

LIBYAN ARAB JAMAHIRIYA

Follow-Up - State Reporting

i) 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-first session (October 2007)

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State party: Libyan Arab Jamahiriya

Report considered: Fourth periodic (due since 1 October 2002), submitted on 6 December 2005.

Information requested:

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).

Date information due: 30 October 2008

Date information received:

24 July 2009 Information received

Action taken:

16 December 2008 A reminder was sent.

9 June 2009 A reminder was sent to the State party.

Recommended action: The replies of the State party should be sent to translation and considered at the ninety-seventh session.

Next report due: 30 October 2010

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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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21. The Libyan Arab Jamahiriya had sent somewhat general information in response to the Committee's recommendations. If the Committee had not received a reply to its subsequent request for more specific details by its 100th session, he proposed that consultations should be held at that point.

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24. **The Chairperson** said that, if there was no objection, he took it that the Committee wished to adopt the Special Rapporteur's recommendations.

25. *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-first session (October 2007)

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State party: Libyan Arab Jamahiriya

Report considered: Fourth periodic (due since 1 October 2002), submitted on 6 December 2005.

Information requested:

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).

Date information due: 30 October 2008

Date information received:

24 July 2009 Partial reply (para. 10: recommendation partly not implemented, reply partly incomplete; para. 21: recommendation partly not implemented (amendments to draft penal code); para. 23: recommendation partly not implemented, reply partly incomplete (compatibility of draft laws with the Covenant)).

Action taken:

16 December 2008 A reminder was sent.

9 June 2009 A reminder was sent to the State party.

4 January 2010 A letter was sent to request additional information.

23 April 2010 A reminder was sent along with a request to meet with a representative of the State party.

Recommended action: If no information is received, consultations should be held at the 100th session.

Next report due: 30 October 2010

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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.

Follow-Up - State Reporting
ii) Action by State Party

CCPR, CCPR/C/LBY/CO/4/Add.1 (2009)

Information received from the Libyan Arab Jamahiriya on follow-up to the concluding observations of the Human Rights Committee (CCPR/C/LBY/CO/4)

[24 July 2009]

Concluding observations (para. 10)

The Committee, in its concluding observations, states that it "remains concerned that the State party has not yet adopted legislation concerning the protection of women against violence, especially domestic violence".

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

Reply 1

1. You will recall the information provided in the fourth periodic report stating that the Libyan Criminal Code (arts. 390 and 393 to 395), in keeping with criminal and penal policy, classifies all forms of assault against women as criminal offences. Moreover, a part of the Code, beginning with article 369, is devoted to offences against the family. As you are well aware, the Libyan Criminal Code recognizes the general principle of personal criminal liability. Women who are subjected to violence are afforded equal treatment with men in respect of protection procedures, legal remedies and other appropriate measures. The Criminal Code contains no provisions which explicitly criminalize assaults against women; taking due account of women's physiological makeup, the Code simply refers to sexual assault, indecent assault and assault against women as wives or daughters as acts which offend against a woman's dignity or honour. Protection is provided whenever an assault takes place and is guaranteed under criminal and penal legislation. It is not clear what is meant by the term "violence" in the observation to which this reply refers. If it means physical assault, then the matter will be dealt with in accordance with the law. The woman will be offered protection and her attacker will be prosecuted. If it means domestic violence, in the sense of rape, such an act cannot conceivably be carried out by a husband, as the relationship is a lawful one. If a wife is raped by force or in a way that she does not accept, she may lodge a complaint and demand that her husband be prosecuted and punished. She can then seek a divorce on the grounds of injury or spousal ill treatment. A total of 767 cases were reported in 2006 and 563 in 2007. Prison terms of varying lengths were handed down to the defendants.

Concluding observations (para. 21)

The Committee states that the new draft penal code has yet to be adopted. However, it has been set before the basic people's congresses for consideration and adoption.

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

Reply 2

2. As you know, the Libyan Arab Jamahiriya willingly acceded to and ratified the International Covenant on Civil and Political Rights. We are sure you understand that the wording of article 1 of the Covenant is highly significant, inasmuch as it recognizes the right of peoples freely to pursue their political, social, economic and cultural aims. Paragraph 1 of the article states: "All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development."

3. It was on this basis that on 2 March 1977 the choice that power belongs to the people and to no one else was made through a declaration establishing that power would be exercised by the people's congresses. Accordingly, decision-making and the enactment and amendment of legislation were established as essential functions of the people's congresses, beginning with the Basic People's Congress and then the Popular Committee and then the General People's Congress. Under Act No. 1 of 1375, concerning the rules of procedure of the people's congresses and the people's committees, the basic people's congresses have exclusive competence for enacting and amending legislation and no individual, public body or other entity is entitled to amend laws.

4. This being so, bearing in mind the domestic sovereignty of the Libyan Arab Jamahiriya and having due regard to the law, the draft penal code was not adopted by the congresses at their most recent session, because they asked for some new amendments to be made to the text. Since it is the people's congresses which decide, the draft code cannot be amended without their approval and endorsement.

Concluding observations (para. 23)

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

Reply 3

5. We refer to the above reply concerning paragraph 21 of the concluding observations. The adoption of amendments is a matter for which the people's congresses have exclusive competence. It is not possible to specify a definitive deadline for the introduction or rejection of amendments and there is no scope for rule making when explicit provisions exist; legal amendments require close and extensive study, in particular in order to prevent conflicts between amended legislation and the provisions of international conventions and covenants, in particular the International Covenant on Civil and Political Rights. The same applies to the procedures for

amending the Publication Act to which paragraph 23 of the concluding observations refers.
