Eighty-sixth session (March 2006)

<p><b>State party: Democratic Republic of the Congo</b></p>
<p><b>Report considered:</b> Third periodic (due since 1991), submitted on 30 March 2005.</p>
<p><b>Information requested:</b></p> <p>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 on Views (art. 2).</p> <p>Para. 10: Steps to ensure that all reported human rights violations are investigated and that those responsible are prosecuted and punished (art. 2).</p> <p>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).</p> <p>Para. 24: Strengthen the programme for the care of orphans; punishment of any person guilty of abusing orphans (art. 24).</p>
<p><b>Date information due:</b> 25 March 2007</p>
<p><b>Date information received: NONE RECEIVED</b></p>

**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.

22 September 2008 A reminder was sent.

16 December 2008 The Special Rapporteur requested the State party to include the outstanding information on paragraphs 11 and 14 in its fourth periodic report, due 1 April 2009.

**Recommended action: The follow-up procedure with respect to the third periodic report is terminated. A note verbale will be sent to the State party reminding it that its fourth periodic report is overdue and should be submitted promptly, and that the requested follow-up information should be included in the periodic report.**

**Next report due:** 1 April 2009

**State party: Hong Kong (China)**

**Report considered:** Second periodic (due since 2003), submitted on 14 January 2005.

**Information requested:**

Para. 9: Ensure that complaints against the police are investigated by an independent body whose decisions are binding on the authorities (art. 2).

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).

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).

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).

**Date information due:** 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><u>8 April 2009</u> Partial reply received (para. 9: cooperative but information incomplete/recommendations not implemented; para. 13: cooperative but information incomplete; paras. 15 and 18: recommendations not implemented).</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> <p><u>9 December 2008</u> A reminder was sent.</p>
<p><b>Recommended action: A letter should be sent to request additional information and to state that the follow-up procedure with respect to certain issues is considered completed due to non-implementation and to ask the State party to report on these issues in its next periodic report.</b></p>
<p><b>Next report due:</b> 2010</p>

### Eighty-seventh session (July 2006)

<p><b>State party: Central African Republic</b></p>
<p><b>Report considered:</b> Second periodic (due since 1989), submitted on 3 July 2005.</p>
<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 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: NONE RECEIVED</b></p>

**Action taken:**

28 September 2007 A reminder was sent.

10 December 2007 A further reminder was sent.

20 February 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. The delegation committed itself to transmitting the Special Rapporteur's and the Committee's request to the Government. No responses were provided.

11 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.

22 September 2008 A reminder was sent.

16 December 2008 The Special Rapporteur requested a meeting with a representative of the State party.

29 May 2009 A reminder was sent to the State party.

**Recommended action: If no information is received, consultations should be scheduled for the ninety-seventh session.**

**Next report due:** 1 August 2010

**State party: United States of America**

**Report considered:** Second and third periodic (due since 1998), submitted on 28 November 2005.

**Information requested:**

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).

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).

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 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).

14 July 2009 Additional information submitted.

**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.

6 May 2009 A reminder was sent to the State party.

**Recommended action: The additional replies of the State party should be sent to translation and considered at the ninety-seventh session.**

**Next report due:** 1 August 2010

**Report considered:** Report by UNMIK on the human rights situation in Kosovo, submitted on 2 February 2006.

**Information requested:**

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).

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).

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).

**Date information due:** 1 January 2007

**Date information received:**

11 March 2008 Partial reply (responses incomplete with regard to paragraphs 13 and 18).

**Action taken:**

Between April and September 2007, three reminders were sent.

10 December 2007 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.

11 June 2008 The Special Rapporteur requested a meeting with a representative of UNMIK.

22 July 2008 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.

3 June 2009 A letter was sent to request additional information.

**Recommended action: If no information is received, a reminder should be sent.**

### Eighty-eighth session (October 2006)

**State party: Bosnia and Herzegovina**

**Report considered:** Initial (due since 2003), submitted on 24 November 2005.

**Information requested:**

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).

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).

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).

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).

**Date information due:** 1 November 2007

**Date information received:**

21 December 2007 Partial reply (responses incomplete with regard to paragraphs 8, 14, 19 and 23).

1 November 2008 Partial reply (responses incomplete with regard to paragraphs 8, 14, 19 and 23).

4 March 2009 Partial reply (responses incomplete with regard to paragraphs 8, 14, 19 and 23).

**Action taken:**

17 January 2008 A reminder was sent.

22 September 2008 The Special Rapporteur requested a meeting with a representative of the State party.

31 October 2008 During the ninety-fourth session, the Special Rapporteur met with a representative of the State party, who informed him that the State party's replies to the Committee's additional follow-up questions have been prepared and will be submitted as soon as the Government has approved them.

29 May 2009 A letter was sent to request additional information.

**Recommended action: If no information is received, a reminder should be sent.**

**Next report due:** 1 November 2010

**State party: Honduras**

**Report considered:** Initial (due since 1998), submitted on 21 February 2005.

**Information requested:**

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).

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).

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).

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).



<b>Date information due:</b> 1 November 2007
<b>Date information received:</b> <u>7 January 2007</u> Information on paragraph 18 (art. 16), which the Committee did not identify as a priority in its concluding observations. <u>15 October 2008</u> Partial reply (responses incomplete with regard to paragraphs 9, 10, 11 and 19).
<b>Action taken:</b> <u>17 January 2008</u> A reminder was sent. <u>11 June 2008</u> A further reminder was sent. <u>22 September 2008</u> The Special Rapporteur requested a meeting with a representative of the State party. <u>10 December 2008</u> A letter was sent to request additional information. <u>6 May 2009</u> A reminder was sent to the State party.
<b>Recommended action: If no information is received, a further reminder should be sent.</b>
<b>Next report due:</b> 31 October 2010

<b>State party: Republic of Korea</b>
<b>Report considered:</b> Third periodic (due since 2003), submitted on 10 February 2005.
<b>Information requested:</b> 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). 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). 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).
<b>Date information due:</b> 1 November 2007
<b>Date information received:</b> <u>25 February 2008</u> Partial reply (responses to paragraphs 12 and 13 incomplete; response to paragraph 18 unsatisfactory).
<b>Action taken:</b> <u>17 January 2008</u> A reminder was sent. <u>11 June 2008</u> The Special Rapporteur requested a meeting with a representative of the State party. <u>21 July 2008</u> 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.

6 May 2009 A reminder was sent to the State party.

**Recommended action: If no information is received, a further reminder should be sent.**

**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 Partial reply (responses incomplete with regard to paragraphs 7, 11, 14 and 16).

**Action taken:**

17 January 2008 A reminder was sent.

16 December 2008 A letter was sent to request additional information.

6 May 2009 A reminder was sent to the State party.

**Recommended action: If no information is received, a further reminder should be sent.**

**Next report due:** 2 November 2011

### Eighty-ninth session (March 2007)

<b>State party:</b> Barbados
<b>Report considered:</b> Third periodic (due since 1991), submitted on 18 July 2006.
<p><b>Information requested:</b></p> <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
<p><b>Date information received:</b></p> <p><u>31 March 2009</u> Partial reply received (para. 9: partly largely satisfactory, partly recommendations not implemented; para. 12: recommendations not implemented; para. 13: recommendations not implemented and information incomplete).</p>
<p><b>Action taken:</b></p> <p><u>11 June 2008</u> A reminder was sent.</p> <p><u>16 December 2008</u> The Special Rapporteur requested a meeting with a representative of the State party.</p> <p><u>31 March 2009</u> During the ninety-fifth session, the Special Rapporteur met with the Ambassador of the State party, who provided him with the follow-up reply.</p>
<b>Recommended action:</b> A letter should be sent to request additional information and to state that the follow-up procedure with respect to certain issues is considered completed due to non-implementation and to ask the State party to report on these issues in its next periodic report.
<b>Next report due:</b> 29 March 2011

<b>State party: Chile</b>
<b>Report considered: Fifth periodic (due since 2002), submitted on 8 February 2006.</b>
<p><b>Information requested:</b></p> <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
<p><b>Date information received:</b></p> <p><u>21 and 31 October 2008</u> Partial reply (responses incomplete with regard to paragraphs 9 and 19).</p>
<p><b>Action taken:</b></p> <p><u>11 June 2008</u> A reminder was sent.</p> <p><u>11 June 2008</u> A reminder was sent.</p> <p><u>22 September 2008</u> A further reminder was sent.</p> <p><u>10 December 2008</u> A letter was sent to request additional information.</p> <p><u>22 June 2009</u> The Special Rapporteur requested a meeting with a representative of the State party.</p> <p><u>28 July 2009</u> The Special Rapporteur held a meeting with representatives of the State party during which some aspects in relation to paragraphs 9 and 19 were discussed. The Ambassador also informed the Special Rapporteur that the State party's replies to the Committee's additional follow-up questions are currently prepared and will be submitted as soon as possible.</p>
<b>Recommended action: If no information is received before the ninety-seventh session of the Committee, a 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:</b> <u>3 March 2009</u> Partial reply (responses incomplete with regard to paragraphs 7, 24, 25).
<b>Action taken:</b> <u>11 June 2008</u> A reminder was sent. <u>22 September 2008</u> A further reminder was sent. <u>16 December 2008</u> The Special Rapporteur requested a meeting with a representative of the State party. <u>29 May 2009</u> A letter was sent to request additional information.
<b>Recommended action: If no information is received, a reminder should be sent.</b>
<b>Next report due:</b> 23 March 2011

### Ninetieth session (July 2007)

<b>State party: Czech Republic</b>
<b>Report considered:</b> Second periodic (due since 1 August 2005), submitted on 24 May 2006.
<b>Information requested:</b> <p>Para. 9: Measures to eradicate all forms of police ill-treatment, in particular: (a) establishment of an independent mechanism for the investigation of complaints about actions of law enforcement officials; (b) initiation of disciplinary and criminal proceedings against alleged perpetrators, and compensation for victims; and (c) police training on the criminal nature of excessive use of force (arts. 2, 7, 9 and 26).</p> <p>Para. 14: Measures to prevent unnecessary psychiatric confinement; ensure that all persons without full legal capacity are placed under guardianship representing and defending their wishes and interests; effective judicial review of the lawfulness of the admission and detention in health institutions of each person (arts. 9 and 16).</p> <p>Para. 16: Measures to combat discrimination against Roma (arts. 2, 26 and 27).</p>
<b>Date information due:</b> 1 August 2008

<p><b>Date information received:</b></p> <p><u>18 August 2008</u> Partial reply (response incomplete with regard to paragraphs 9, 14 and 16).</p>
<p><b>Action taken:</b></p> <p><u>11 June 2008</u> A reminder was sent.</p> <p><u>10 December 2008</u> A letter was sent to request additional information.</p> <p><u>6 May 2009</u> A reminder was sent to the State party.</p>
<p><b>Recommended action: If no information is received, a further reminder should be sent.</b></p>
<p><b>Next report due:</b> 1 August 2011</p>

<p><b>State party: Sudan (the)</b></p>
<p><b>Report considered:</b> Third periodic (due since 7 November 2001), submitted on 28 June 2006.</p>
<p><b>Information requested:</b></p> <p>Para 9:</p> <ul style="list-style-type: none"> <li>(a) Measures to ensure that State agents and militia under State control put an immediate end to human rights violations;</li> <li>(b) Ensure that State bodies and agents afford protection to victims of serious violations committed by third parties;</li> <li>(c) Take measures, including cooperation with the International Criminal Court, to ensure that all human rights violations are investigated, and that those responsible, including State agents and militia members, are prosecuted at national or international level;</li> <li>(d) Ensure that no financial support or material is channelled to militias that engage in ethnic cleansing or the deliberate targeting of civilians;</li> <li>(e) Abolish all immunity in the new legislation governing the police, armed forces and national security forces;</li> <li>(f) Ensure that no amnesty is granted to anyone believed to have committed serious crimes;</li> <li>(g) Ensure appropriate reparation for victims of serious human rights violations (arts. 2, 3, 6, 7 and 12).</li> </ul> <p>Para. 11:</p> <ul style="list-style-type: none"> <li>(a) Ensure that victims of serious human rights violations have access to effective remedies, including compensation;</li> <li>(b) Provide the human and financial resources required for the efficient functioning of the Sudanese legal system, particularly the special courts and tribunals established to try crimes committed in the Sudan (arts. 2, 6 and 7).</li> </ul> <p>Para. 17: Put an end to all recruitment and use of child soldiers; ensure that disarmament, demobilization and reintegration commissions are adequately staffed and funded; measures to speed up the establishment of a civil register and to ensure that all births are registered throughout the country (arts. 8 and 24).</p>
<p><b>Date information due:</b> 1 August 2008</p>
<p><b>Date information received: NONE RECEIVED</b></p>

<p><b>Action taken:</b></p> <p><u>22 September 2008</u> A reminder was sent.</p> <p><u>19 December 2008</u> A further reminder was sent.</p> <p><u>22 June 2009</u> The Special Rapporteur requested a meeting with a representative of the State party.</p>
<p><b>Recommended action: The Special Rapporteur should continue to request a meeting.</b></p>
<p><b>Next report due:</b> 26 July 2010</p>

<p><b>State party: Zambia</b></p>
<p><b>Report considered:</b> Third periodic (due since 30 June 1998), submitted on 16 December 2005.</p>
<p><b>Information requested:</b></p> <p>Para. 10: Measures to increase the resources and powers granted to the Zambian Human Rights Commission (art. 2).</p> <p>Para. 12: Measures to bring article 23 of the Constitution in line with articles 2, 3 and 26 of the Covenant.</p> <p>Para. 13: Measures to bring customary laws and practices in line with the Covenant, particularly with regard to women's rights (arts. 2 and 3).</p> <p>Para. 23: Development of alternative measures to imprisonment; ensure trials without unreasonable delay; measures to improve conditions and reduce overcrowding in prisons and detention facilities (arts. 7, 9 and 10).</p>
<p><b>Date information due: 1 August 2008</b></p>
<p><b>Date information received: NONE RECEIVED</b></p>
<p><b>Action taken:</b></p> <p><u>Between September 2008 and May 2009</u> Three reminders were sent.</p>
<p><b>Recommended action: If no information is received, consultations should be scheduled for the ninety-seventh session.</b></p>
<p><b>Next report due:</b> 20 July 2011</p>

### Ninety-first session (October 2007)

<p><b>State party: Georgia</b></p>
<p><b>Report considered:</b> Third periodic (due since 1 April 2006), submitted on 1 August 2006.</p>
<p><b>Information requested:</b></p> <p>Para. 8: Compilation of statistical data on incidents of domestic violence; investigation of complaints related to domestic violence and institution of criminal proceedings against perpetrators; protection of victims of domestic violence (arts. 3, 23 and 26).</p> <p>Para. 9: Prompt and impartial investigation of complaints about excessive use of force by law enforcement officers; initiation of criminal investigations against perpetrators; training for law enforcement officers; provision of compensation to victims (art. 6).</p>

Para. 11: Measures to improve the conditions of persons deprived of their liberty, especially measures to put an end to prison overcrowding (art. 10).
<b>Date information due:</b> 1 November 2008
<b>Date information received:</b> <u>13 January 2009</u> Partial reply (response incomplete with regard to paragraphs 8, 9, and 11).
<b>Action taken:</b> <u>16 December 2008</u> A reminder was sent. <u>29 May 2009</u> A letter was sent to request additional information.
<b>Recommended action: If no information is received, a reminder should be sent.</b>
<b>Next report due:</b> 1 November 2011

<b>State party: Libyan Arab Jamahiriya</b>
<b>Report considered:</b> Fourth periodic (due since 1 October 2002), submitted on 6 December 2005.
<b>Information requested:</b> Para. 10: Adoption of legislative and other measures to combat violence against women (arts. 3, 7 and 26). Para. 21: Adoption of the new penal code within a reasonable time frame (art. 14). Para. 23: Review of legislation, including the Publication Act of 1972, containing limitations on the right to freedom of opinion and expression (arts. 18, 19, 21, 22 and 25).
<b>Date information due:</b> 30 October 2008
<b>Date information received:</b> <u>24 July 2009</u> Information received
<b>Action taken:</b> <u>16 December 2008</u> A reminder was sent. <u>9 June 2009</u> A reminder was sent to the State party.
<b>Recommended action: The replies of the State party should be sent to translation and considered at the ninety-seventh session.</b>
<b>Next report due:</b> 30 October 2010

<b>State party: Austria</b>
<b>Report considered:</b> Fourth periodic (due since 1 October 2002), submitted on 21 July 2006.
<b>Information requested:</b> Para. 11: Prompt, independent, and impartial investigation of cases of death and abuse in police custody; introduction of mandatory human rights training for police, judges and law enforcement officers (arts. 6, 7 and 10).



<p>Para. 12: Adequate medical supervision and treatment of detainees awaiting deportation who are on hunger strike; investigation of the case of Geoffrey A., and information on the outcome of investigations in this case and in the case of Yankuba Ceesay (arts. 6 and 10).</p> <p>Para. 16: Ensure that restrictions on the contact between an arrested or detained person and counsel are not left to the sole discretion of the police (art. 9).</p> <p>Para. 17: Ensure that asylum-seekers who are detained pending deportation are held in centres specifically designed for that purpose, preferably in open stations, with access to qualified legal counselling and adequate medical services (arts. 10 and 13).</p>
<b>Date information due:</b> 30 October 2008
<p><b>Date information received:</b></p> <p><u>15 October 2008</u> Partial reply (responses incomplete with regard to paragraphs 11, 12, 16 and 17).</p> <p><u>22 July 2009</u> Additional information received.</p>
<p><b>Action taken:</b></p> <p><u>12 December 2008</u> A letter was sent to request additional information.</p> <p><u>29 May 2009</u> A reminder was sent to the State party.</p>
<b>Recommended action: The additional replies of the State party should be sent to translation and considered at the ninety-seventh session.</b>
<b>Next report due:</b> 30 October 2012

<b>State party: Algeria</b>
<b>Report considered:</b> Third periodic (due since 1 June 2000), submitted on 22 September 2006.
<p><b>Information requested:</b></p> <p>Para. 11: Ensure that all places of detention are under the authority of the civil prison administration and the public prosecutor's office; create a national register of detention centres and detained persons; regular visits by an independent national organ to all places where persons are deprived of their liberty (arts. 2 and 9).</p> <p>Para. 12: Ensure that victims of disappearances and/or their families have access to effective remedies, including compensation; ensure that all persons secretly detained are brought before a judge without delay; investigate all cases of disappearances, inform the families of victims about the results of such investigations, and publish the final report of the ad hoc National Commission on Disappearances (arts. 2, 6, 7, 9, 10 and 16).</p> <p>Para. 15: Ensure that all allegations of torture and cruel treatment are investigated by an independent body and that perpetrators are punished; improve training for public officials on the rights of arrested persons and detainees (arts. 2, 6 and 7).</p>
<b>Date information due:</b> 1 November 2008
<p><b>Date information received:</b></p> <p><b>7 November 2007</b> Partial reply (responses incomplete with regard to paragraphs 11, 12, and 15).</p>
<p><b>Action taken:</b></p> <p><u>16 December 2008</u> A reminder was sent.</p> <p><u>29 May 2009</u> A letter was sent to request additional information.</p>

<b>Recommended action: If no information is received, a reminder should be sent.</b>
<b>Next report due:</b> 1 November 2011
<b>State party:</b> Costa Rica
<b>Report considered:</b> Fifth periodic (due since 30 April 2004), submitted on 30 May 2006.
<b>Information requested:</b> Para. 9: Measures to put an end to overcrowding in detention centres (art. 10). Para. 12: Measures to combat trafficking of women and children (arts. 2 and 24).
<b>Date information due: 1 November 2008</b>
<b>Date information received:</b> <u>17 March 2009</u> Partial reply received (cooperative but incomplete information)
<b>Action taken:</b> <u>16 December 2008</u> A reminder was sent.
<b>Recommended action: A letter should be sent to request additional and more specific information.</b>
<b>Next report due:</b> 1 November 2012

### Ninety-second session (March 2008)

<b>State party:</b> Tunisia
<b>Report considered:</b> Fifth periodic (due since 4 February 1998), submitted on 14 December 2006.
<b>Information requested:</b> Para. 11: Investigation of all allegations of torture and cruel, inhuman or degrading treatment or punishment by an independent authority; prosecution and punishment of perpetrators and their hierarchical superiors; compensation for victims; improvement of training of public officials; statistical data on complaints about torture (arts. 2 and 7). Para. 14: Commutation of all death sentences; consider abolishing the death penalty and ratifying the second Optional Protocol to the Covenant (arts. 2, 6 and 7). Para. 20: Measures to put an end to acts of intimidation and harassment of human rights organizations and defenders; investigation of reports about such acts; ensure compatibility with articles 19, 21 and 22 of the Covenant of any restrictions imposed on the right to peaceful assembly and demonstration (arts. 9, 19, 21 and 22). Para. 21: Ensure that independent human rights associations are registered and that they are provided with effective and prompt recourse against any rejection of the applications for registration (arts. 21 and 22).
<b>Date information due:</b> 1 April 2009
<b>Date information received:</b> <u>16 March 2009</u> Partial reply (para. 11: cooperative but information incomplete; para. 14: recommendations not implemented; paras. 20-21: receipt acknowledged but non-specific information).

**Recommended action: A letter should be sent to request additional information and to state that the follow-up procedure with respect to certain issues is considered completed due to non-implementation and to ask the State party to report on these issues in its next periodic report.**

**Next report due:** 31 March 2012

**State party: Botswana**

**Report considered:** Initial (due since 8 December 2001), submitted on 13 October 2006.

**Information requested:**

Para. 12: Raise awareness of the precedence of constitutional law over customary laws and practices and of the right to request the transfer of a case and to appeal customary courts' decisions to constitutional law courts (arts. 2 and 3).

Para. 13: Ensure that the death penalty is only imposed for the most serious crimes; move towards abolition of the death penalty; detailed information on the number of convictions for murder, courts' findings of mitigating circumstances, and the number of death sentences imposed by the courts and of persons executed per year; ensure that families are informed in advance of the date of execution of family members and that the body is returned to them for burial (art. 6).

Para. 14: Withdrawal of reservations to articles 7 and 12 (arts. 7 and 12).

Para. 17: Ensure that persons on remand are not kept in custody for an unreasonable period of time; ensure that conditions of detention are compatible with the United Nations Standard Minimum Rules for the Treatment of Prisoners; immediate action to reduce the prison population; increased use of alternative measures to imprisonment; enhance access to prisoners by family members (arts. 7, 9 and 10).

**Date information due:** 1 April 2009

**Date information received: NONE RECEIVED**

**Recommended action: A reminder should be sent.**

**Next report due:** 31 March 2012

**State party: The former Yugoslav Republic of Macedonia**

**Report considered:** Second periodic (due since 1 June 2000), submitted on 12 October 2006.

**Information requested:**

Para. 12: Ensure that the Law on Amnesty is not applied to the most serious human rights violations, crimes against humanity and war crimes; thorough investigation of such crimes and prosecution and punishment of perpetrators; compensation for victims and their families (arts. 2, 6 and 7).

Para. 14: Consider undertaking a new and comprehensive investigation of the allegations made by Mr. Khaled al-Masri, seeking his cooperation and taking into account all available evidence; provide adequate compensation in case a violation is found; review of practices and procedures aimed at preventing unlawful renditions (arts. 2, 7, 9 and 10).

Para. 14: Find immediate and durable solutions for all internally displaced persons in consultation with them and in accordance with the Guiding Principles on Internal Displacement (art. 12).

<b>Date information due:</b> 1 April 2009
<b>Date information received:</b> NONE RECEIVED
<b>Recommended action:</b> A reminder should be sent.
<b>Next report due:</b> 1 April 2012

<b>State party:</b> Panama
<b>Report considered:</b> Third periodic (due since 31 March 1992), submitted on 9 February 2007.
<p><b>Information requested:</b></p> <p>Para. 11: Measures to reduce overcrowding in detention facilities and to ensure that prison conditions are in compliance with article 10 of the Covenant and with the United Nations Standard Minimum Rules for the Treatment of Prisoners (art. 10).</p> <p>Para. 14: Adopt legislation that will allow refugees to enjoy the rights under the Covenant; ensure compliance with the non-refoulement obligation (arts. 2, 6, 7 and 9).</p> <p>Para. 18: Implementation of the law on domestic violence; ensure a sufficient number of shelters and police protection for victims; prosecution and punishment of perpetrators; provide statistical data on ongoing cases for domestic violence and their outcomes (arts. 3 and 7).</p>
<b>Date information due:</b> 1 April 2009
<b>Date information received:</b> NONE RECEIVED
<b>Recommended action:</b> A reminder should be sent.
<b>Next report due:</b> 31 March 2012

## 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 2009**

**A. States parties to the International Covenant on Civil and Political Rights (164)**

<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>
Bahamas	23 December 2008	23 March 2009
Bahrain	20 September 2006 <sup>a</sup>	20 December 2006
Bangladesh	6 September 2000 <sup>a</sup>	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
Chile	10 February 1972	23 March 1976

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
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>b,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	5 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
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

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
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
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

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
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
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



<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
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>a</sup>	<sup>b</sup>
Vanuatu	21 November 2008	21 February 2009
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 Optional Protocol (112)**

<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 <sup>a</sup>	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 <sup>a</sup>	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 <sup>a</sup>	9 September 1995
Chile	27 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
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

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
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 <sup>a</sup>	25 November 1993
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997 <sup>a</sup>	5 August 1997
Guatemala	28 November 2000 <sup>a</sup>	28 February 2001
Guinea	17 June 1993	17 September 1993
Guyana <sup>b</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 <sup>a</sup>	8 March 1990
Italy	15 September 1978	15 December 1978
Kazakhstan	30 June 2009	30 September 2009
Kyrgyzstan	7 October 1994 <sup>a</sup>	7 January 1995
Latvia	22 June 1994 <sup>a</sup>	22 September 1994
Lesotho	6 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 <sup>a</sup>	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>c</sup>		23 October 2006
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	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

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
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 <sup>a</sup>	28 November 2002
Spain	25 January 1985 <sup>a</sup>	25 April 1985
Sri Lanka	3 October 1997 <sup>a</sup>	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>c</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
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 <sup>a</sup>	28 December 1995

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
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 (71)

<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
Argentina	2 September 2008	2 December 2008
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
Chile	26 September 2008	26 December 2008
Colombia	5 August 1997 <sup>a</sup>	5 November 1997
Costa Rica	5 June 1998	5 September 1998
Croatia	12 October 1995 <sup>a</sup>	12 January 1996
Cyprus	10 September 1999 <sup>a</sup>	10 December 1999
Czech Republic	15 June 2004 <sup>a</sup>	15 September 2004
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
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

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
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		23 October 2006 <sup>e</sup>
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 <sup>a</sup>	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
Rwanda	15 December 2008 <sup>a</sup>	15 March 2009
San Marino	17 August 2004	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
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

<u>State party</u>	<u>Date of receipt of the instrument of ratification</u>	<u>Date of entry into force</u>
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
Uzbekistan	23 December 2008 <sup>a</sup>	23 March 2009
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
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

<u>State party</u>	<u>Valid from</u>	<u>Valid until</u>
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, *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 2008-2009

#### A. Membership of the Human Rights Committee

##### Ninety-fourth session

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
Ms. Helen KELLER**	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 PEREZ 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.

**Ninety-fifth session**

Mr. Abdelfattah AMOR**	Tunisia
Mr. Prafullachandra Natwarlal BHAGWATI**	India
Mr. Lazahri BOUZID***	Algeria
Ms. Christine CHANET**	France
Mr. Ahmed Amin FATHALLA***	Egypt
Mr. Yuji IWASAWA**	Japan
Ms. Helen KELLER**	Switzerland
Mr. Rajsoomer LALLAH***	Mauritius
Ms. Zonke Zanele MAJODINA**	South Africa
Ms. Iulia Antoanella MOTOC**	Romania
Mr. Michael O'FLAHERTY***	Ireland
Mr. Rafael RIVAS POSADA***	Colombia
Sir Nigel RODLEY***	United Kingdom of Great Britain and Northern Ireland
Mr. Fabián Omar SALVIOLI***	Argentina
Mr. José Luis PEREZ SANCHEZ-CERRO**	Peru
Mr. Krister THELIN***	Sweden
Ms. Ruth WEDGWOOD**	United States of America

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\*\* Term expires on 31 December 2010.

\*\*\* Term expires on 31 December 2012.

**Ninety-sixth session**

Mr. Abdelfattah AMOR**	Tunisia
Mr. Mohammed AYAT***	Morocco
Mr. Prafullachandra Natwarlal BHAGWATI**	India
Mr. Lazahri BOUZID***	Algeria
Ms. Christine CHANET**	France
Mr. Ahmed Amin FATHALLA***	Egypt
Mr. Yuji IWASAWA**	Japan
Ms. Helen KELLER**	Switzerland
Mr. Rajsoomer LALLAH***	Mauritius
Ms. Zonke Zanele MAJODINA**	South Africa
Ms. Iulia Antoanella MOTOC**	Romania
Mr. Michael O'FLAHERTY***	Ireland
Mr. Rafael RIVAS POSADA***	Colombia
Sir Nigel RODLEY***	United Kingdom of Great Britain and Northern Ireland
Mr. Fabián Omar SALVIOLI***	Argentina
Mr. José Luis PEREZ SANCHEZ-CERRO**	Peru
Mr. Krister THELIN***	Sweden

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\*\* Term expires on 31 December 2010.

\*\*\* Term expires on 31 December 2012.

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## **B. Officers**

### **Ninety-fourth session**

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

### **Ninety-fifth and ninety-sixth sessions**

The officers of the Committee, elected for a term of two years at the 2598th meeting, on 16 March 2009 (ninety-fifth session), are the following:

Chairperson:	Mr. Yuji Iwasawa
Vice-Chairpersons:	Ms. Zonke Zanele Majodina Sir Nigel Rodley Mr. Jose-Luis Perez Sanchez-Cerro
Rapporteur:	Ms. Iulia Antoanella Motoc

**Annex III****Submission of reports and additional information by States parties  
under article 40 of the Covenant (as at 31 July 2009)**

<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 received
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	Sixth	1 April 2013	Not yet due
Austria	Fifth	30 October 2012	Not yet due
Azerbaijan	Fourth	1 August 2013	Not yet due
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	28 January 2009
Belize	Initial	9 September 1997	Not yet received
Benin	Second	1 November 2008	Not yet received
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	30 July 2009
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	Second	31 July 2012	Not yet due
Chile	Sixth	27 March 2012	Not yet due
Colombia	Sixth	1 April 2008	10 December 2008
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

<u>State party</u>	<u>Type of report</u>	<u>Date due</u>	<u>Date of submission</u>
Democratic People's Republic of Korea	Third	1 January 2004	Not yet received
Democratic Republic of the Congo	Fourth	1 April 2009	Not yet received
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	13 January 2009
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	10 December 2008
Ethiopia	Initial	10 September 1994	27 July 2009
Finland	Sixth	1 November 2009	Not yet due
France	Fifth	31 July 2012	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 received
Ghana	Initial	8 February 2001	Not yet received
Greece	Second	1 April 2009	Not yet received
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
Hungary	Fifth	1 April 2007	15 March 2009
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	31 July 2012	Not yet due
Israel	Third	1 August 2007	25 July 2008
Italy	Sixth	31 October 2009	Not yet due
Jamaica	Third	7 November 2001	21 July 2009

<u>State party</u>	<u>Type of report</u>	<u>Date due</u>	<u>Date of submission</u>
Japan	Sixth	29 October 2011	Not yet due
Jordan	Fourth	21 January 1997	12 March 2009
Kazakhstan	Initial	24 April 2007	27 July 2009
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 received
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 received
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	17 July 2008
Monaco	Third	28 October 2013	Not yet due
Mongolia	Fifth	31 March 2003	22 June 2009
Montenegro <sup>d</sup>	Initial	23 October 2007	Not yet received
Morocco	Sixth	1 November 2008	Not yet received
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 (including Antilles and Aruba)	Fifth	31 July 2014	Not yet due
New Zealand	Fifth	1 August 2007	24 December 2007
Nicaragua	Fourth	29 October 2012	Not yet due
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
Papua New Guinea	Initial	21 October 2009	Not yet due



<u>State party</u>	<u>Type of report</u>	<u>Date due</u>	<u>Date of submission</u>
Paraguay	Third	31 October 2008	Not yet received
Peru	Fifth	31 October 2003	Not yet received
Philippines	Third	1 November 2006	Not yet received
Poland	Sixth	1 November 2008	15 January 2009
Portugal	Fourth	1 August 2008	Not yet received
Republic of Korea	Fourth	2 November 2010	Not yet due
Republic of Moldova	Second	1 August 2004	4 October 2007
Romania	Fifth	28 April 1999	Not yet received
Russian Federation	Sixth	1 November 2007	5 December 2007
Rwanda	Fourth	10 April 2013	Not yet due
Saint Vincent and the Grenadines	Second	31 October 1991	Not yet received <sup>b</sup>
Samoa	Initial	15 May 2009	Not yet due
San Marino	Third	31 July 2013	Not yet due
Senegal	Fifth	4 April 2000	Not yet received
Serbia	Second	1 August 2008	29 April 2009
Seychelles	Initial	4 August 1993	Not yet received
Sierra Leone	Initial	22 November 1997	Not yet received
Slovakia	Third	1 August 2007	26 June 2009
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	Sixth	1 November 2012	Not yet due
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	Seventh	1 April 2014	Not yet due
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 received
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	10 July 2009
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

<u>State party</u>	<u>Type of report</u>	<u>Date due</u>	<u>Date of submission</u>
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	Fifth	1 August 2013	Not yet due
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
Vanuatu	Initial	21 February 2010	Not yet due
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 received
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	Considered on 16 and 17 July 2009 (ninety-sixth session)	CCPR/C/TCD/1 CCPR/C/TCD/CO/1
Ethiopia	10 September 1994	28 July 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/ETH/1
Kazakhstan	24 April 2007	28 July 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/KAZ/1

**B. Second periodic reports**

<u>State party</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Status</u>	<u>Reference documents</u>
Republic of Moldova	1 August 2004	4 October 2007	List of issues adopted during the ninety-fifth session. Scheduled for consideration at the ninety-seventh session.	CCPR/C/MDA/2 CCPR/C/MDA/Q/2
Croatia	1 April 2005	27 November 2007	List of issues adopted during the ninety-fifth session. Scheduled for consideration at the ninety-seventh session.	CCPR/C/HRV/2 CCPR/C/HRV/Q/2
Monaco	1 August 2006	3 April 2007	Considered on 14 and 15 October 2008 (ninety-fourth session)	CCPR/C/MCO/2 CCPR/C/MCO/CO/2
Serbia	1 August 2008	30 April 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/SRB/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>
Azerbaijan	1 November 2005	4 October 2007	Considered on 20 and 21 July 2009 (ninety-sixth session)	CCPR/C/AZE/3 CCPR/C/AZE/CO/3
Rwanda	10 April 1992	23 July 2007	Considered on 18 and 19 March 2009 (ninety-fifth session)	CCPR/C/RWA/3 CCPR/C/RWA/CO/3
Nicaragua	11 June 1991	20 June 2007	Considered on 17 October 2008 (ninety-fourth session)	CCPR/C/NIC/3 CCPR/C/NIC/CO/3
Switzerland	1 November 2006	18 October 2007	Scheduled for consideration at the ninety-seventh session	CCPR/C/CHE/3
Uzbekistan	1 April 2008	31 March 2008	List of issues adopted at ninety-sixth session. Scheduled for consideration at a later session.	CCPR/C/UZB/3 CCPR/C/UZB/Q/3
Israel	1 August 2007	25 July 2008	List of issues to be adopted at the ninety-seventh session. Scheduled for consideration at a later session.	CCPR/C/ISR/3
Estonia	1 April 2007	10 December 2008	List of issues to be adopted at the ninety-seventh session. Scheduled for consideration at a later session.	CCPR/C/EST/3
Jordan	21 January 1997	12 March 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/JOR/3
Slovakia	1 August 2007	26 June 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/SVK/3

<u>State party</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Status</u>	<u>Reference documents</u>
Jamaica	7 November 2001	20 July 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/JAM/3
Bulgaria	31 December 2004	31 July 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/BGR/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	Considered on 13 and 14 July 2009 (ninety-sixth session)	CCPR/C/TZA/4 CCPR/C/TZA/CO/4
Argentina	31 October 2005	17 December 2007	List of issues adopted at ninety-sixth session. Scheduled for consideration at a later session.	CCPR/C/ARG/4 CCPR/C/ARG/Q/4
Netherlands (including Aruba and Netherlands Antilles)	1 August 2006	7 February 2008	Considered on 14 and 15 July 2009 (ninety-sixth session)	CCPR/C/NET/4/Add.2 CCPR/C/NLD/CO/4
Cameroon	31 October 2003	25 November 2008	In translation. Scheduled for consideration at a later session.	CCPR/C/CMR/4
Togo	1 November 2004	10 July 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/TGO/4

**E. Fifth periodic reports**

<u>State party</u>	<u>Date due</u>	<u>Date of submission</u>	<u>Status</u>	<u>Reference documents</u>
Australia	31 July 2005	7 August 2007	Considered on 23 and 25 March 2009 (ninety-fifth session)	CCPR/C/AUS/5 CCPR/C/AUS/CO/5
Ecuador	1 June 2001	22 January 2008	List of issues adopted at ninety-sixth session. Scheduled for consideration at the ninety-seventh session.	CCPR/C/ECU/5 CCPR/C/ECU/Q/5
Denmark	31 October 2005	4 April 2007	Considered on 13 and 14 October 2008 (ninety-fourth session)	CCPR/C/DEN/5 CCPR/C/DEN/CO/5
Spain	28 April 1999	9 February 2007	Considered on 20 and 21 October 2008 (ninety-fourth session)	CCPR/C/ESP/5 CCPR/C/ESP/CO/5
Japan	31 October 2002	20 December 2006	Considered on 15 and 16 October 2008 (ninety-fourth session)	CCPR/C/JPN/5 CCPR/C/JPN/CO/5
New Zealand	1 August 2007	24 December 2007	List of issues adopted at ninety-sixth session. Scheduled for consideration at a later session.	CCPR/C/NZL/5 CCPR/C/NZL/Q/5
Mexico	30 July 2002	30 July 2008	List of issues adopted at ninety-sixth session. Scheduled for consideration at a later session.	CCPR/C/MEX/5 CCPR/C/MEX/Q/5
Belgium	1 August 2008	27 January 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/BEL/5
Hungary	1 April 2007	11 March 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/HUN/5
Mongolia	31 March 2003	22 June 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/MNG/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>
Sweden	1 April 2007	17 July 2007	Considered on 25 March 2009 (ninety-fifth session)	CCPR/C/SWE/6 CCPR/C/SWE/CO/6
Russian Federation	1 November 2007	5 December 2007	List of issues adopted at ninety-fifth session. Scheduled for consideration at the ninety-seventh session.	CCPR/C/RUS/6 CCPR/C/RUS/Q/6
Colombia	1 April 2008	10 December 2008	List of issues to be adopted at ninety-seventh session. Scheduled for consideration at a later session.	CCPR/C/COL/6
El Salvador	1 August 2007	13 January 2009	List of issues to be adopted at ninety-seventh session. Scheduled for consideration at a later session.	CCPR/C/SLV/6
Poland	1 November 2008	27 January 2009	In translation. Scheduled for consideration at a later session.	CCPR/C/POL/6



## Annex V

### **General comment No. 33 on obligations of States parties under the Optional Protocol to the International Covenant on Civil and Political Rights**

1. The Optional Protocol to the International Covenant on Civil and Political Rights was adopted and opened for signature, ratification and accession by the same act of the General Assembly, resolution 2200 A (XXI) of 16 December 1966, by which the Covenant itself was adopted. Both the Covenant and the Optional Protocol entered into force on 23 March 1976.

2. Although the Optional Protocol is organically related to the Covenant, it is not automatically in force for all States parties to the Covenant. Article 8 of the Optional Protocol provides that States parties to the Covenant may become parties to the Optional Protocol only by a separate expression of consent to be bound. A majority of States parties to the Covenant have also become parties to the Optional Protocol.

3. The preamble to the Optional Protocol states that its purpose is “further to achieve the purposes” of the Covenant by enabling the Human Rights Committee, established in Part IV of the Covenant, “to receive and consider, as provided in the present Protocol, communications from individuals claiming to be victims of violations of any of the rights set forth in the Covenant”. The Optional Protocol sets out a procedure, and imposes obligations on States parties to the Optional Protocol arising out of that procedure, in addition to their obligations under the Covenant.

4. Article 1 of the Optional Protocol provides that a State party to the Optional Protocol “recognizes the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claim to be victims of a violation by that State party of any of the rights set forth in the Covenant”. It follows that States parties are obliged not to hinder access to the Committee and must prevent any retaliatory measures against any person who has submitted a communication to the Committee.

5. Article 2 of the Optional Protocol requires that individuals who submit communications to the Committee must have exhausted all available domestic remedies. In its response to a communication, a State party, where it considers that this condition has not been met, should specify the available and effective remedies that the author of the communication has failed to exhaust.

6. Although not a term found in the Optional Protocol or the Covenant, the Human Rights Committee uses the description “author” to refer to an individual who has submitted a communication to the Committee under the Optional Protocol. The Committee uses the term “communication” contained in article 1 of the Optional Protocol instead of terms such as “complaint” or “petition”, although the latter term is reflected in the current administrative structure of the Office of the High Commissioner for Human Rights, where communications under the Optional Protocol are initially handled by a section known as the Petitions Team.

7. Terminology similarly reflects the nature of the role of the Human Rights Committee in receiving and considering a communication. Subject to the communication being found admissible, after considering the communication in the light of all written information made available to it by the individual and by the State party concerned, “the Committee shall forward its views to the State party concerned and to the individual”.<sup>a</sup>

8. The first obligation of a State party against which a claim has been made by an individual under the Optional Protocol is to respond to the communication within the time limit of six months set out in article 4, paragraph 2. Within that time limit, “the receiving State shall submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by that State”. The Committee’s rules of procedure amplify these provisions, including the possibility in exceptional cases of treating separately questions of the admissibility and merits of the communication.<sup>b</sup>

9. In responding to a communication that appears to relate to a matter arising before the entry into force of the Optional Protocol for the State party (the *ratione temporis* rule), the State party should invoke that circumstance explicitly, including any comment on the possible “continuing effect” of a past violation.

10. In the experience of the Committee, States do not always respect their obligation. In failing to respond to a communication, or responding incompletely, a State which is the object of a communication puts itself at a disadvantage, because the Committee is then compelled to consider the communication in the absence of full information relating to the communication. In such circumstances, the Committee may conclude that the allegations contained in the communication are true, if they appear from all the circumstances to be substantiated.

11. While the function of the Human Rights Committee in considering individual communications is not, as such, that of a judicial body, the Views issued by the Committee under the Optional Protocol exhibit some of the principal characteristics of a judicial decision. They are arrived at in a judicial spirit, including the impartiality and independence of Committee members, the considered interpretation of the language of the Covenant, and the determinative character of the decisions.

12. The term used in article 5, paragraph 4, of the Optional Protocol to describe the decisions of the Committee is “Views”.<sup>c</sup> These decisions state the Committee’s findings on the violations alleged by the author of a communication and, where a violation has been found, state a remedy for that violation.

13. The Views of the Committee under the Optional Protocol represent an authoritative determination by the organ established under the Covenant itself charged with the interpretation of that instrument. These Views derive their character, and the importance which attaches to them, from the integral role of the Committee under both the Covenant and the Optional Protocol.

14. Under article 2, paragraph 3 (a), of the Covenant, each State party undertakes “to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity”. This constitutes the basis of the wording consistently used by the Committee in issuing its Views in cases where a violation has been found:

“In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is required to provide the author with an effective remedy. 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 or 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. In this respect, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee’s Views.”

15. The character of the Views of the Committee is further determined by the obligation of States parties to act in good faith, both in their participation in the procedure under the Optional Protocol and in relation to the Covenant itself. A duty to cooperate with the Committee arises from an application of the principle of good faith to the observance of all treaty obligations.<sup>d</sup>

16. The Committee decided, in 1997, under its rules of procedure, to appoint a member of the Committee as Special Rapporteur for follow-up on Views.<sup>e</sup> That member, through written representations, and frequently also through personal meetings with diplomatic representatives of the State party concerned, urges compliance with the Committee’s Views and discusses factors that may be impeding their implementation. In a number of cases, this procedure has led to acceptance and implementation of the Committee’s Views where previously the transmission of those Views had met with no response.

17. It is to be noted that failure by a State party to implement the Views of the Committee in a given case becomes a matter of public record through the publication of the Committee's decisions, inter alia, in its annual reports to the General Assembly.

18. Some States parties, to which the Views of the Committee have been transmitted in relation to communications concerning them, have failed to accept the Committee's Views, in whole or in part, or have attempted to reopen the case. In a number of those cases, these responses have been made where the State party took no part in the procedure, having not carried out its obligation to respond to communications under article 4, paragraph 2, of the Optional Protocol. In other cases, rejection of the Committee's Views, in whole or in part, has come after the State party has participated in the procedure and where its arguments have been fully considered by the Committee. In all such cases, the Committee regards dialogue between the Committee and the State party as ongoing with a view to implementation. The Special Rapporteur for follow-up on Views conducts this dialogue, and regularly reports on progress to the Committee.

19. Measures may be requested by an author, or decided by the Committee on its own initiative, when an action taken or threatened by the State party would appear likely to cause irreparable harm to the author or the victim unless withdrawn or suspended pending full consideration of the communication by the Committee. Examples include the imposition of the death penalty and violation of the duty of non-refoulement. In order to be in a position to meet these needs under the Optional Protocol, the Committee established, under its rules of procedure, a procedure to request interim or provisional measures of protection in appropriate cases.<sup>f</sup> Failure to implement such interim or provisional measures is incompatible with the obligation to respect in good faith the procedure of individual communication established under the Optional Protocol.

20. Most States do not have specific enabling legislation to receive the Views of the Committee into their domestic legal order. The domestic law of some States parties does, however, provide for the payment of compensation to the victims of violations of human rights as found by international organs. In any case, States parties must use whatever means lie within their power in order to give effect to the Views issued by the Committee.

#### Notes

<sup>a</sup> Art. 5, para. 4, of the Optional Protocol.

<sup>b</sup> Rule 97, para. 2, of the rules of procedure of the Human Rights Committee (CCPR/C/3/Rev.8).

<sup>c</sup> In French, the term is "constatations", and in Spanish, "observaciones".

<sup>d</sup> Art. 26, 1969 Vienna Convention on the Law of Treaties.

<sup>e</sup> Rule 101 of the rules of procedure of the Human Rights Committee.

<sup>f</sup> Rule 92 (previously rule 86) of the rules of procedure of the Human Rights Committee:

"The Committee may, prior to forwarding its Views on the communication to the State party concerned, inform that State of its Views as to whether interim measures may be desirable to avoid irreparable damage to the victim of the alleged violation. In doing so, the Committee shall inform the State party concerned that such expression of its Views on interim measures does not imply a determination on the merits of the communication."

## Annex VI

### **Decision adopted at the ninety-fifth session on ways to strengthen the procedure for follow-up on concluding observations**

At its ninety-fourth session, the Committee requested the Special Rapporteur for follow-up on concluding observations, Sir Nigel Rodley, to present proposals to the Committee on ways to strengthen its follow-up procedure. At the ninety-fifth session, the Committee discussed and took the following decisions to strengthen its follow-up procedure:

1. The Special Rapporteur will consider ways to engage with field presences of the Office of the United Nations High Commissioner for Human Rights on issues regarding follow-up to the concluding observations of the Human Rights Committee (“the Committee”).
2. The Special Rapporteur will consider the linkages between the follow-up procedure of the Committee and the universal periodic review.
3. If the State party fails to submit follow-up information, the Special Rapporteur should send a reminder to the State party concerned two months after the deadline for sending the information has elapsed. If no reply is received, another reminder should be sent after two months. In cases where a reply is overdue by more than six months, the Special Rapporteur will request and hold consultations with delegates from the State party to obtain the information sought or to arrange for a date by which the information will be sent by the State party delegation.
4. The task of the Special Rapporteur for follow-up on concluding observations ends as soon as the next periodic report is due, including in cases where the State party concerned has not yet sent any information on follow-up. A note verbale should be sent to the States parties concerned reminding them that their periodic report is due.
5. In order to facilitate and enhance the assessment of the follow-up reports received, information provided by States parties on each recommendation mentioned in the concluding observations and regarding which the State has been requested to provide follow-up information within one year could be classified according to the following categories:
  - (a) “Largely satisfactory” would denote follow-up information indicating that the State party has been responsive to the specific recommendations considered and that it has substantially implemented the recommendations made by the Committee;
  - (b) “Cooperative but incomplete” would denote follow-up information that provides some indication that the recommendations of the Committee have been partly implemented by the State party but also reveals that the State party has failed to address some issues raised by the Committee in its recommendations and expressions of concern;
  - (c) “Recommendation(s) not implemented” would denote the provision of follow-up information in which the State party has clearly stated that it is not prepared to implement the recommendation(s);
  - (d) “Receipt acknowledged” would denote that a follow-up report was sent by the State party but that it did not provide any substantive information on the status of implementation of the relevant recommendations;
  - (e) “No response”.
6. Progress made by States parties in the implementation of the recommendations included in the previous concluding observations of the Committee as well as the level of cooperation with the Committee

under its follow-up procedure should be noted in the next concluding observations adopted by the Committee.

### **Publication of letters to individual States parties on the website of the Office of the High Commissioner for Human Rights**

7. The Committee decided to request the publication on the website of the Office of the High Commissioner for Human Rights of the individual reminders and letters sent to States parties.

### **Follow-up visits**

8. The Committee encourages the further development of the practice of follow-up visits, which would enable it to assess more thoroughly the implementation of its recommendations at the national level.

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