

BOTSWANA

Follow-up - State Reporting Action by Treaty Bodies

CCPR, A/64/40, vol. I (2009)

VII. FOLLOW UP TO CONCLUDING OBSERVATIONS

237. In chapter VII of its annual report for 2003,²⁰ 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.²¹ 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.²²

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 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).

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Ninety-second session (March 2008)

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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

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20/ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40 (A/58/40), vol. I.*

21/ The table format was altered at the ninetieth session.

22/ 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.

CCPR, CCPR/C/SR.2738/Add.1 (2010)

Human Rights Committee
Ninety-ninth session

Summary record of the second part (public) of the 2738th meeting
Held at Palais Wilson, Geneva,
on Wednesday 28 July 2010, at 11:25 am

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Follow-up to concluding observations on State reports and to Views under the Optional Protocol

*Report of the Special Rapporteur for Follow-up on Concluding Observations
(CCPR/C/99/2/CRP.1)*

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2. **Mr. Amor**, Special Rapporteur for Follow-up on Concluding Observations, said that, while he commended the excellent work of the secretariat, it was regrettable that the relevant staff did not have more time to devote to follow-up on concluding observations. At the Committee's request, he had undertaken to supply details of the contents of the letters sent to States parties concerning follow-up in which the Committee asked for further information, urged the State to implement a recommendation or, alternatively, noted that a reply was satisfactory.

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29. **Mr. Amor** reported that no information had been received from Botswana on the points raised by the Committee in connection with paragraphs 12, 13, 14 and 17 of its initial report. He had accordingly requested a meeting with a representative of the State party and hoped soon to report further to the Committee.

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35. **The Chairperson** invited the Committee to adopt those recommendations.

36. *It was so decided.*

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Chapter VII: Follow-up to Concluding Observations

203. In chapter VII of its annual report for 2003,¹⁶ 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,¹⁷ 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 2010.

204. Over the period covered by the present annual report, Mr. Abdelfattah Amor acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-seventh, ninety-eighth and ninety-ninth sessions, he presented progress reports to the Committee on intersessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

205. 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.¹⁸ Over the reporting period, since 1 August 2009, 17 States parties (Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, Denmark, France, Georgia, Japan, Monaco, Spain, the former Yugoslav Republic of Macedonia, Sudan, Sweden, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland and Zambia), 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, 12 States parties (Australia, Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Nicaragua, Panama, Rwanda, San Marino and Yemen) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the preparation of the next periodic report by the State party.¹⁹

206. 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, the report does not cover those States parties with respect to which the Committee has completed its follow-up activities, including all States parties which were considered from the seventy-first session (March 2001) to the eighty-fifth session (October 2005).

207. 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 (Equatorial Guinea, Gambia).

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Ninety-second session (March 2008)

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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.

Action taken:

8 September 2009 A reminder was sent.

11 December 2009 A reminder was sent.

Recommended action: A request for a meeting with a representative of the State party should be sent.

Next report due: 31 March 2012

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¹⁶ *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40*, vol. I (A/58/40 (vol. I)).

¹⁷ *Ibid.*, *Sixty-Fourth Session, Supplement No. 40*, vol. I (A/64/40 (vol. I)).

¹⁸ The table format was altered at the ninetieth session.

¹⁹ 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: Austria, Brazil, Central African Republic, Democratic Republic of the Congo, Hong Kong (China), Mali, Namibia, Paraguay, Republic of Korea, Sri Lanka, Suriname and Yemen.