

BARBADOS

Follow-up: State Reporting

i) Action by Treaty Bodies

CCPR, A/62/40 vol. I (2007)

CHAPTER VII. FOLLOW-UP ON CONCLUDING OBSERVATIONS

220. In chapter VII of its annual report for 2003 (A/58/40, vol. I), 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/61/40, 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 2007.

221. Over the period covered by the present annual report, Mr. Rafael Rivas-Posada continued to act as the Committee's Special Rapporteur for follow-up to concluding observations. At the Committee's eighty-fifth, eighty-sixth and eighty-seventh 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. In view of Mr. Rivas-Posada's election to the Chair of the Committee, Sir Nigel Rodley was appointed the new Special Rapporteur for follow-up on concluding observations at the Committee's ninetieth session.

222. 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.¹ Over the reporting period, since 1 August 2006, 12 States parties (Albania, Canada, Greece, Iceland, Israel, Italy, Slovenia, Syrian Arab Republic, Thailand, Uganda, Uzbekistan and Venezuela) have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, only 12 States parties (Brazil, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Mali, Moldova, Namibia, Surinam, Paraguay, the Gambia, Surinam and Yemen) and UNMIK 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.

223. 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 2006 to take no further action prior to the period covered by this report.

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Eighty-ninth session (March 2007)

State party: Barbados

Report considered: Third periodic (due since 1991), submitted on 18 July 2006.

Information requested:

Para. 9: Whether considering abolition of the death penalty and accession to the Second Optional Protocol to the Covenant (art. 6).

Para. 12: Eliminating corporal punishment as a legitimate sanction and discouraging its use in schools (arts. 7 and 24).

Para. 13: Decriminalizing of sexual acts between adults of the same sex, protecting homosexuals from harassment, discrimination and violence (art. 26).

Date information due: 1 April 2008

Next report due: 29 March 2011

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Note

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

CCPR, CCPR/C/SR.2564/Add.1 (2008)

HUMAN RIGHTS COMMITTEE

Ninety-third session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 2564th MEETING

Held at the Palais Wilson, Geneva,

on Wednesday, 23 July 2008 at 11.25 a.m.

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FOLLOW-UP TO CONCLUDING OBSERVATIONS ON STATE REPORTS AND TO
VIEWS UNDER THE OPTIONAL PROTOCOL

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Report of the Special Rapporteur for follow-up on concluding observations (CCPR/C/93/R.1)

1. Sir Nigel RODLEY, Special Rapporteur for follow-up on concluding observations, introduced his report contained in document CCPR/C/93/R.1.

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4. He recommended that reminders should be sent to Barbados, Brazil, the Central African Republic, Chile and Madagascar requesting additional information...

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39. The draft report of the Special Rapporteur for follow-up on concluding observations was adopted.

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CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

194. 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/62/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2008.

195. Over the period covered by the present annual report, Sir Nigel Rodley acted as the Committee's Special Rapporteur for follow-up on concluding observations. At the Committee's ninety-first, ninety-second and ninety third sessions, he presented progress reports to the Committee on inter-sessional developments and made recommendations which prompted the Committee to take appropriate decisions State by State.

196. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.²¹ Over the reporting period, since 1 August 2007, 11 States parties (Bosnia and Herzegovina, Brazil, Hong Kong Special Administrative Region (China), Mali, Paraguay, Republic of Korea, Sri Lanka, Suriname, Togo, United States of America and Ukraine), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow up procedure. Since the follow up procedure was instituted in March 2001, 10 States parties (Barbados, Central African Republic, Chile, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Honduras, Madagascar, Namibia and Yemen) have failed to supply follow up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.

197. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference to those States parties with respect to which the Committee, upon assessment of the follow up responses provided to it, decided before 1 August 2007 to take no further action prior to the period covered by this report.

198. The Committee emphasizes that certain States parties have failed to cooperate with it in the performance of its functions under Part IV of the Covenant, thereby violating their obligations (Gambia, Equatorial Guinea).

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.

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Eighty-ninth session (March 2007)

State party: Barbados
Report considered: Third periodic (due since 1991), submitted on 18 July 2006.
Information requested: Para. 9: Consider the abolition of the death penalty and accession to the Second Optional Protocol to the Covenant; remove prescription of mandatory death sentences from relevant laws and ensure that such laws are compatible with article 6 of the Covenant (art. 6). Para. 12: Eliminate corporal punishment as a legitimate sanction and discourage its use in schools; measures towards the abolition of corporal punishment (arts. 7 and 24). Para. 13: Decriminalization of sexual acts between adults of the same sex, protection of homosexuals from harassment, discrimination and violence (art. 26).
Date information due: 1 April 2008
Date information received: NONE RECEIVED
Action taken: <u>11 June 2008</u> A reminder was sent.
Recommended action: A further reminder should be sent.
Next report due: 29 March 2011
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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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Eighty-ninth session (March 2007)

State party: Barbados

Report considered: Third periodic (due since 1991), submitted on 18 July 2006.

Information requested:

Para. 9: Consider the abolition of the death penalty and accession to the Second Optional Protocol to the Covenant; remove prescription of mandatory death sentences from relevant laws and ensure that such laws are compatible with article 6 of the Covenant (art. 6).

Para. 12: Eliminate corporal punishment as a legitimate sanction and discourage its use in schools; measures towards the abolition of corporal punishment (arts. 7 and 24).

Para. 13: Decriminalization of sexual acts between adults of the same sex, protection of homosexuals from harassment, discrimination and violence (art. 26).

Date information due: 1 April 2008

Date information received:

31 March 2009 Partial reply received (para. 9: partly largely satisfactory, partly recommendations not implemented; para. 12: recommendations not implemented; para. 13: recommendations not implemented and information incomplete).

Action taken:

11 June 2008 A reminder was sent.

16 December 2008 The Special Rapporteur requested a meeting with a representative of the State party.

31 March 2009 During the ninety-fifth session, the Special Rapporteur met with the Ambassador of the State party, who provided him with the follow-up reply.

Recommended action: A letter should be sent to request additional information and to state that the follow-up procedure with respect to certain issues is considered completed due to non-implementation and to ask the State party to report on these issues in its next periodic report.

Next report due: 29 March 2011

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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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12. A reminder should also be sent to Barbados, which had not supplied the information the Committee had requested.

13. **Mr. O'Flaherty** asked whether the Permanent Representative of Barbados had provided any relevant information during his meeting with the Special Rapporteur on 31 March 2009.

14. **Mr. Amor** said that the Ambassador's reply had provided only partial information.

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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).

...

Eighty-ninth session (March 2007)

State party: Barbados

Report considered: Third periodic (due since 1991), submitted on 18 July 2006.

Information requested:

Para. 9: Consider the abolition of the death penalty and accession to the Second Optional Protocol to the Covenant; remove prescription of mandatory death sentences from relevant laws and ensure that such laws are compatible with article 6 of the Covenant (art. 6).

Para. 12: Eliminate corporal punishment as a legitimate sanction and discourage its use in schools; measures towards the abolition of corporal punishment (arts. 7 and 24).

Para. 13: Decriminalization of sexual acts between adults of the same sex, protection of homosexuals from harassment, discrimination and violence (art. 26).

Date information due: 1 April 2008

Date information received:

31 March 2009 Partial reply received (para. 9: largely satisfactory in parts, recommendations not implemented in part; para. 12: recommendations not implemented; para. 13: recommendations not implemented and information incomplete).

Action taken:

11 June 2008 A reminder was sent.

22 September 2008 A further reminder was sent.

16 December 2008 The Special Rapporteur requested a meeting with a representative of the State party.

31 March 2009 During the ninety-fifth session, the Special Rapporteur met with the Ambassador of the State party, who provided him with the follow-up reply.

29 July 2009 (sent late) A letter was sent to request additional information and to state that the follow-up procedure with respect to certain issues is considered completed due to non-implementation and to ask the State party to report on these issues in its next periodic report.

23 April 2010 A reminder was sent.

Recommended action: If no information is received, a further reminder should be sent.

Next report due: 29 March 2011

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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/BRB/CO/3/Add.1 (2009)

Information received from Barbados on the implementation of the concluding observations of the Human Rights Committee (CCPR/C/BRB/CO/3)

[23 March 2009]

Introduction

1. Barbados has taken note of the Committees' observations regarding the late submission of its third periodic report (CCPR/C/BRB/3) in fulfilment of its obligation under the Covenant on Civil and Political Rights and will endeavour to adhere to the reporting schedule, notwithstanding the delay in submitting the responses contained herein. Barbados' responses to the recommendations contained in paragraphs 9, 12 and 13 of the Committee's concluding observations (CCPR/C/BRB/CO/3) are set out hereunder.

I. Human Rights Committee's recommendations- paragraph 9

The State party should consider the abolition of the death penalty and accession to the Second Optional Protocol to the Covenant. In the meantime, the State party should amend its laws relating to the death penalty, removing the prescription of mandatory death sentences and ensuring their compatibility with article 6 of the Covenant.

2. Article 6, paragraph 1, of the mentioned Covenant provides that every person has an inherent right to life and shall not be deprived arbitrarily of this right. Article 6, paragraph 6, provides that nothing in article 6 should delay or prevent the abolition of capital punishment. However, paragraphs 2, 4 and 5 of the same article should be noted.

3. Paragraph 2 provides that "In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime..." Paragraph 4 provides that " Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases." Paragraph 5 provides that "Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women."

4. In Barbados, currently a person shall be sentenced to death where convicted of murder (section 2 of the Offences against the Person Act, Cap. 141). The crime of murder is considered to be a serious crime and this indicates that domestic law reflects the principle stated in article 6, paragraph 2 of the Covenant. Further, section 78(1) of the Constitution of Barbados provides that where a person is convicted of any offence under the law, the Governor-General has the authority to grant a pardon or substitute a less severe form of punishment. Therefore there is domestic legislation which reflects the principle stated at article 6, paragraph 4. According to the

Sentence of Death (Expectant Mothers) Act, Cap. 153, the sentence of death shall not be passed on a pregnant woman. Further, section 14 of the Juvenile Offenders Act, Cap. 138 has abolished the sentencing of death on persons under the age of 18. These latter mentioned pieces of legislation reflect the principle stated in article 6, paragraph 5, of the Covenant.

5. Article 6, paragraph 2, of the Covenant recognizes that there are States which have not abolished capital punishment and that it may be imposed for serious crimes. It states the principles which States with capital punishment should follow, notwithstanding article 6, paragraph 6. The fact that the mentioned pieces of domestic legislation reflect the principles stated at the mentioned paragraphs of article 6 indicates that there is compatibility of domestic legislation with article 6 in relation to capital punishment.

6. It should be noted that the Cabinet of Barbados in January 2009 has agreed to the abolition of the mandatory death penalty and is in the process of amending the relevant laws.

7. The death penalty *per se* however will remain available under the laws of Barbados. All of the opinion polls and surveys taken in the country show that public sentiment strongly favours retention of the death penalty as the suitable punishment against the crime of murder.

II. Human Rights Committee's recommendations - paragraph 12

The State party should take immediate measures to eliminate corporal punishment as a legitimate sanction in its law and to discourage its use in schools. The State party should also take all necessary measures towards the eventual total abolition of corporal punishment.

8. Barbados does not accept at this time that all forms of corporal punishment should be eliminated from its legislation. It should be noted, however that the laws of Barbados criminalize the abuse of children and in the event that corporal punishment is administered in schools, it is done so in compliance with the Code of Discipline promulgated under the Education Act. The Code of Discipline which was produced by the Ministry of Education in 2004 identifies the due process to be followed in the event that disciplinary action is to be considered, the type and the level of violations and the disciplinary options.

9. The Prison Rules Act 168, Section 40 states that corporal punishment is only administered in Her Majesty's Prison by order of the Visiting Justice and no such order shall be made except after an inquiry in which the evidence is given on oath.

10. The retention of the use of corporal punishment as part of a judicial sentence and within the education system is a matter of policy but is being debated from time to time by the public, with the popular view being that it should be retained.

III. Human Rights Committee's recommendations-paragraph 13

The State party should decriminalize sexual acts between adults of the same sex and take all necessary actions to protect homosexuals from harassment, discrimination and violence.

11. The Sexual Offences Act of Barbados criminalizes buggery. Barbados cannot accept at this time, the recommendation to decriminalize such sexual acts between consenting adults of the same sex. Decriminalization of sexual acts between adults of the same sex has not received the consensus of religious denominations or the public of Barbados as a whole. In fact significant sections of the community are opposed to such decriminalization. In a national consultation conducted by National HIV/AIDS Commission the weight of public opinion was against the recommendation to decriminalize the consensual sexual acts between adults of the same sex. This is a topic which has been widely considered in society not only on the basis of its legality but from the sociocultural and historical perspectives. It must be noted that Barbados is a heavily religious society and there is a significant lobby by the church on such issues.

12. The Government is however committed to protecting all members of society from harassment, discrimination and violence regardless of sexual orientation. Section 11 of the Barbados Constitution speaks to the protection of fundamental rights and freedom of the individual and section 23 of the Constitution guarantees freedom from discrimination for all people.

Conclusion

13. Notwithstanding the above responses, the Committee should be made aware that the Cabinet of Barbados has decided on 12 March 2009 that a Cabinet Sub-committee on Governance should consider the following: (a) the need for drafting of legislation on discrimination, sexual harassment and torture; (b) upgrading the office of the Ombudsman and the Bureau of Gender Affairs; and (c) the implementation of the recommendation of the Constitutional Commission in areas of human rights and the establishment of a National Human Rights Commission.
