

TRINIDAD AND TOBAGO

Follow-up - Jurisprudence Action by Treaty Bodies

CCPR/C/SR.1352 (1994)

HUMAN RIGHTS COMMITTEE
Fifty-first session
SUMMARY RECORD OF THE 1352nd MEETING

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CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE COVENANT (agenda item 5) (continued)

Communication from Mr. Ashby (document not yet circulated)

1. The CHAIRMAN said that the Committee had decided to consider the case of Mr. Ashby at a public meeting because of the unusual circumstances surrounding it.
2. For the past 8 years, the Human Rights Committee had received and considered well over 100 cases involving the question of capital punishment. In a large number of cases in which the Committee had adopted decisions on the merits, it had found violations of the Covenant by the State party concerned, in particular concerning the complainant's right to a fair trial.
3. In all capital punishment cases considered by the Committee in which the complainant had substantiated his allegations in such a way as to warrant a thorough examination of his case, the Committee, through its Special Rapporteur for New Communications, requested the State party not to execute the petitioner while his case was under consideration by the Committee. The idea was for the State to apply interim measures of protection, as called for by rule 86 of the Committee's rules of procedure (CCPR/C/3/Rev.3), which was designed to prevent "irreparable damage" being done to the author of a complaint.
4. To date, in over 100 cases, States parties that had been requested to apply interim measures of protection had respected the request.
5. On 14 July 1994, Trinidad and Tobago had executed Mr. Ashby, in spite of the request for interim measures of protection formulated by the Committee. It was that serious situation which the Committee wished to debate in public.
6. On 7 July 1994, the Committee had received a formal communication filed on Mr. Ashby's behalf under the Optional Protocol to the Covenant. The complaint alleged violations by Trinidad and Tobago of his rights under the Covenant, including violations of his right to a fair trial and his right not to be subjected to cruel, inhuman or degrading treatment. The case had been registered and

submitted to the Special Rapporteur for New Communications. On 12 July 1994, the Trinidadian authorities had issued a warrant for Mr. Ashby's execution on 14 July 1994.

7. In the morning of 13 July 1994, the Special Rapporteur had issued a decision under rule 86 of the rules of procedure, requesting the Government not to execute Mr. Ashby while his complaint was under consideration by the Committee.

8. That request had been handed to the Permanent Mission of Trinidad and Tobago on 13 July 1994 at 4.05 p.m., Geneva time (10.05 a.m., Trinidad and Tobago time). According to the Permanent Mission, it had been transmitted to the competent authorities in Port-of-Spain between 4.30 p.m. and 4.45 p.m. on the same day.

9. On 14 July at 2.30 p.m., the Committee had been informed that Mr. Ashby had been executed in the early morning (Trinidad and Tobago time). During its meeting on 15 July 1994, the Committee had discussed the matter and decided to request the Government to provide specific information about the circumstances surrounding the execution of Mr. Ashby, in particular the exact time at which the State party had received the Committee's request and the exact time of the author's execution and of the court orders, if any, granting a stay of execution. The Committee had invited the State party to send a representative to furnish those clarifications at the Committee's meeting scheduled for the afternoon of 20 July 1994. The request for information had been transmitted to the Permanent Mission of Trinidad and Tobago on 15 July 1994 at 2.30 p.m.; the Mission had acknowledged receipt on the same day.

10. On 20 July 1994, the State had transmitted to the Committee, under cover of a note verbale, an undated media release purporting to clarify the circumstances surrounding Mr. Ashby's execution. The Committee had studied the media release and regretted that no replies had been given to its specific questions. It had noted with concern that the State party had failed to explain why it had not complied with the Committee's request for interim measures of protection, and that neither the Optional Protocol proceedings in the case nor the Committee were mentioned in the media release. The Committee had then decided to convene a public meeting on 26 July 1994, once again inviting a State party representative to provide the information it had initially requested.

11. The Committee was concerned that the State party's failure to comply with its request for a stay of execution might have serious repercussions in respect of other capital punishment cases pending under the Optional Protocol. It was imperative to prevent the recurrence of such a situation. The Committee would continue its consideration of Mr. Ashby's complaint.

12. Mr. AGUILAR said he was very concerned by the fact that Trinidad and Tobago had not sent a representative to explain the circumstances surrounding Mr. Ashby's execution, even though the Committee had twice asked it to do so. It was also a matter of great concern that the Optional Protocol was not mentioned at all in the media release. In his opinion, Trinidad and Tobago had carried out an extrajudicial execution, and the Committee should react strongly.

13. Mr. LALLAH said that the incident was unprecedented and extremely serious. When a State became a party to the Optional Protocol, it recognized the competence of the Committee to receive and consider communications from individuals subject to its jurisdiction who claimed to be victims

of a violation by that State party of any of the rights set forth in the Covenant. To ensure the exercise of its competence, the Committee had found it necessary to adopt certain provisions: rule 86 of the Committee's rules of procedure authorized it to recommend that a State party should stay the execution of a person sentenced to death in order to avoid irreparable damage before the Committee was able to consider the case. The Committee expected the State party concerned to observe that rule, which had proved effective in more than 100 cases. Regrettably, Trinidad and Tobago had deliberately ignored the Committee's request for the adoption of interim measures of protection.

14. He agreed with other members of the Committee that the attitude of Trinidad and Tobago, which cast doubts on the Committee's competence and the implementation of the Optional Protocol, should be condemned.

15. Mrs. EVATT said that, when Trinidad and Tobago had acceded to the Covenant in 1979, it had undertaken to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, including of course, the right to life. It had also undertaken to ensure that any person whose rights had been violated would have an effective remedy. In acceding to the Optional Protocol, Trinidad and Tobago had recognized the competence of the Committee to consider communications from individuals who claimed to be victims of a violation of any of the rights set forth in the Covenant. To impose and carry out capital punishment arbitrarily, without a fair trial and under conditions in which remedies had not been exhausted, was a violation of the rights of the accused and a derogation from the State party's obligations under the Covenant. The sentence had been carried out before the Committee had been able to examine the case. The State party had therefore failed to guarantee Mr. Ashby's right to a remedy and had refused to recognize that it might be bound to provide a remedy. That attitude was highly regrettable on the part of a State which had been a party to the Covenant since 1979, and she supported the steps proposed by the Chairman.

16. Mr. MAVROMATTIS said he regretted that Trinidad and Tobago had taken absolutely no notice of the Committee's request. He was surprised by that attitude, as he had thought that the country respected the rights of its citizens. He also regretted that the State party had not seen fit to reply to the Committee's specific questions, especially when it had had two occasions on which to do so. The country's silence on the case meant that it could not provide any worthwhile explanation. He hoped that the authorities would prevent the recurrence of any such situation, as otherwise Trinidad and Tobago would risk being considered as a country where human rights were not observed, with all the consequences that entailed.

17. Mr. FRANCIS said that he particularly regretted the behaviour of Trinidad and Tobago in the present case, as he himself was from the Caribbean. Such a situation should never have arisen, and he wondered what could have induced the authorities not to comply with the Committee's request for the adoption of interim measures of protection. The Court of Appeals of Trinidad and Tobago had been considering the case, and the Privy Council had decided on the morning of 14 July to send the authorities a request for a stay of execution. That request had been futile, as Mr. Ashby had been executed at approximately 6.40 a.m. on 14 July. He wondered why the authorities had not awaited the decision of their own Court of Appeals. The execution was all the more serious in that Mr. Guerra and Mr. Wallen (communication Nos. 575/1994 and 576/1994, respectively), both of whom

had been sentenced to death by Trinidad and Tobago, had been granted a stay of execution.

18. The Clerk of the Court of Appeals had been asked to attend the meeting scheduled to be held at 6 p.m. on 14 July in order to communicate any decision of the Court to the Government. The Clerk had not, however, been present at the meeting and had appeared only after Mr. Ashby's execution. The question arose as to whether the Clerk's absence had been deliberate or not.

19. Furthermore, in the media release sent to the Committee, the authorities had justified the execution by stating that the order had already been pronounced. Yet, in a similar case, at least three stays of execution had been granted. There was therefore no basis for the argument. In addition, the authorities' order indicated that the sentence should have been carried out between 6 a.m. and noon. The question therefore arose as to why Mr. Ashby had been executed so early in the morning of 14 July.

20. He was anxious to hear the State party's explanations.

21. Mr. BRUNICELLI noted that, according to the Covenant, in countries which had not abolished the death penalty, sentence of death could be imposed only for the most serious crimes, and in that case, all remedies should have been exhausted. Rule 86 of the Committee's rules of procedure had in fact been designed to guarantee that that right was observed. The Committee could only regret the failure to respect its request under rule 86. He agreed with other members about expressing the Committee's indignation and hoped that such a situation would never recur.

22. Mr. POCAR said that he agreed with the other members of the Committee. By executing Mr. Ashby when the Special Rapporteur had called for interim measures under rule 86 of the rules of procedure, the authorities had clearly fallen short of their obligations under the Covenant and the Optional Protocol. Under article 1 of the Protocol, every State party to the Protocol recognized the competence of the Committee to receive and consider communications from individuals subject to that State's jurisdiction. Each State party also had the legal obligation to cooperate with the Committee when it considered communications concerning that State party, and at the very least it must allow it to examine those communications in the most effective possible manner. That was an obligation which the State party had to fulfil in good faith. As to the Covenant, under article 39, the Committee established its own rules of procedure, and no State party had ever contested any of the provisions of those rules, including rule 86. By ignoring those provisions, Trinidad and Tobago had clearly prevented the Committee from examining the communication of Mr. Ashby in the most effective way. The Committee would none the less continue its consideration of the case, but it obviously would have preferred to do so before the author's death.

23. Even though the death penalty had not been abolished in Trinidad and Tobago, the authorities had violated article 6 of the Covenant. Referring to the Committee's jurisprudence in that field, he stressed that States parties which had not abolished the death penalty were nevertheless bound to respect all existing legal guarantees when applying it. Furthermore, Trinidad and Tobago was bound to apply the guarantees called for by the Optional Protocol, which it had accepted by acceding to that instrument. He noted with regret that the authorities had not responded to any of the Committee's requests to send a representative to the meetings at which the Ashby case was to be considered or to provide information on the circumstances surrounding his execution. The media release in no

way constituted a reply to the questions asked. The Committee should strongly condemn the attitude of the authorities. He hoped that the incident would not set a precedent and that the State party would agree to any measures the Committee might wish to adopt in the case under consideration.

24. Mrs. HIGGINS said that, like the other members of the Committee, she was dismayed by Mr. Ashby's execution, given that the Special Rapporteur had expressly asked the State party to take interim measures in accordance with rule 86 of the rules of procedure. She drew particular attention to article 1 of the Optional Protocol. The Committee was clearly not in a position to consider a communication under the normal procedure if its author was dead. Under article 2, paragraph 3 (a), of the Covenant, the State party undertook to ensure that any person whose rights or freedoms as recognized in the Covenant were violated would have an effective remedy. In the present case, Mr. Ashby had been executed, and the Committee had been prevented from determining whether the State party had violated the provisions of the Covenant. Given those two facts, the Committee could justifiably conclude on the merits that Mr. Ashby had not had any remedy. It was precisely to avoid a situation of that sort that the Committee had adopted rule 86.

25. Heretofore, all States parties concerned by communications from individuals sentenced to death had always agreed to the Committee's requests under rule 86. Trinidad and Tobago's attitude towards Mr. Ashby confirmed once again the need for the measures called for by that rule. The procedure under the Optional Protocol had not at all been imposed on States, which had freely chosen it by becoming parties to that instrument. Trinidad and Tobago had voluntarily acceded to the Covenant and the Optional Protocol. Moreover, it had been a party to the Covenant since 1979, and the authorities were well acquainted with the Committee's procedure; they knew that the Committee carefully examined each communication submitted to it; in some cases, it declared itself competent and in others not, according to specific criteria set forth in the Optional Protocol.

26. No mention was made in the media release of either the Covenant or the Optional Protocol, which raised doubts as to the good faith of the authorities. In addition, the Committee still did not know why they had executed Mr. Ashby so hastily. The media release was in no way a reply to the Committee: it was, quite simply, an insult. The only explanation that the authorities had provided - and again, not directly to the Committee - was that public opinion demanded Mr. Ashby's execution. In her opinion, that argument was quite inadmissible, coming as it did from a State party that had ratified the Covenant and the Optional Protocol of its own free will.

27. If the Committee had been able to consider the communication under the usual conditions, it might have concluded that the Covenant had not been violated by the State party. One thing, however, was certain: Trinidad and Tobago had violated the provisions of both the Covenant and the Optional Protocol. With respect to the Covenant, no matter what the merits of Mr. Ashby's complaint, it was clear that the State party had violated article 6, given that it had ignored the guarantees called for by the Optional Protocol. The State party had also violated that instrument by refusing to cooperate with the Committee, particularly by failing to reply to the questions asked and to cooperate more generally with the Committee's procedure.

28. Under the circumstances, she was also worried about the cases of Mr. Guerra and Mr. Wallen (communications Nos. 575/1994 and 576/1994, respectively). Those two communications, which also concerned Trinidad and Tobago, had been submitted to the Committee on 25 March 1994, and

in both instances the authorities had already ordered the death sentence to be carried out. On 21 April 1994, the Special Rapporteur, under rule 86 in conjunction with rule 91 of the rules of procedure, had asked the authorities not to execute Mr. Guerra and Mr. Wallen while their communications were being considered by the Committee. Moreover, a decision by the Court of Appeals of Trinidad and Tobago was pending in both cases. The legal division of the Privy Council had already asked the authorities to grant a stay of execution in both cases. The Committee should therefore press the authorities to comply with the request made under rule 86.

29. She condemned Mr. Ashby's execution and proposed that the Committee should strongly assert that such incidents should be avoided in the future, and that the State party was bound to grant the Committee's request under rule 86 in respect of Mr. Guerra and Mr. Wallen.

30. Mr. EL SHAFEI said that the Chairman's statement accurately reflected the indignation of the Committee as a whole in the face of the authorities' refusal to fulfil their obligations under the Optional Protocol. It was not the first time that Trinidad and Tobago had been invited by the Committee to grant a stay of execution to the author of a communication, and the authorities were well acquainted with the Committee's rules of procedure and working methods. Furthermore, the State party had not responded to the requests for information on the circumstances surrounding Mr. Ashby's execution, particularly the date on which the State party had received the request from the Special Rapporteur. There was in any case no doubt that the State party had received the request; but instead of replying to it, it had simply sent the Committee a media release. Moreover, the Committee had twice asked the authorities to send a representative to the meetings at which Mr. Ashby's case was to be considered, but in those instances as well, its request had gone unanswered.

31. He shared the concerns of other Committee members over the State party's failure to cooperate. The Covenant and the Optional Protocol were international instruments which bound all States that were parties to them. The authorities of Trinidad and Tobago were seriously in breach of their obligations, and that question should be taken up by the other States parties to the Optional Protocol.

32. Mr. SADI said that he had little to add to what had already been said, except that the case of Mr. Ashby was particularly distressing. The State party had obviously taken both the work and the mandate of the Committee very lightly. It had completely ignored the request for a stay of execution, and now that Mr. Ashby was dead, there was no hope of being able to remedy any mistakes that might have been committed during his trial. The authorities owed the Committee an explanation, but they owed one to Mr. Ashby's family even more. Mr. Ashby must not have been executed in vain. He had been the victim of a very grave miscarriage of justice, and it was extremely important that Mr. Guerra and Mr. Wallen (communications Nos. 575/1994 and 576/1994) should not undergo the same fate.

33. Mr. PRADO VALLEJO said that he also regretted what had happened. The Committee was faced with an unacceptable situation. The Special Rapporteur had acted diligently and in good conscience by invoking rule 86 of the rules of procedure. Nevertheless, it was clear that the State party had not honoured its obligations under the Covenant and the Optional Protocol. It had committed a flagrant violation of article 6 of the Covenant, which was completely inadmissible, as all States parties to the Covenant had to fulfil their obligations thereunder in good faith. Furthermore, the authorities had not provided any clarification as to the circumstances surrounding

Mr. Ashby's execution, merely contenting themselves with sending the Committee a media release in which the Committee was not even mentioned. To date, the State party had not given any justification for its attitude. In capital cases, the Committee had always asked the States parties concerned to proceed with the greatest circumspection and respect for their international obligations. Others besides Mr. Ashby were awaiting execution in Trinidad and Tobago, and it was to be hoped that the authorities would fulfil their obligations towards them. It was also to be hoped that the State party would understand the gravity of its actions and in future honour its commitments in good faith.

34. As to Mr. Ashby's case, under the Optional Protocol, it was important for the Committee to continue its consideration of the communication. At a time when there was a worldwide trend towards the abolition of the death penalty, Trinidad and Tobago had taken an unacceptable step in quite the opposite direction by hastily executing a man who had asked that justice should be done. Under the circumstances, in due course the Committee should ask the authorities for a special report on the implementation of article 6 of the Covenant in their country.

35. Mr. WENNERGREN said that he very much regretted what had happened on 14 July 1994 and considered that, by deliberately disregarding the Committee's request for a stay of execution, the State party had committed a flagrant violation of the Committee's rules of procedure. The most serious aspect, of course, was that Mr. Ashby had lost his life because of the conduct of the State party. The circumstances surrounding his execution were not clear and, as far as could be determined, were complicated. For the present, it was important that the Committee should obtain full information that would enable it to shed light on the events of 14 July. It was only subsequently that the Committee would be able to determine whether or not article 6 of the Covenant had been violated. The Committee must stress that the State party's conduct was unacceptable and that such a situation should never be repeated.

36. Mr. NDIAYE, commenting that everything he had intended to say had already been said before him, said that he joined in the strong condemnation of the State party's action.

37. Mr. BÁN said that he shared the sorrow and indignation of the other members of the Committee. It seemed particularly serious that a State party had not only failed to fulfil its obligations under the Covenant and the Optional Protocol but had also shown itself to be passive by refusing all cooperation with the Committee. Irreparable damage had already been done, and the Committee should insist on the need to clarify under what circumstances and for what reasons it had taken place. That information was very important, as it could prevent the recurrence of such incidents. The Committee should continue its investigation into Mr. Ashby's case and endeavour to obtain assurances from the State party that there would be no repetition.

38. Mrs. CHANET said that, in her capacity as Special Rapporteur, she had submitted the request to Trinidad and Tobago which the authorities had refused to grant. She therefore agreed with what had been said by the other members of the Committee.

39. Mrs. HIGGINS noted that the Committee had decided to adopt a new format for its annual report, which would highlight the cooperation or lack of cooperation by a State party, whether in regard to submission of reports or communications. With that decision in mind, Mr. Ashby's case should be given a prominent place in the annual report to be adopted at the end of the current

session.

40. The CHAIRMAN agreed with Mrs. Higgins and asked the Rapporteur to see that her suggestion was carried out.

41. He proposed that the Committee should adopt a text in which it would express its deep concern over Mr. Ashby's execution. In that text, the Committee could express its regret that the authorities of Trinidad and Tobago had not agreed to its request. That attitude was unprecedented, because to date such requests had always been granted by the States parties concerned. Furthermore, the attitude of the authorities was in flagrant breach of their obligations under the Covenant and the Optional Protocol. The Committee could also deplore the State party's failure to make available a representative for the meetings at which Mr. Ashby's case would be considered, as it had been invited to do. The Committee had received a media release from Trinidad and Tobago which answered none of its questions. The Committee could conclude by urging the State party to ensure, by all means at its disposal, that similar situations did not recur. The Committee could recall that the State party was bound to fulfil its obligations under the Covenant and the Optional Protocol. It should insist on the need for a favourable reply by the authorities of Trinidad and Tobago to the requests sent by the Special Rapporteur with regard to Mr. Guerra and Mr. Wallen (communications Nos. 575/1994 and 576/1994).

42. Mr. LALLAH said that the Chairman's proposal reflected the wishes of the Committee. It was very important to stress the need for the State party to respect its international obligations. That issue was all the more important in the cases of Mr. Guerra and Mr. Wallen in that the Court of Appeals was shortly expected to render a decision. The Committee should adopt a text based on the ideas proposed by the Chairman as quickly as possible.

43. Mr. MAVROMMATIS said that, following its present meeting, the Committee should also issue a press release. He agreed to the suggestion about mentioning Mr. Ashby's case in the annual report but would go even further: that case could be the subject of a special section of the report, given the grave consequences of the State party's failure to cooperate. It was also important that the Committee should clearly state its intention to continue considering Mr. Ashby's communication.

44. Mr. FRANCIS said that the Committee should avoid using verbs such as "condemn" and "deplore" in the text to be adopted. It was true that the authorities of Trinidad and Tobago had committed irreparable damage, but the Committee should try to use wording that was generally acceptable to its members, and he was in favour of using measured language.

45. The CHAIRMAN said that, based on his proposal and the suggestions by members of the Committee, the Secretariat could be asked to draft a decision for adoption by the Committee which would be distributed to the members in the coming hours. In addition, a reminder could be addressed to the State party by the Special Rapporteur and the Secretariat could be asked to draft and issue a press release, a copy of which would be sent to the State party.

46. It was so decided.

The meeting rose at 4.35 p.m.

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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429. A country-by-country breakdown of follow-up replies received or requested and outstanding as at 26 July 1996 provides the following picture:

...

Trinidad and Tobago: Four views finding violations; two follow-up replies received; no follow-up reply in two cases, in spite of reminders addressed to the State party. Follow-up consultations with the Permanent Mission were conducted during the fifty-sixth session; only one of the follow-up replies promised on that occasion had been received as of 30 June 1996 (see paras. 452 and 453).

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Overview of the Special Rapporteur's follow up consultations

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452. Finally, during the fifty-sixth session, the Chairman of the Committee and the Special Rapporteur met with the Deputy Permanent Representative of Trinidad and Tobago to the United Nations to discuss the follow-up in respect of four views adopted by the Committee (communications Nos. 232/1987 (Pinto v. Trinidad and Tobago), 362/1989 (Soogrim v. Trinidad and Tobago), 447/1991 (Shalto v. Trinidad and Tobago) and 434/1990 (Seerattan v. Trinidad and Tobago)). The Deputy Permanent Representative suggested that with a new government in place since the end of 1995, a new and more positive approach to human rights could be expected. The Special Rapporteur inquired about specific steps taken to give effect to the Committee's recommendations in the four cases, especially in that of Daniel Pinto. He noted with concern that Trinidad had failed to observe the Committee's recommendations so far and suggested the possibility of a follow-up mission to Trinidad.

453. The Deputy Permanent Representative agreed to explore the possibility of a fact-finding mission to Trinidad and considered that to be a useful option, especially in the light of the recent change in government. She noted that the Committee's recommendations in the case of Lal Seerattan (No. 434/1990) had recently been sent to the Trinidadian Advisory Committee on the Power of Pardon. By note verbale dated 21 June 1996, the State party informed the Committee that its recommendations in the case of Leroy Shalto (No. 447/1991) would be considered by the Advisory Committee on the Power of Pardon at a meeting to be held shortly.

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Concern over instances of non-cooperation under the follow-up mandate

463. In spite of the progress in collecting follow-up information since the adoption of the last annual report, the Committee and the Special Rapporteur note with concern that a number of countries did not provide any follow-up information within the deadlines established by the Committee or have not replied to reminders or requests for information from the Special Rapporteur. The States that have not replied to requests for follow-up information are the following:

...

Trinidad and Tobago (no reply in respect of two cases);

...

464. The Special Rapporteur urges these States parties to reply to his requests for follow-up information within the imparted deadlines.

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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524. A country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1997 provides the following picture (Views in which the deadline for receipt of follow-up information had not yet expired have not been included):

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Trinidad and Tobago: Six Views finding violations: 232/1987 and 512/1992 - Daniel Pinto (1990 Report 14/ and 1996 Report); 10/ 362/1989 - Soogrim (1993 Report); 15/ 447/1991 - Leroy Shalto (1995 Report); 16/ 434/1990 -Lal Seerattan and 523/1992 - Clyde Neptune (1996 Report). State party follow-up replies received in respect of the cases of Pinto, Shalto (unpublished) and Neptune, the follow-up reply concerning the latter case challenging the Committee's findings (see para. 550 below). Follow-up replies on the cases of Soogrim and Seerattan remain outstanding (see also 1996 Report, paras. 429, 452 and 453, and paras. 551 and 552 below).

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Overview of follow-up replies received and of the Special Rapporteur's follow-up consultations during the reporting period

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550. Trinidad and Tobago: By submission of 15 January 1997 in respect of the Committee's Views on communication No. 523/1992 (Clyde Neptune), which had recommended, *inter alia*, that Trinidad and Tobago adopt immediate measures to improve the author's conditions of detention, the State party indicates that the request for improvement in the conditions of detention was directed to the attention of the Commissioner for Prisons. By submission of 6 February 1997, the State party notes that the Commissioner for Prisons formed the view that the author's complaints to the Committee were "grossly exaggerated" and that the author's conditions of detention were compatible with article 10 of the Covenant. The State party's submission amounts to a challenge of the Committee's findings and should have been properly raised while the communication was under consideration by the Committee; this opinion was conveyed to the State party's representative in follow-up consultations during the fifty-ninth session.

14/ Official Records of the General Assembly, Forty-fifth Session, Supplement No. 40 (A/45/40).

10/ [Official Records of the General Assembly], Fifty-first Session, Supplement No. 40 (A/51/40).

15/ Ibid., Forty-eighth Session, Supplement No. 40 (A/48/40).

16/ Ibid., Fiftieth Session, Supplement No. 40 (A/50/40).

551. On 9 April 1997, the Special Rapporteur met with the Deputy Permanent Representative of Trinidad and Tobago to the United Nations to discuss the State party's failure to give effect to the recommendations in several Views adopted by the Committee. As he had during similar consultations in March 1996, the Deputy Permanent Representative indicated that an acute human resources problem remained in the Ministry of Foreign Affairs, which accounted for delays in meeting international obligations. As a remedial measure, a London-based law firm had recently been mandated to prepare State party observations in respect of pending cases under the Optional Protocol.

552. The Deputy Permanent Representative had no direct information on the follow-up the State party had given to the Views in the cases of Daniel Pinto (Nos. 232/1987 and 512 (1992)), Balkissoon Soogrim (No. 362/1989), Leroy Shalto (No. 447/1991) and Lal Seerattan (No. 434/1990). The Special Rapporteur regretted the tenor of the State party's follow-up reply in the case of Clyde Neptune (see para. 550 above), in which the State party's Government had basically challenged the Committee's findings. The Deputy Permanent Representative promised to convey the Special Rapporteur's concerns to Port-of-Spain and agreed that follow-up replies should be forwarded in time for the Committee's sixtieth session.

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Concern over instances of non-cooperation under the follow-up mandate

...

554. In spite of some progress in collecting follow-up information since the adoption of its 1996 Report, the Committee and the Special Rapporteur note with concern that a number of countries did not provide any follow-up information within the deadlines established by the Committee or have not replied to reminders or requests for information from the Special Rapporteur. Those States which have not replied to requests for follow-up information are the following (in alphabetical order):

...

Trinidad and Tobago: two cases;

...

555. The Committee urges those States parties to reply to the Special Rapporteur's requests for follow-up information within the deadlines that have been set.

...

557. The Committee again expresses its regret that its recommendations, formulated in its 1995 and 1996 Reports, to the effect that at least one follow-up mission per year be budgeted by the Centre for Human Rights, have still not been implemented by the Centre. Similarly, the Committee considers that staff resources to service the follow-up mandate are inadequate, which prevents the

proper and timely conduct of follow-up activities, including follow-up missions. On 30 July 1997, the Committee decided to schedule a follow-up mission to Trinidad and Tobago in the course of 1998.

...

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VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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486. The Committee's previous report (A/52/40) contained a detailed country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1997. The list that follows shows the additional cases in respect of which follow-up information has been requested from States (Views in which the deadline for receipt of follow-up information had not yet expired have not been included). It also indicates those cases in which replies are outstanding. In many of these cases there has been no change since the previous report. This is because the resources available for the Committee's work were considerably reduced in the current year, preventing it from undertaking a comprehensive systematic follow-up programme.

...

Trinidad and Tobago: Eight Views finding violations: 232/1987 and 512/1992 - Daniel Pinto (1990 Report (A/45/40) and 1996 Report (A/51/40)); 362/1989 - Soogrim (1993 Report (A/48/40)); 447/1991 - Leroy Shalto (1995 Report (A/50/40)); 434/1990 - Lal Seerattan and 523/1992 - Clyde Neptune (1996 Report (A/51/40)); 533/1993 (Elahie) and 555/1003 (LaVende) (see annex XI, section B). State party follow-up replies received in respect of the cases of Pinto, Shalto (unpublished) Neptune and Seerattan. Follow-up replies on the cases of Soogrim, Elahie and LaVende are outstanding. Follow-up consultations were conducted during the sixty-first session (see paras. 505-509 below; see, also, 1996 Report (A/51/40), paras. 429, 452 and 453, 1997 Report (A/52/40), paras. 550, 551 and 552).

...

Overview of follow-up replies received and of the Special Rapporteur's follow-up consultations during the reporting period

...

502. Trinidad and Tobago. On 21 October 1997, the Chairperson, Mrs. Chanet, the Special Rapporteur for Follow-Up of Views, Mr. Bhagwati, and the Special Rapporteur for New Communications, Mr. Pocar, met with the Permanent Representative of Trinidad and Tobago to the United Nations Office at Geneva to discuss the follow-up to Views. The representative indicated that a recent reply concerning communication No. 447/1991 (Shalto), informing the Committee that the applicant had been released following a presidential pardon, had apparently not been received by the Secretariat. A copy of this reply was forwarded. At the end of the meeting, it was agreed that a formal request for a mission to Trinidad and Tobago by the Committee would be directed to the State party's representatives.

503. In a submission, dated 15 October 1997, the State party provided information in respect of case No. 512/1992 (Pinto). It informed the Committee that the Advisory Committee on the Power of

Pardon had not recommended Mr. Pinto's early release since, according to a report submitted by a Welfare Officer, his attitude appeared to militate against his release from prison. The Commissioner of Prisons has recommended that Mr. Pinto's case be reviewed again on 3 November 2000.

504. By submission of 27 November 1997, the State party provided information in respect of case No. 434/1992 (Seerattan). It explains that the case of Mr. Seerattan was referred to the Minister of National Security, who is responsible for advising the President on the power of pardon. The Minister consulted with the Advisory Committee on the Power of Pardon, which had before it, *inter alia*, the Human Rights Committee's recommendation, a psychological assessment and reports from the Commissioner of Prisons and the Chief Probation Officer. After due consideration, the Minister was unable to recommend to the President that a remission of sentence be granted at this time. In accordance with the prison rules, Mr. Seerattan's life sentence will be reviewed again in January 1998.

505. By submission of 14 January 1998, the State party provided information concerning the follow-up to the Committee's Views in respect of case No. 523/1992 (Neptune). The State party explains that following the Committee's recommendation of Mr. Neptune's early release, his case has been referred to the Minister of National Security. The Minister will consult with the Advisory Committee on the Power of Pardon which will have before it, *inter alia*, the Human Rights Committee's recommendation, a psychological assessment of Mr. Neptune and reports from the Commissioner of Prisons and the Chief Probation Officer. Regarding the improvement of the circumstances of Mr. Neptune's detention, the State party is of the view that the description given by Mr. Neptune of his detention was exaggerated. According to the State party, the Commissioner of Prisons has investigated the specific complaints noted by the Committee and is satisfied that appropriate standards are being maintained.

506. With regard to steps taken to ensure that violations of articles 9(3), 10(1) and 14(3)(c) and (5) do not occur in the future, the State party assures the Committee that it will introduce legislative and procedural reforms where necessary to ensure compliance with its obligations under the Covenant. In this connection, the State party explains that it has allocated additional resources to the judiciary to help remove pre-trial delay. Twelve new posts have been created in the magistracy and a further four puisne judges have been appointed to the High Court. A case management unit has been established to ensure that strict time frames are met in cases where bail is not granted and the accused is remanded in custody to await trial. Legislative reforms have also been introduced and further legislation is being contemplated. With regard to the delay in hearing appeals, the State party explains that following the Privy Council's judgement in the Pratt and Morgan case, three further justices of appeal have been appointed. A computer-aided transcription unit has been established to facilitate the speedy preparation of the court record so that appeals may be heard expeditiously. As a result of these measures, the backlog has been cleared. In respect of the conditions of detention, the State party explains that steps have been taken to alleviate prison overcrowding by granting remission of sentence and by reviewing and discharging prisoners serving long sentences. A new maximum security prison has been constructed with an estimated accommodation of 2,100 inmates.

...

507. The Committee decided that in view of the replies received, further follow-up consultations

are required in respect of ... Trinidad and Tobago.

VII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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461. The Committee's previous report (A/53/40) contained a detailed country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1998. The list that follows shows the additional cases in respect of which follow-up information has been requested from States (Views in which the deadline for receipt of follow-up information had not yet expired have not been included). It also indicates those cases in which replies are outstanding. In many of these cases there has been no change since the last report. This is because the resources available for the Committee's work have been considerably reduced preventing it from undertaking a comprehensive systematic follow-up programme.

...

Trinidad and Tobago: Twelve Views finding violations: 232/1987 and 512/1992 - Pinto (A/45/40 and A/51/40); 362/1989 - Soogrim (A/48/40); 447/1991 - Shalto (A/50/40); 434/1990 - Seerattan and 523/1992 - Neptune (A/51/40); 533/1993 - Elahie (A/52/40); and 554/1993 - LaVende, 555/1993 - Bickaroo, 569/1993 - Matthews and 672/1995 - Smart (A/53/40); 594/1992 - Phillip and 752/1997 - Henry (annex XI, sect. DD). State party's follow-up replies (unpublished) received in respect of Pinto, Shalto, Neptune and Seerattan. Follow-up replies on the remainder of the cases are outstanding. Follow-up consultations were conducted during the sixty-first session (A/53/40, paras. 502-507); see also A/51/40, paras. 429, 452, 453, and A/52/40, paras. 550-552.

VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

...

596. The Committee's previous report (A/54/40) contained a detailed country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1999. The list that follows shows the additional cases in respect of which follow-up information has been requested from States. (Views in which the deadline for receipt of follow-up information had not yet expired have not been included.) It also indicates those cases in which replies are outstanding. In many of these cases there has been no change since the last report. This is because the limited resources available for the Committee's work prevent it from undertaking a comprehensive or systematic follow-up programme.

...

Trinidad and Tobago: Twelve Views finding violations: 232/1987 and 512/1992 - Pinto (A/45/40 and A/51/40); 362/1989 - Soogrim (A/48/40); 447/1991 - Shalto (A/50/40); 434/1990 - Seerattan and 523/1992 - Neptune (A/51/40); 33/1993 - Elahie (A/52/40); 554/1993 - LaVende, 555/1993 - Bickaroo, 569/1993 - Matthews and 672/1995 - Smart (A/53/40); 594/1992 - Phillip and 752/1997 - Henry (A/54/40). The State party's follow-up replies were received in respect of Pinto, Shalto, Neptune and Seerattan. Follow-up replies on the remainder of the cases are outstanding. Follow-up consultations were conducted during the sixty-first session (A/53/40, paras. 502-507); see also A/51/40, paras. 429, 452, 453 and A/52/40, paras. 550-552.

CCPR A/56/40, vol. I (2001)

Chapter IV. Follow-up Activities under the Optional Protocol

...

180. The Committee's previous annual report (A/55/40, vol. I, chap. VI) contained a detailed country-by-country survey on follow-up replies received or requested and outstanding as of 30 June 2000. The list that follows updates that survey, indicating those cases in which replies are outstanding, but does not take into account the Committee's Views adopted during the seventy-second session, for which follow-up replies are not yet due. In many cases there has been no change since the previous report.

...

Trinidad and Tobago: Twelve Views finding violations: 232/1987 and 512/1992 - Pinto (A/45/40 and A/51/40); 362/1989 - Soogrim (A/48/40); 447/1991 - Shalto (A/50/40); 434/1990 - Seerattan (A/51/40); 523/1992 - Neptune (A/51/40); 533/1993 - Elahie (A/52/40); and 554/1993 - LaVende, 555/1993 - Bickaroo, 569/1993 - Matthews and 672/1995 - Smart (A/53/40); 594/1992 - Phillip and 752/1997 - Henry (A/54/40). Follow-up replies received in respect of Pinto, Shalto, Neptune and Seerattan. Follow-up replies on the remainder of the cases are outstanding. Follow-up consultations were conducted during the sixty-first session (A/53/40, paras. 502-507); see also A/51/40, paragraphs 429, 452, 453, and A/52/40, paragraphs 550-552.

CCPR A/57/40, vol. I (2002)

Chapter VI. Follow-up activities under the optional protocol

...

228. The previous annual report of the Committee (A/56/40, vol. I, chap. VI) contained a detailed country-by-country survey of follow-up replies received or requested and outstanding as of 30 June 2001. The list that follows updates that survey, indicating those cases in which replies are outstanding, but does not include responses concerning the Committee's Views adopted during the seventy-fourth and seventy-fifth sessions, for which follow-up replies are not yet due. In many cases there has been no change since the previous report.

...

Trinidad and Tobago: Views in 22 cases with findings of violations:

232/1987 and 512/1992 - Pinto (A/45/40 and A/51/40);

362/1989 - Soogrim (A/48/40);

447/1991 - Shalto (A/50/40);

434/1990 - Seerattan and;

523/1992 - Neptune (A/51/40);

533/1993 - Elahie (A/52/40);

554/1993 - LaVende,

555/1993 - Bickaroo,

569/1993 - Matthews and

672/1995 - Smart (A/53/40);

594/1992 - Phillip and

752/1997 - Henry (A/54/40);

818/1998 - Sextus (A/56/40); and

580/1994 - Ashby;

677/1996 - Teesdale;

683/1996 - Wanza;

684/1996 - Sahadath;

721/1996 - Boodoo;

845/1998 - Kennedy;

899/1999 - Francis et al.; and

928/2000 - Sooklal (annex IX);. follow-up replies not yet due.

Follow-up replies received in respect of Pinto, Shalto, Neptune and Seerattan. Follow-up replies on the remainder of the cases are outstanding. Follow-up consultations were conducted during the sixty-first session (A/53/40, paras. 502-507); see also A/51/40, paragraphs 429, 452, 453, A/52/40, paragraphs 550-552, and below.

...

229. For further information on the status of all the Views in which follow-up information remains outstanding or in respect of which follow-up consultations have been or will be scheduled, reference is made to the follow-up progress report prepared for the seventy-fourth session of the Committee (CCPR/C/74/R.7/Rev.1, dated 28 March 2002), discussed in public session at the Committee's 2009th meeting on 4 April 2002 (CCPR/C/SR.2009). Reference is also made to the Committee's previous reports, in particular A/56/40, paragraphs 182 to 200.

Overview of follow-up replies received during the reporting period, Special Rapporteur's follow-up consultations and other developments

230. The Committee welcomes the follow-up replies that have been received during the reporting period and expresses its appreciation for all the measures taken or envisaged to provide victims of violations of the Covenant with an effective remedy. It encourages all States parties which have addressed preliminary follow-up replies to the Special Rapporteur to conclude their investigations in as expeditious a manner as possible and to inform the Special Rapporteur of their results. The follow-up replies received during the period under review and other developments are summarized below.

...

252. Trinidad and Tobago: With regard to case No. 523/1992, Neptune (A/51/40), the author, by letter of 1 January 2002, informed the Committee of worsening conditions of detention.

...

CHAPTER VI. Follow-up activities under the Optional Protocol

...

223. The previous annual report of the Committee¹ contained a detailed country-by-country survey of follow-up replies received or requested and outstanding as of 30 June 2002. The list that follows updates that survey, indicating those cases in which replies are outstanding, but does not include responses concerning the Committee's Views adopted during the seventy-seventh and seventy-eighth sessions, for which follow-up replies are not yet due in the majority of cases. In many cases there has been no change since the previous report.*

...

Trinidad and Tobago: Views in 23 cases with findings of violations:

Follow-up replies received in respect of *Pinto* (cases Nos. 232/1987 and 512/1992), *Shalto* (case No. 447/1991), *Neptune* (case No. 523/1992) and *Seerattan* (case No. 434/1990). For follow-up replies in respect of cases Nos. 362/1989 - *Soogrim* (A/48/40), 845/1998 - *Kennedy* (A/57/40) and 899/1999 - *Francis et al.* (A/57/40), as well as additional reply on *Neptune*, see paragraphs 252-254 below. Follow-up replies on the remainder of the cases are outstanding. Follow-up consultations were conducted during the sixty-first session (A/53/40, paras. 502-507); see also A/51/40, paragraphs 429, 452 and 453 and A/52/40, paragraphs 550-552.

...

Overview of follow-up replies received during the reporting period, Special Rapporteur's follow-up consultations and other developments

224. The Committee welcomes the follow-up replies that have been received during the reporting period and expresses its appreciation for all the measures taken or envisaged to provide victims of violations of the Covenant with an effective remedy. It encourages all States parties that have addressed preliminary follow-up replies to the Special Rapporteur to conclude their investigations in as expeditious a manner as possible and to inform the Special Rapporteur of their results. The follow-up replies received during the period under review and other developments are summarized below.

...

252. **Trinidad and Tobago:** case No. 362/1989 - *Soogrim* (A/48/40): the author informed the Committee, by letters of 20 March 2002 and 16 December 2002, that the Committee's Views had still not been implemented and that he remained in prison. He requested the Committee to take the necessary steps to secure implementation of its recommendations.

253. Case No. 523/1992 - *Neptune* (A/51/40): the author informed the Committee, by letters of 15 April 2002 and 17 December 2002, that the Committee's Views had still not been implemented. He remains imprisoned.

254. Cases Nos. 845/1999, *Kennedy* (A/57/40) and 899/1999, *Francis et al.* (A/57/40): the State party informed the Committee, by notes verbales of 25 July 2002 and 3 September 2002, that the Committee's Views had been transmitted to the competent authorities. No further submission has been received since that date.

Notes

1. [*Official Records of the General Assembly*], *Fifty-seventh Session, Supplement No. 40*(A/57/40), vol. I, chap. VI.

* The document symbol A/[Session No.]/40 refers to the *Official Record of the General Assembly* in which the case appears; annex VI refers to the present report, vol. II.

CCPR CCPR/C/80/FU/1 (2004)

Follow-Up Progress Report submitted by The Special Rapporteur for Follow-Up on Views

Follow-up progress report

1. The current report updates the previous Follow-up Progress Report, (CCPR/C/71/R.13) [*Ed. Note: CCPR/C/71/R.13 is not publicly available*] which focused on cases in which, by the end of February 2001, no or only incomplete follow-up information had been received from States parties, or where follow-up information challenged the findings and recommendations of the Committee. In an effort to reduce the size of the follow-up report, this current report only reflects cases in which information was received from either the author or the State party from 1 March 2001 to 2 April 2004. It is the intention of the Special Rapporteur to update this report on an annual basis.

...

Trinidad and Tobago:

Soogrim v. Trinidad and Tobago, Case no.362/1989, Views adopted on 8 April 1993

Violations found: Articles 7 and 10, paragraph 1

Issues of Case: Ill-treatment of prisoner under sentence of death and failure to provide inmate with medical treatment.

Remedy recommended: Compensation to the author.

Deadline for State party follow-up information: 6 September 1993

Follow-up information received from State party: None

Follow-up information received from author: See previous follow-up report ((CCPR/C/71/R.13) or the Committee's Annual Report (A/57/40, Vol.1, para. 252). The author informed the Committee, by letters of 20 March and 16 December 2002, that the Committee's Views are still not implemented and that he remains in prison. The author requests the Committee to take the necessary steps to see its Views implemented.

Special Rapporteur's Recommendations: The previous follow-up report (CCPR/C/71/R.13) referred to the possibility of a Mission to Trinidad and Tobago. By note verbale of 17 November 1997, the Ambassador confirmed that the Committee's request for a mission had been forwarded to the Port-of-Spain. There has been no further reaction from the State party. In the light of developments since 2001, follow-up missions to other States parties might appear to be more appropriate.

Neptune v. Trinidad and Tobago, Case no. 523/1992, Views adopted on 16 July 1996

Violations found: Articles 9, paragraph 3, 10, paragraph 1 and 14, paragraphs 3(c), and 5

Issues of Case: Unjustifiable length of judicial proceedings; inhumane conditions of detention.

Remedy recommended: Early release, and, pending release, the immediate improvement of the circumstances of Mr. Neptune's detention.

Deadline for State party follow-up information: Not available

Follow-up information received from State party: See previous follow-up report (CCPR/C/71/R.13).

Follow-up information received from author: The author informed the Committee, by letters of 1 January, 15 April and 17 December 2002, that the Committee's Views are still not implemented, that he remains in prison with worsening conditions of detention, and has no access to counsel.

Special Rapporteur's Recommendations: The previous follow-up report (CCPR/C/71/R.13) referred to the possibility of a Mission to Trinidad and Tobago. By note verbale of 17 November 1997, the Ambassador confirmed that the Committee's request for a mission had been forwarded to the Port-of-Spain. There has been no further reaction from the State party. In the light of developments since 2001, follow-up missions to other States parties might appear to be more appropriate.

Kennedy, Rawle v. Trinidad and Tobago, Case no. 845/1999, Views adopted on 26 March 2002

Violations found: Articles 2, paragraph 3, 6, paragraph 1, 7, 9, paragraph 3, 10, paragraph 1 and article 14, paragraph 1, 3, (c), (d), and 5.

Issues of Case: Mandatory death penalty; delays; mistreatment; poor conditions; unfair clemency procedure; permissibility of reservations to the Covenant and Optional Protocol.

Remedy recommended: Compensation and consideration of early release

Deadline for State party follow-up information: Not available

Follow-up information received from State party: By note verbale of 25 July and 3 September 2002, the State party informed the Committee, that the Views were transmitted to the competent authorities in the Port of Spain for its attention.

Follow-up information received from author: None

Special Rapporteur's Recommendations: The previous follow-up report (CCPR/C/71/R.13) referred to the possibility of a Mission to Trinidad and Tobago. By note verbale of 17 November 1997, the Ambassador confirmed that the Committee's request for a mission had been forwarded to the Port-of-Spain. There has been no further reaction from the State party. In the light of developments since 2001, follow-up missions to other States parties might appear to be more appropriate.

Francis et al. v. Trinidad and Tobago, Case no. 899/1999, Views adopted on 25 July 2002

Violations found: Article 10

Issues of Case: Delay in trial and appeal, poor conditions of detention

Remedy recommended: Adequate compensation. In the light of the long years spent by the authors in deplorable conditions of detention that violate article 10 of the Covenant, the State party should consider early release of the authors.

Deadline for State party follow-up information: 3 November 2002

Follow-up information received from State party: By note verbale of 25 July and 3 September 2002, the State party informed the Committee, that the Views were transmitted to the competent authorities in Port of Spain for its attention.

Follow-up information received from authors: None

Special Rapporteur's Recommendations: The previous follow-up report (CCPR/C/71/R.13) referred to the possibility of a Mission to Trinidad and Tobago. By note verbale of 17 November 1997, the Ambassador confirmed that the Committee's request for a mission had been forwarded to the Port-of-Spain. There has been no further reaction from the State party. In the light of developments since 2001, follow-up missions to other States parties might appear to be more appropriate.

...

CCPR, CCPR/C/SR.2194 (2004)

Human Rights Committee
Eightieth session

Summary record of the second part (public) of the 2194th meeting
Held at Headquarters, New York, on
Friday, 2 April 2004, at 10 a.m.

...

Follow-up on Views under the Optional Protocol

...

8. **Mr. Wieruszewski** said that he endorsed Mr. Scheinin's proposal on mustering political support when a State party refused to comply. The topic could be discussed at the meeting of States parties in the autumn and elsewhere...With regard to case No. 899/1999 (*Francis et al. v. Trinidad and Tobago*), he wondered whether the Special Rapporteur was still contemplating the idea of follow-up missions to other States parties, and if so, which ones. In general, follow-up on Views was clearly a very useful procedure.

...

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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230. The previous annual report of the Committee¹ contained a detailed country-by-country survey of follow-up replies received or requested and outstanding as of 30 June 2003. The list that follows updates that survey, indicating those cases in which replies are outstanding, but does not include responses concerning the Committee's Views adopted during the eightieth and eighty-first sessions, for which follow-up replies are not yet due in the majority of cases. In many cases there has been no change since the previous report.*

...

Trinidad and
Tobago:

Views in 25 cases with findings of violations:

Follow-up replies received in respect of *Pinto* (cases Nos. 232/1987 and 512/1992), *Shalto* (case No. 447/1991), *Neptune* (case No. 523/1992) and *Seerattan* (case No. 434/1990). For follow-up replies in respect of cases Nos. 362/1989 - *Soogrim* (A/48/40), 845/1998 - *Kennedy* (A/57/40) and 899/1999 - *Francis et al.* (A/57/40), as well as additional reply on *Neptune*, see A/58/40, paragraphs 252-254. Follow-up replies on the remainder of the cases are outstanding. Follow-up consultations were conducted during the sixty-first session (A/53/40, paras. 502-507); see also A/51/40, paragraphs 429, 452 and 453 and A/52/40, paragraphs 550-552;

938/2000 - *Girjadat Siewpers and et al.* (annex IX); follow-up not yet due.

Notes

¹/ Ibid., *Fifty-eighth Session, Supplement No. 40* (A/58/40), vol. I, chap. VI.

* The document symbol A/[session No.]/40 refers to the *Official Records of the General Assembly* in which the case appears; annex IX refers to the present report, volume II.

...

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

224. 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 the follow-up on Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

225. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights. A total of 391 Views out of the 503 Views adopted since 1979 concluded that there had been a violation of the Covenant.

228. 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 has in fact given effect to the Committee's recommendations, even though the State party did not itself provide that information.

229. The present annual report adopts a different format for the presentation of follow-up information compared to previous annual reports. The table below displays a complete picture of follow-up replies from States parties received as of 28 July 2005, 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 complying 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.

230. Follow-up information provided by States parties and by petitioners or their representatives since the last annual report is set out in a new annex VII, contained in Volume II of the present annual report. This, more detailed, follow-up information also indicates action still outstanding in those cases that remain under review.

FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location ^a	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
...						
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

	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			X A/58/40	X
	899/1999, <i>Francis et al.</i> A/57/40	X			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</i> <i>Siewpers et al.</i> A/59/40				X A/51/40, A/53/40	X

^a The location refers to the document symbol of the *Official Records of the General Assembly, Supplement No. 40*, which is the annual report of the Committee to the respective sessions of the Assembly.

...

CHAPTER VI FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

227. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

228. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 429 Views out of the 547 Views adopted since 1979 concluded that there had been a violation of the Covenant.

229. 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 only relate 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.

230. 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 Views.

231. 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.

232. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2006, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The Notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

233. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/60/40, vol. I, chap. VI) is set out in annex VII to volume II of the present annual report.

FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
...						
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
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</i> <i>Siewpers et al.</i> A/59/40				X A/51/40, A/53/40	X
...						

...

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

213. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

214. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 452 Views out of the 570 Views adopted since 1979 concluded that there had been a violation of the Covenant.

215. 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 only relate 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.

216. 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 Views.

217. In many cases, the Committee 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.

218. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2007, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The Notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

219. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/61/40, vol. I, chap. VI) is set out in annex VII to volume II of the present annual report.

FOLLOW-UP RECEIVED TO DATE FOR ALL CASES OF VIOLATIONS OF THE COVENANT

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
...						
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

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
	594/1992, <i>Phillip A/54/40</i>				X	X
	672/1995, <i>Smart A/53/40</i>				X	X
	677/1996, <i>Teesdale A/57/40</i>				X	X
	683/1996, <i>Wanza A/57/40</i>				X	X
	684/1996, <i>Sahadath A/57/40</i>				X	X
	721/1996, <i>Boodoo A/57/40</i>				X	X
	752/1997, <i>Henry A/54/40</i>				X	X
	818/1998, <i>Sextus A/56/40</i>				X	X
	845/1998, <i>Kennedy A/57/40</i>				X A/58/40	X
	899/1999, <i>Francis et al. A/57/40</i>				X A/58/40	X
	908/2000, <i>Evans A/58/40</i>				X	X
	928/2000, <i>Sooklal A/57/40</i>				X	X
	938/2000, <i>Girjadat Siewpers et al. A/59/40</i>				X A/51/40, A/53/40	X
...						

VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

187. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up to Views to this effect. Mr. Ando has been the Special Rapporteur since March 2001 (seventy-first session).

188. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information had been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 429 Views out of the 547 Views adopted since 1979 concluded that there had been a violation of the Covenant.

189. All attempts to categorize follow-up replies by States parties are inherently imprecise and subjective: it accordingly is not possible to provide a neat statistical breakdown of follow-up replies. Many follow-up replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer the complainant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's Views at all or relate only to certain aspects of them. Some replies simply note that the victim has filed a claim for compensation outside statutory deadlines and that no compensation can therefore be paid. Still other replies indicate that there is no legal obligation on the State party to provide a remedy, but that a remedy will be afforded to the complainant on an *ex gratia* basis.

190. The remaining follow-up replies challenge the Committee's Views and findings on factual or legal grounds, constitute much-belated submissions on the merits of the complaint, promise an investigation of the matter considered by the Committee or indicate that the State party will not, for one reason or another, give effect to the Committee's recommendations.

191. In many cases, the Secretariat has also received information from complainants to the effect that the Committee's Views have not been implemented. Conversely, in rare instances, the petitioner has informed the Committee that the State party had in fact given effect to the Committee's recommendations, even though the State party had not itself provided that information.

192. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2008, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

193. Follow-up information provided by States parties and by petitioners or their representatives

subsequent to the last annual report (A/62/40) is set out in annex VII to volume II of the present annual report.

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
...						
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
Trinidad and Tobago (cont'd)	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

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
	569/1996, <i>Mathews</i> A/43/40				X	X
	580/1994, <i>Ashby</i> A/57/40				X	X
	594/1992, <i>Phillip</i> A/54/40				X	X
	672/1995, <i>Smart</i> A/53/40				X	X
	677/1996, <i>Teesdale</i> A/57/40				X	X
	683/1996, <i>Wanza</i> A/57/40				X	X
Trinidad and Tobago (<i>cont'd</i>)	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

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
	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
...						

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.

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
...						
Trinidad and Tobago (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
Trinidad and Tobago (cont'd)	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

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
	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
Trinidad and Tobago (<i>cont'd</i>)	683/1996, <i>Wanza</i> A/57/40				X	X
	684/1996, <i>Sahadath</i> A/57/40				X	X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
	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
...						

