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Report of the Human Rights Committee

Volume I

Eighty-eighth session
(16 October-3 November 2006)

Eighty-ninth session
(12-30 March 2007)

Ninetieth session
(9-27 July 2007)

General Assembly
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Sixty-second session
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Note

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

Summary

The present annual report covers the period from 1 August 2006 to 31 July 2007 and the eighty-eighth, eighty-ninth and ninetieth sessions of the Human Rights Committee. Since the adoption of the last report, Andorra, Bahrain and Maldives have become parties to the International Covenant on Civil and Political Rights, Andorra, Maldives and Turkey have become parties to the First Optional Protocol. Andorra, South Africa and Moldova have become parties to the Second Optional Protocol. The Republic of Montenegro, admitted as the 192nd Member of the United Nations on 28 June 2006, informed the Secretary-General, in a letter dated 10 October 2006, that the Government of Montenegro had decided to succeed to the treaties to which the State Union of Serbia and Montenegro had been a party (including the International Covenant on Civil and Political Rights and its two Optional Protocols). In total, there are 160 States parties to the Covenant, 109 to the First Optional Protocol and 60 to the Second Optional Protocol.

During the period under review, the Committee considered 10 States parties' reports submitted under article 40 and adopted concluding observations on them (eighty-eighth session: Honduras, Bosnia and Herzegovina, Ukraine and Republic of Korea; eighty-ninth session: Madagascar, Chile and Barbados; ninetieth session: Zambia, Sudan and Czech Republic - see chapter IV for concluding observations). The Committee also examined the situation in Grenada in the absence of a report and adopted provisional concluding observations.

Under the Optional Protocol procedure, the Committee adopted Views on 48 communications, and declared 9 communications admissible and 30 inadmissible. Consideration of 22 communications was discontinued (see chapter V for information on Optional Protocol decisions). So far, 1,577 communications have been registered since the entry into force of the Optional Protocol to the Covenant.

The Committee's procedure for following up on concluding observations, initiated in 2001, continued to develop during the reporting period. The Special Rapporteur for follow-up on concluding observations, Mr. Rafael Rivas Posada, presented progress reports during the Committee's eighty-eighth and ninetieth sessions. A new Special Rapporteur for follow-up on concluding observations, Sir Nigel Rodley, was designated on 27 July 2007. The Committee notes with satisfaction that the majority of States parties have continued to provide it with additional information pursuant to rule 70, paragraph 5, of its rules of procedure, and expresses its appreciation to those States parties that have provided timely follow-up information.

The Committee again deplores the fact that many States parties do not comply with their reporting obligations under article 40 of the Covenant. In 2001, therefore, it adopted a procedure to deal with this situation. It applied this procedure at its ninetieth session to examine, in the absence of a report, the measures taken by Grenada to give effect to the rights recognized in the Covenant. In accordance with rule 70 of its revised rules of procedure, the Committee adopted provisional concluding observations on the measures taken by the State party to give effect to the rights recognized in the Covenant and transmitted them to Grenada.

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The workload of the Committee under the Optional Protocol to the Covenant continued to grow during the reporting period, as demonstrated by the large number of cases registered. A total of 1,577 communications submitted under the Optional Protocol have been registered and at the end of the ninetieth session, 282 communications were pending (see chapter V).

The Committee again notes that many States parties have failed to implement the Views adopted under the Optional Protocol. The Committee has continued to seek to ensure implementation of its Views through its Special Rapporteur for follow-up to Views, Mr. Ivan Shearer, by arranging meetings with representatives of States parties that have not responded to the Committee's requests for information about measures taken to give effect to its Views, or that have given unsatisfactory replies (see chapter VI).

At the Committee's eighty-third session, Mr. Walter Kälin submitted an initial revised draft general comment on article 14 of the Covenant (right to equality before courts and tribunals and to fair trial). Consideration of the draft submitted by the Rapporteur continued during the eighty-eighth, eighty-ninth and ninetieth sessions. The draft was adopted by the Committee at its ninetieth session (annex VI).

Throughout the reporting period, the Committee continued to contribute to the discussion prompted by the Secretary-General's proposals for reform and streamlining of the treaty body system. The Chairperson, Mr. Rafael Rivas Posada, together with Mr. Abdelfattah Amor, represented the Committee at the nineteenth meeting of chairpersons of the human rights treaty bodies (21 and 22 June 2007) and Mr. Abdelfattah Amor and Mr. José Luis Sanchez-Cerro represented it at the sixth inter-committee meeting (18-20 June 2007).

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CHAPTER I. JURISDICTION AND ACTIVITIES

A. States parties to the International Covenant on Civil and Political Rights and to the First and Second Optional Protocols

1. By the end of the ninetieth session of the Human Rights Committee, there were 160 States parties to the International Covenant on Civil and Political Rights and 109 States parties to the Optional Protocol to the Covenant. Both instruments have been in force since 23 March 1976.

2. Since the last report, Andorra, Bahrain and the Maldives have become parties to the Covenant. Andorra, the Maldives and Turkey have acceded to the First Optional Protocol.

3. By 31 July 2007, 48 States had made the declaration envisaged under article 41, paragraph 1, of the Covenant. In this respect, the Committee appeals to States parties to make the declaration under article 41 of the Covenant and to use this mechanism, with a view to making implementation of the provisions of the Covenant more effective.

4. The Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty, entered into force on 11 July 1991. On 31 July 2007, there were 60 States parties to the Protocol, an increase of three (Andorra, South Africa and Moldova) since the Committee's last report.

5. The Republic of Montenegro, which was admitted as the 192nd member of the United Nations on 28 June 2006, informed the Secretary-General by a letter dated 10 October 2006 that the Government of the Republic of Montenegro had decided to succeed to the treaties to which the State Union of Serbia and Montenegro had been party (including the International Covenant on Civil and Political Rights and its two Optional Protocols).

6. A list of States parties to the Covenant and to the two Optional Protocols, indicating those States which have made the declaration under article 41, paragraph 1, of the Covenant, is contained in annex I to the present report.

7. Reservations and other declarations made by a number of States parties in respect of the Covenant or the Optional Protocols are set out in the notifications deposited with the Secretary-General. The Committee notes with satisfaction the notification dated 30 April 2007 from the Republic of Korea withdrawing its reservation to article 14, paragraph 5. Similarly, by notification dated 1 May 2007, Switzerland announced the withdrawal of its reservations to articles 10, paragraph 2 (b), and 14, paragraphs 1 and 5. The Committee once again urges States parties to consider withdrawing their reservations.

B. Sessions of the Committee

8. The Human Rights Committee has held three sessions since the adoption of its previous annual report. The eighty-eighth session was held from 16 October to 3 November 2006, the eighty-ninth session from 12 to 30 March 2007 and the ninetieth session from 9 to 27 July 2007. The eighty-eighth and eighty-ninth sessions were held at the United Nations Office at Geneva, and the ninetieth at United Nations Headquarters in New York.

C. Election of officers

9. On 14 March 2005, the Committee elected the following officers for a term of two years, in accordance with article 39, paragraph 1, of the Covenant:

Chairperson:	Ms. Christine Chanet
Vice-Chairpersons:	Mr. Maurice Glèlè-Ahanhanzo Ms. Elisabeth Palm Mr. Hipólito Solari Yrigoyen
Rapporteur:	Mr. Ivan Shearer

10. On 12 March 2007, the Committee elected the following new officers for a term of two years, in accordance with article 39, paragraph 1, of the Covenant:

Chairperson:	Mr. Rafael Rivas Posada
Vice-Chairpersons:	Mr. Ahmed Tawfik Khalil Ms. Elisabeth Palm Mr. Ivan Shearer
Rapporteur:	Mr. Abdelfattah Amor

11. During its eighty-eighth, eighty-ninth and ninetieth sessions, the Committee held nine Bureau meetings (three per session), with interpretation. Pursuant to the decision taken at the seventy-first session, the Bureau records its decisions in formal minutes, which are kept as a record of all decisions taken.

D. Special rapporteurs

12. The Special Rapporteur on new communications, Mr. Walter Kälin, registered 87 communications during the reporting period and transmitted them to the States parties concerned, and issued 10 decisions calling for interim measures of protection pursuant to rule 92 of the Committee's rules of procedure.

13. The Special Rapporteur for follow-up to Views, Mr. Ivan Shearer, and the Special Rapporteur for follow-up to concluding observations, Mr. Rafael Rivas Posada, assumed their functions during the reporting period. During the eighty-eighth, eighty-ninth and ninetieth sessions, Mr. Shearer presented interim reports on his follow-up activities to the plenary. Interim reports were also submitted to the Committee by Mr. Rivas Posada at the eighty-eighth and ninetieth sessions. The reports on follow-up to Views can be found in annex IX. Details on follow-up to Views under the Optional Protocol and to concluding observations appear in chapters VI and VII respectively. At the end of the ninetieth session, the Committee nominated Sit Nigel Rodley as the new Special Rapporteur for follow-up to concluding observations.

E. Working groups and country report task forces

14. In accordance with rules 62 and 89[1] of its rules of procedure, the Committee established a working group which met before each of its three sessions. The working group was entrusted with the task of making recommendations on the communications received under the Optional Protocol. The former working group on article 40, entrusted with the preparation of lists of issues concerning the initial or periodic reports scheduled for consideration by the Committee, has been replaced since the seventy-fifth session (July 2002) by country report task forces.[2] Country report task forces met during the eighty-eighth, eighty-ninth and ninetieth sessions to consider and adopt lists of issues on the reports of Algeria, Austria, Barbados, Botswana, Chile, Costa Rica, Czech Republic, Georgia, Libyan Arab Jamahiriya, Sudan, the former Yugoslav Republic of Macedonia and Zambia, and on the situation of civil and political rights in Grenada and Rwanda.[3]

15. The Committee benefits increasingly from information made available to it by the Office of the United Nations High Commissioner for Human Rights (OHCHR). United Nations bodies (the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Development Programme (UNDP)) and specialized agencies (the International Labour Organization (ILO) and the World Health Organization (WHO)) provided advance information on several of the countries whose reports were to be considered by the Committee. To that end, country report task forces also considered material submitted by representatives of a number of international and national human rights non-governmental organizations. The Committee welcomed the interest shown by and the participation of those agencies and organizations and thanked them for the information provided.

16. At the eighty-eighth session, the Working Group on Communications was composed of Mr. Bhagwati, Mr. Glèlè-Ahanhanzo, Mr. Johnson Lopez, Mr. Kälin, Mr. Tawfik Khalil, Ms. Palm, Mr. Rivas Posada, Mr. Lallah, Mr. Solari Yrigoyen and Mr. Roman Wieruszewski. Mr. Shearer was designated Chairperson-Rapporteur. The Working Group met from 9 to 13 October 2006.

17. At the eighty-ninth session, the Working Group on Communications was composed of Mr. Amor, Mr. Bhagwati, Mr. Glèlè-Ahanhanzo, Mr. Johnson Lopez, Mr. Tawfik Khalil, Mr. O'Flaherty, Ms. Palm, Mr. Rivas Posada, Mr. Shearer and Ms. Wedgwood. Mr. Amor was designated Chairperson-Rapporteur. The Working Group met from 5 to 9 March 2007.

18. At the ninetieth session, the Working Group on Communications was composed of Mr. Bhagwati, Ms. Chanet, Mr. Johnson Lopez, Mr. Kälin, Mr. Tawfik Khalil, Ms. Motoc, Mr. O'Flaherty, Mr. Rivas Posada and Sir Nigel Rodley. Ms Chanet was designated Chairperson-Rapporteur. The Working Group met from 2 to 6 July 2006.

F. Secretary-General's recommendations for reform of the treaty bodies

19. In his second report on further reform of the United Nations system (A/57/387 and Corr.1), the Secretary-General invited the human rights treaty bodies to further streamline their reporting procedures and suggested that, to enable States to meet the challenges that they faced under multiple reporting obligations, the States parties to the main human rights instruments should be permitted to submit a single or consolidated report which would cover the implementation of their obligations under all the instruments that they had ratified. The Committee has participated

in and contributed to the discussions prompted by the Secretary-General's proposals. At its seventy-sixth session, in October 2002, it set up an informal working group to analyse and discuss the proposals and report back to the plenary at the seventy-seventh session. At its seventy-seventh session, in March 2003, the plenary discussed the working group's recommendations. It did not consider the concept of a single or consolidated report to be a viable one, but adopted a recommendation which, if implemented, would enable States parties to submit to the Committee focused reports on the basis of lists of issues transmitted previously to the States parties concerned. This system would be applied after the presentation, by the States parties concerned, of an initial and one periodic report.

20. The Committee was represented at informal meetings on treaty body reform held at Malbun, Liechtenstein, from 4 to 7 May 2003 (see document HRI/ICM/2003/4) and from 14 to 16 July 2006, and at the second,[4] third,[5] fourth,[6] fifth and sixth inter-committee meetings, held respectively from 18 to 20 June 2003, on 21 and 22 June 2004, from 20 to 22 June 2005, from 19 to 21 June 2006 and from 18 to 20 June 2007, where this matter was also given consideration. Mr. Amor represented the Committee at the sixth inter-committee meeting.

21. During its eighty-second session, at its 2246th meeting on 1 November 2004, and its eighty-third session, at its 2264th meeting on 21 March 2005, the Committee considered the proposals on guidelines on an "expanded core document" and treaty-specific targeted reports and harmonized guidelines on reporting under the international human rights treaties.[7] On 29 March 2005, the Committee held, in particular, a discussion with Mr. K. Filali, Special Rapporteur to follow up the above-mentioned draft guidelines.

22. Mr. Wieruszewski and Ms. Palm respectively participated in the first (8 and 9 December 2005) and second meetings (15-17 February 2006) of the technical working group, established following a recommendation by the fourth inter-committee meeting to finalize the draft harmonized reporting guidelines. Both Committee members reported on the results of the technical working group at the Committee's eighty-sixth session.

23. Ms. Chanet chaired the eighteenth meeting of persons chairing the human rights treaty bodies (22 and 23 June 2006) and at the same time represented the Committee. At that meeting, participants accepted the revised harmonized guidelines and recommended that the committees should begin to apply them immediately, in a flexible manner, review their existing reporting guidelines for initial and periodic reports, and compile indications of any difficulties experienced in the implementation of the guidelines. They also recommended that the experiences of each committee implementing the guidelines should be reviewed at the seventh inter-committee meeting in 2008 (A/61/385).

24. During the eighty-seventh session, under its working methods, the Committee continued its discussion of the concept paper on the High Commissioner's proposal for a unified standing treaty body and decided to establish an intersessional working group on the reform of treaty bodies. The working group, comprising Mr. Amor and Mr. O'Flaherty, reported to the Committee at its eighty-eighth session. On 30 October 2006, the Committee formally issued its opinion on the idea of setting up a unified standing treaty body (annex V). Pursuant to a recommendation of the fifth inter-committee meeting and of the eighteenth meeting of persons

chairing the treaty bodies, an inter-committee working group on the harmonization of working methods of the treaty bodies was formed to study, among other things, the above-mentioned proposal to set up a unified standing treaty body. During the two meetings of this working group, on 27 and 28 November 2006 and 17 and 18 April 2007, Mr. Amor reported, in particular, on the opinion issued by the Committee. He also highlighted the content of the Committee's formal decision of 30 March 2007, in which it did not support the idea of setting up "a small group to examine the substantive elements of a proposal for the creation of a unified body for communications". The reports of those two meetings (HRI/MC/2007/2 and Add.1) were transmitted to the sixth inter-committee meeting, held from 18 to 20 June 2007, and the nineteenth meeting of persons chairing the treaty bodies, held on 21 and 22 June 2007. Mr. Amor also reported to the Committee, at its eighty-ninth and ninetieth sessions, on the outcome of the work of the working group.

25. This issue was also discussed at the sixth inter-committee meeting (18-20 June 2007) and the nineteenth meeting of persons chairing the treaty bodies (21 and 22 June 2007), at which the Committee was represented by Mr. Rivas Posada, Mr. Amor and Mr. Sanchez-Cerro.

G. Related United Nations human rights activities

26. At each session, the Committee was informed about the activities of United Nations bodies dealing with human rights issues. In particular, the relevant general comments and concluding observations of the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights and the Committee against Torture were made available to it. Recent developments in the General Assembly and relating to the Human Rights Council were also discussed.

27. Pursuant to a recommendation of the fourth inter-committee meeting and the seventeenth meeting of persons chairing the treaty bodies, an inter-committee working group was set up to study the secretariat report on the practice of treaty bodies with regard to reservations to international human rights treaties. This working group met on 8 and 9 June 2006 and on 14 and 15 December 2006 under the chairmanship of Sir Nigel Rodley, who also represented the Committee. The reports of these two meetings (HRI/MC/2006/5 and Rev.1 and HRI/MC/2007/5) were transmitted to the sixth inter-committee meeting, held from 18 to 20 June 2007, and the nineteenth meeting of persons chairing the treaty bodies, held on 21 and 22 June 2007. On 15 and 16 May 2007, Sir Nigel Rodley also attended, on behalf of the Committee, a meeting of bodies set up pursuant to the international human rights treaties with the International Law Commission, on the issue of reservations. Sir Nigel Rodley reported to the Committee, at its eighty-ninth and ninetieth sessions, on the outcome of the work of the working group and the discussions with the International Law Commission.

H. Derogations pursuant to article 4 of the Covenant

28. Article 4, paragraph 1, of the Covenant stipulates that, in time of public emergency, States parties may take measures derogating from certain of their obligations under the Covenant. Pursuant to paragraph 2, no derogation is allowed from articles 6, 7, 8 (paras. 1 and 2), 11, 15, 16 and 18. Pursuant to paragraph 3, any derogation must be immediately notified to other States parties through the intermediary of the Secretary-General. A further notification is required upon the termination of the derogation.[8]

29. During the period under review, the Government of Guatemala notified other States parties, through the intermediary of the Secretary-General, on 5 September 2006, of the declaration of a state of emergency in certain municipalities of one of the country's departments, by Government decree 1-2006 of 28 August 2006, and indicated the restrictions placed on certain rights and freedoms. On 18 September 2006, the Secretary-General received, from the Guatemalan Government, its decree 2-2006 of 31 August 2006, abrogating certain provisions of Government decree 1-2006.

30. On 27 September 2006, the Government of Peru notified other States parties, through the intermediary of the Secretary-General, of the adoption of decree 059-2006-PCM, published on 22 September 2006, which extended a state of emergency for a period of 60 days. The Government specified that, during the state of emergency, the rights covered by articles 9, 12, 17 and 21 of the Covenant would be suspended.

31. By notifications of 20, 23 and 26 October and 1 and 2 December 2006, and 24 January, 21 February, 30 March, 5 and 25 April and 11 June 2007, the Government of Peru extended and declared the state of emergency in different provinces and parts of the country. In these notifications, the Government specified the provisions of the Covenant from which it reserved the right to derogate. All these notifications can be consulted on the website of the United Nations Office of Legal Affairs.

I. Meetings with States parties

32. On 27 October 2006, during its eighty-eighth session, the Committee held a fourth meeting with States parties to the Covenant, at which it considered the following issues:

(a) Progress in working methods under the Optional Protocol;

(b) Progress in State party reports under article 40 of the Covenant;

(c) Follow-up to concluding observations;

(d) Follow-up to Views under the Optional Protocol;

(e) Reform of the treaty bodies.

33. Mr. Kälin reported on progress in working methods under the Optional Protocol. He explained the amendments adopted by the Committee relating to rule 93 of the rules of procedure, enabling the Working Group on Communications to declare communications inadmissible provided that no Committee member challenged such inadmissibility in the plenary. Meeting in plenary session, the Committee subsequently adopted, without further discussion, the Working Group's recommendations on inadmissibility. Mr. Kälin noted that this new procedure had successfully reduced the number of communications awaiting consideration by the Committee.

34. Sir Nigel Rodley reported on the Committee's concerns regarding delays in the submission of reports, in particular initial reports. He drew attention to the technical assistance and advice available to those preparing reports. He explained the procedure for the consideration of the situation of States parties whose reports were outstanding under rule 70 of the rules of procedure, and noted the need for the cooperation of the States parties concerned under this procedure. He also said that the Committee had developed guidelines for the compilation of its lists of issues and for the submission of written reports by States parties.

35. Mr. Rivas Posada and Mr. Shearer reported on the follow-up to concluding observations and Views under the Optional Protocol and stressed the need for cooperation from States parties.

36. Mr. Amor presented the Committee's view on the idea of establishing a single treaty body dealing with human rights (see annex V).

37. Representatives of 51 States parties took part in the meeting. The representatives of States parties and the Committee members had a constructive dialogue covering a large range of issues.

J. General comments under article 40, paragraph 4, of the Covenant

38. At the Committee's eighty-third session, Mr. Kälin submitted an initial revised draft general comment on article 14 of the Covenant (right to equality before the courts and a fair trial). The draft presented by the rapporteur was discussed at the eighty-eighth, eighty-ninth and ninetieth sessions. The draft was adopted by the Committee at its ninetieth session, on 24 July 2007 (annex VI).

39. At its eighty-fifth session, the Committee decided that, after adoption of the new general comment on article 14, a draft general comment on States parties' obligations under the Optional Protocol would be discussed.

K. Staff resources

40. The Committee reaffirms the importance of allocating more staff resources to the servicing of its Geneva and New York sessions and supporting greater awareness, understanding and implementation of its recommendations at the national level. This concern was reaffirmed in the Committee's view on the establishment of a unified standing treaty body (annex V).

L. Emoluments of the Committee

41. The Committee has noted with concern that since 2002 the emoluments for its members provided for in article 35 of the Covenant have been reduced by General Assembly resolution 56/272 from US$ 3,000 to the symbolic amount of US$ 1, which is in violation of the Covenant. The Committee continues to request appropriate review of the matter, in accordance with article 35 of the Covenant.

M. Publicity for the work of the Committee

42. At its eighty-third session, the Committee agreed that press conferences should be prepared sufficiently in advance and that in-session press conferences could be organized when relevant.

43. The Committee notes with satisfaction that press releases summarizing the most important final decisions under the Optional Protocol were issued after the eighty-eighth, eighty-ninth and ninetieth sessions. This practice helps to publicize the Committee's decisions under the Optional Protocol. The Committee further welcomes the creation and continued development of an electronic listserve, through which its concluding observations on reports examined under article 40 of the Covenant and final decisions adopted under the Optional Protocol are disseminated electronically to an ever-increasing number of individuals and institutions.

44. The regular updating of the OHCHR web page on the Human Rights Committee also contributes to better public awareness of the Committee's activities. Obviously, publicity for the work of the Committee must be enhanced to reinforce the protection mechanisms under the Covenant. In that context, the recent production by OHCHR of a DVD containing both a film and extensive documentation on the work of the treaty bodies is a positive initiative.

45. At its ninetieth session, the Committee discussed the need to elaborate a media strategy. This is a topic that will be considered in plenary during the ninety-first session, in October 2007.

N. Publications relating to the work of the Committee

46. The Committee notes with appreciation that volumes 5, 6, 7 and 8 of the Selected Decisions under the Optional Protocol have been published, bringing its jurisprudence up to date to the July 2005 session. Such publications will make the Committee's jurisprudence more accessible to the general public, and to the legal profession in particular. These volumes of the Selected Decisions must still be made available in all official languages of the United Nations, however.

47. The Committee welcomes the information on publication of its decisions adopted under the Optional Protocol in various databases (see A/59/40, vol. I, annex VII). It appreciates the growing interest in its work shown by universities and other institutions of higher learning. It also reiterates its previous recommendation that the treaty body database of the OHCHR website (www.unhchr.ch) should be equipped with adequate search functions.

O. Future meetings of the Committee

48. At its eighty-seventh session, the Committee confirmed the following schedule of its meetings for 2007: ninety-first session from 15 October to 2 November 2007. At its ninetieth session, the Committee confirmed the following schedule of its meetings for 2008: ninety-second session from 17 March to 4 April 2008; ninety-third session from 7 to 25 July 2008; and ninety-fourth session from 13 to 31 October 2008.

P. Adoption of the report

49. At its 2479th meeting, on 26 July 2007, the Committee considered the draft of its thirty-first annual report, covering its activities at its eighty-eighth, eighty-ninth and ninetieth sessions, held in 2006 and 2007. The report, as amended in the course of the discussion, was adopted unanimously. By virtue of its decision 1985/105 of 8 February 1985, the Economic and Social Council authorized the Secretary-General to transmit the Committee's annual report directly to the General Assembly.

Notes

[1] Rule 95 of the revised rules of procedure.

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

[3] As Rwanda had not submitted its third periodic report and a special report, due on 10 April 1992 and 31 January 1995 respectively, the Committee decided, at its eighty-seventh session, to consider the situation of civil and political rights in Rwanda at its eighty-ninth session (March 2007). On 23 February 2007, Rwanda gave a written undertaking to submit its third periodic report by the end of April 2007, thus obviating the need for the scheduled consideration of its civil and political rights situation in the absence of a report. It submitted its third periodic report on 23 July 2007.

[4] *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40* (A/58/40), vol. I, paras. 63 and 64.

[5] Ibid., *Fifty-ninth Session, Supplement No. 40* (A/59/40), vol. I, paras. 20-23.

[6] Ibid., *Sixtieth Session, Supplement No. 40* (A/60/40), vol. I, para. 20.

[7] Ibid., paras. 21 and 22, and HRI/MC/2004/3.

[8] Ibid., *Sixtieth Session, Supplement No. 40* (A/60/40), vol. I, chap. I, H.

CHAPTER II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT AND COOPERATION WITH OTHER UNITED NATIONS BODIES

50. The present chapter summarizes and explains the modifications introduced by the Committee to its working methods under article 40 of the Covenant in recent years, as well as recent decisions adopted by the Committee on follow-up to its concluding observations on State party reports.

A. Recent developments and decisions on procedures

51. In March 1999, the Committee decided that the lists of issues for the examination of States parties' reports should henceforth be adopted at the session prior to the examination of the report, thereby allowing a period of at least two months for States parties to prepare for the discussion with the Committee. The oral hearing, where the delegations of States parties respond to the list of issues and supplementary questions from Committee members, is central to the consideration of States parties' reports. States parties are invited to use the list of issues to prepare better for constructive dialogue with the Committee. While they are not required to submit written answers to the list of issues, they are encouraged to do so. At its eighty-sixth session, the Committee decided that States parties wishing to submit written replies would be encouraged to limit them to a total of 30 pages, without prejudice to further oral replies by the States parties' delegations, and to send written replies at least three weeks prior to the examination of reports so that they could be translated.

52. In October 1999, the Committee adopted new consolidated guidelines on the format and content of State party reports, which replaced all previous guidelines and which are designed to facilitate the preparation of initial and periodic reports by States parties. The guidelines provide for comprehensive initial reports prepared on an article-by-article basis and focused periodic reports dealing primarily with the concluding observations adopted by the Committee following the consideration of the previous report of the State party concerned. In their periodic reports, States parties need not report on every article of the Covenant but should concentrate on the provisions identified by the Committee in its concluding observations and those articles in respect of which there have been significant developments since the submission of the previous report. The revised consolidated guidelines were issued as document CCPR/C/66/GUI/Rev.2 (26 February 2001).[1]

53. For several years, the Committee has been concerned about the number of overdue reports and non-compliance by States parties with their obligations under article 40 of the Covenant.[2] Two working groups of the Committee proposed amendments to the rules of procedure in order to help States parties fulfil their reporting obligations and to simplify the procedure. These amendments were formally adopted during the seventy-first session, in March 2001, and the revised rules of procedure were issued (CCPR/C/3/Rev.6 and Corr.1).[3] All States parties were informed of the amendments to the rules of procedure, and the Committee has applied the revised rules since the end of the seventy-first session (April 2001). The Committee recalls that general comment No. 30, adopted at the seventy-fifth session, spells out the States parties' obligations under article 40 of the Covenant.[4]

54. The amendments introduce a procedure to be followed when a State party has failed to honour its reporting obligations for a long time, or requests a postponement of its scheduled appearance before the Committee at short notice. In both situations, the Committee may henceforth serve notice on the State concerned that it intends to consider, from material available to it, the measures adopted by that State party to give effect to the provisions of the Covenant, even in the absence of a report. The amended rules of procedure further introduce a follow-up procedure to the concluding observations of the Committee: rather than setting in the last paragraph of the concluding observations a date by which the State party's next report should be submitted, the Committee will invite the State party to report back to it within a specified period regarding its follow-up to the Committee's recommendations, indicating what steps, if any, it has taken. The responses received will thereafter be examined by the Committee's Special Rapporteur on follow-up to concluding observations, and a definitive deadline will then be set for the submission of the next report. Since the seventy-sixth session, the Committee has, as a rule, examined the progress reports submitted by the Special Rapporteur on a sessional basis.[5]

55. The Committee first applied the new procedure to a non-reporting State at its seventy-fifth session. In July 2002, it considered the measures taken by the Gambia to give effect to the rights set out in the Covenant, in the absence of a report and a delegation from the State party. It adopted provisional concluding observations on the situation of civil and political rights in the Gambia, which were transmitted to the State party. At its seventy-eighth session, the Committee discussed the status of the provisional concluding observations on the Gambia and requested the State party to submit by 1 July 2004 a periodic report that should specifically address the concerns identified in the Committee's provisional concluding observations. If the State party failed to meet the deadline, the provisional concluding observations would become final and the Committee would make them public. On 8 August 2003, the Committee amended rule 69A of its rules of procedure[6] to provide for the possibility of making provisional concluding observations final and public. At the end of its eighty-first session, the Committee decided to make the provisional concluding observations on the Gambia final and public, since the State party had failed to submit its second periodic report.

56. At its seventy-sixth session (October 2002), the Committee considered the situation of civil and political rights in Suriname, in the absence of a report but in the presence of a delegation. On 31 October 2002, it adopted provisional concluding observations which were transmitted to the State party. In its provisional concluding observations, the Committee invited the State party to submit its second periodic report within six months. The State party submitted its report by the deadline. The Committee considered the report at its eightieth session (March 2004) and adopted concluding observations.

57. At its seventy-ninth and eighty-first sessions (October 2003 and July 2004), the Committee considered the situation of civil and political rights in Equatorial Guinea and the Central African Republic, respectively, in the absence of both a report and a delegation in the first case, and in the absence of a report but in the presence of a delegation in the second case. Provisional concluding observations were transmitted to the States parties concerned. At the end of the eighty-first session, the Committee decided to make the provisional concluding observations on the situation in Equatorial Guinea final and public, the State party having failed to submit its initial report. On 11 April 2005, in conformity with the assurances it had made to the Committee at the eighty-first session, the Central African Republic submitted its second periodic report. The Committee considered the report at its eighty-seventh session (July 2006) and adopted concluding observations.

58. At its eightieth session (March 2004), the Committee decided to consider the situation of civil and political rights in Kenya at its eighty-second session (October 2004), as Kenya had not submitted its second periodic report, due on 11 April 1986. On 27 September 2004, Kenya submitted its second periodic report. The Committee considered the second periodic report of Kenya at its eighty-third session (March 2005) and adopted concluding observations.

59. At its eighty-third session, the Committee considered the situation of civil and political rights in Barbados, in the absence of a report but in the presence of a delegation, which pledged to submit a full report. Provisional concluding observations were transmitted to the State party. On 18 July 2006, Barbados submitted its third periodic report. The Committee considered the report at its eighty-ninth session (March 2007) and adopted concluding observations (chap. IV). As Nicaragua had not submitted its third periodic report, due on 11 June 1997, the Committee decided, at its eighty-third session, to consider the situation of civil and political rights in Nicaragua at its eighty-fifth session (October 2005). On 9 June 2005, Nicaragua gave assurances that it would submit its report by 31 December 2005 at the latest. Then, on 17 October 2005, Nicaragua informed the Committee that it would submit its report by 30 September 2006. At its eighty-fifth session (October 2006), the Committee requested Nicaragua to submit its report by 30 June 2006. Following a reminder from the Committee dated 31 January 2007, Nicaragua again undertook, on 7 March 2007, to submit its report by 9 June 2007. The third periodic report of Nicaragua was submitted on 20 June 2007.

60. At its eighty-sixth session (March 2006), the Committee considered the situation of civil and political rights in Saint Vincent and the Grenadines, in the absence of a report but in the presence of a delegation. Provisional concluding observations were transmitted to the State party. In accordance with the provisional concluding observations, the Committee invited the State party to submit its second periodic report by 1 April 2007 at the latest. On 12 April 2007, the Committee sent a reminder to the authorities of Saint Vincent and the Grenadines. In a letter dated 5 July 2007, Saint Vincent and the Grenadines undertook to submit its report within one month. As San Marino had not submitted its second periodic report, due on 17 January 1992, the Committee decided, at its eighty-sixth session, to consider the situation of civil and political rights in San Marino at its eighty-eighth session (October 2006). On 25 May 2006, San Marino gave assurances to the Committee that it would submit its report by 30 September 2006. San Marino submitted its second periodic report in conformity with that commitment.

61. As Rwanda had not submitted its third periodic report or a special report, due respectively on 10 April 1992 and 31 January 1995, the Committee decided, at its eighty-seventh session, to consider the situation of civil and political rights in Rwanda at its eighty-ninth session (March 2007). On 23 February 2007, Rwanda undertook, in writing, to submit its third periodic report by the end of April 2007, thereby obviating the planned consideration of the situation of civil and political rights in the absence of a report. The report was submitted on 23 July 2007.

62. At its eighty-eighth session (October 2006), the Committee decided to consider the situation of civil and political rights in Grenada at its ninetieth session (July 2007), as the State party had not submitted its initial report, due on 5 December 1992. The Committee proceeded to do so at its ninetieth session (July 2007), in the absence of a report and delegation but on the basis of written replies received from Grenada.

63. At its seventy-fourth session, the Committee adopted decisions spelling out the modalities for following up on concluding observations.[7] At its seventy-fifth session, it designated Mr. Yalden as its Special Rapporteur on follow-up to concluding observations. At the eighty-third session, Mr. Rivas Posada succeeded Mr. Yalden. At the ninetieth session, Sir Nigel Rodley was designated Special Rapporteur on follow-up to concluding observations.

64. Also at the seventy-fourth session, the Committee adopted a number of decisions on working methods designed to streamline the procedure for the consideration of reports under article 40.[8] The principal innovation consists in the establishment of country report task forces, consisting of no fewer than four and no more than six Committee members who will have the main responsibility for the conduct of debates on a State party report. The Committee notes that the establishment of these country report task forces has enhanced the quality of the dialogue with delegations during the consideration of State party reports. The first task forces were convened during the seventy-fifth session.

B. Concluding observations

65. Since its forty-fourth session in March 1992,[9] the Committee has adopted concluding observations. It takes the concluding observations as a starting point in the preparation of the list of issues for the consideration of the subsequent State party report. In some cases, the Committee has received, in accordance with rule 71, paragraph 5, of its revised rules of procedure, comments on its concluding observations and replies to the concerns identified by it from the States parties concerned, which are issued in document form. During the period under review, such comments were received from Albania, Canada, Greece, Iceland, Israel, Italy, Slovenia, the Syrian Arab Republic, Thailand, Uganda, Uzbekistan and the Bolivarian Republic of Venezuela. These replies have been issued as documents and can be consulted in the files of the Committee's secretariat, or on the OHCHR website (www.unhchr.ch, human rights treaty bodies, documents, category "concluding observations"). Chapter VII of the present report summarizes activities relating to follow-up to concluding observations and States parties' replies.

C. Links to other human rights treaties and treaty bodies

66. The Committee views the annual meeting of chairpersons of human rights treaty bodies as a forum for exchanging ideas and information on procedures and logistical problems, streamlining working methods, improving cooperation among treaty bodies, and stressing the need to obtain adequate secretariat services to enable all treaty bodies to fulfil their mandates effectively. In its opinion on the idea of creating a single human rights treaty body (annex V), the Committee proposed that the meeting of chairpersons of treaty bodies and the inter-committee meeting should be replaced by a single coordinating body composed of representatives of the various treaty bodies, which would be responsible for the effective oversight of all questions relating to the harmonization of working methods.

67. The nineteenth meeting of chairpersons of treaty bodies was held in Geneva on 21 and 22 June 2007; Mr. Rivas Posada participated. The sixth inter-committee meeting was held in Geneva from 18 to 20 June 2007. Representatives from each of the human rights treaty bodies attended. The Committee was represented by Mr. Amor and Mr. Sanchez-Cerro (see chapter I, section F).

D. Cooperation with other United Nations bodies

68. At its eighty-sixth session (March 2006), the Committee established a mandate of Rapporteur to liaise with United Nations specialized agencies and programmes in order to promote more effective interaction on both country-specific and thematic issues and follow-up. Mr. O'Flaherty was designated Rapporteur.

69. At the ninetieth session, Mr. Edwin Johnson Lopez took over from Mr. Solari Yrigoyen as Rapporteur mandated to liaise with the Office of the Secretary-General's Special Adviser on the Prevention of Genocide.

Notes

[1] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 40* (A/56/40), vol. I, annex III, sect. A.

[2] Ibid., chap. III, sect. B, and ibid., *Fifty-seventh Session, Supplement No. 40* (A/57/40), chap. III, sect. B.

[3] Ibid., *Fifty-sixth Session, Supplement No. 40* (A/56/40), vol. I, annex III, sect. B.

[4] Ibid., *Fifty-seventh Session, Supplement No. 40* (A/57/40), vol. I, annex VI.

[5] Except for the eighty-third session, when a new Special Rapporteur was designated.

[6] Rule 70 of the revised rules of procedure.

[7] *Official Records of the General Assembly, Fifty-seventh session, Supplement No. 40* (A/57/40), vol. I, annex III, sect. A.

[8] Ibid., vol. I, annex III, sect. B.

[9] Ibid., *Forty-seventh Session, Supplement No. 40* (A/47/40), chap. I, sect. E, para. 18.

CHAPTER III. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

70. Under article 2, paragraph 1, of the International Covenant on Civil and Political Rights, each State party undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant. In connection with this provision, article 40, paragraph 1, of the Covenant requires States parties to submit reports on the measures adopted and the progress achieved in the enjoyment of the various rights and on any factors and difficulties that may affect the implementation of the Covenant. States parties undertake to submit reports within one year of the entry into force of the Covenant for the State party concerned and, thereafter, whenever the Committee so requests. Under the Committee's current guidelines, adopted at its sixty-sixth session and amended at the seventieth session (CCPR/C/GUI/66/Rev.2), the five-year periodicity in reporting, which the Committee itself had established at its thirteenth session in July 1981 (CCPR/C/19/Rev.1), was replaced by a flexible system whereby the date for the subsequent periodic report by a State party is set on a case-by-case basis at the end of the Committee's concluding observations on any report, in accordance with article 40 of the Covenant and in the light of the guidelines for reporting and the working methods of the Committee.

A. Reports submitted to the Secretary-General from August 2006 to July 2007

71. During the period covered by the present report, 19 reports were submitted to the Secretary-General by the following States parties: Algeria (third periodic report), Botswana (initial report), Denmark (fifth periodic), Spain (fifth periodic), the former Yugoslav Republic of Macedonia (second periodic), France (fourth periodic), Georgia (third periodic), Ireland (third periodic), Libyan Arab Jamahiriya (fourth periodic), Japan (fifth periodic), Monaco (second periodic), Netherlands including Aruba (fourth periodic), Nicaragua (third periodic), Panama (third periodic), Rwanda (third periodic), San Marino (second periodic), Sweden (sixth periodic), Tunisia (fifth periodic) and United Kingdom of Great Britain and Northern Ireland (sixth periodic).

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

72. States parties to the Covenant must submit the reports referred to in article 40 of the Covenant on time so that the Committee can duly perform its functions under that article. Those reports are the basis for the discussion between the Committee and States parties on the human rights situation in States parties. Regrettably, serious delays have been noted since the establishment of the Committee.

73. The Committee is faced with a problem of overdue reports, notwithstanding its revised reporting guidelines and other significant improvements in its working methods. It has agreed that more than one periodic report submitted by a State party may be considered jointly. Under the Committee's reporting guidelines, the date for the submission of the next periodic report is stated in the concluding observations.

74. The Committee notes with concern that the failure of States parties to submit reports hinders the performance of its monitoring functions under article 40 of the Covenant. The list below identifies the States parties that have a report more than five years overdue, and those that have not submitted reports requested by a special decision of the Committee. The Committee reiterates that these States are in default of their obligations under article 40 of the Covenant.

States parties that have reports more than five years overdue (as at 31 July 2007) or that have not submitted a report requested by a special decision of the Committee

State party	Type of report	Date due	Years overdue
Gambia[a]	Second	21 June 1985	22
Equatorial Guinea[b]	Initial	24 December 1988	18
Somalia	Initial	23 April 1991	16
[Saint Vincent and the Grenadines[c]	Second	31 October 1991	15]
[Grenada[d]	Initial	5 December 1992	15]
Côte d'Ivoire	Initial	25 June 1993	14
Seychelles	Initial	4 August 1993	13
Angola	Initial/Special	9 April 1993/	13
Niger	Second	31 March 1994	13
Afghanistan	Third	23 April 1994	13
Ethiopia	Initial	10 September 1994	12
Dominica	Initial	16 September 1994	12
Guinea	Third	30 September 1994	12
Mozambique	Initial	20 October 1994	12
Cape Verde	Initial	5 November 1994	12
Bulgaria	Third	31 December 1994	12
Iran (Islamic Republic of)	Third	31 December 1994	12
Malawi	Initial	21 March 1995	12
Burundi	Second	8 August 1996	10
Chad	Initial	8 September 1996	10
Haiti	Initial	30 December 1996	10
Jordan	Fourth	27 January 1997	10
Malta	Initial	12 December 1996	10
Belize	Initial	9 September 1997	9
Nepal	Second	13 August 1997	9
Sierra Leone	Initial	22 November 1997	9
Turkmenistan	Initial	31 July 1998	9
Romania	Fifth	28 April 1999	8
Nigeria	Second	28 October 1999	7
Bolivia	Third	31 December 1999	7

State party	Type of report	Date due	Years overdue
Lebanon	Third	31 December 1999	7
South Africa	Initial	9 March 2000	7
Burkina Faso	Initial	3 April 2000	7
Iraq	Fifth	4 April 2000	7
Senegal	Fifth	4 April 2000	7
Ghana	Initial	8 February 2001	6
Ecuador	Fifth	1 June 2001	6
Armenia	Second	1 October 2001	5
Macao Special Administrative Region (China)[e]	Initial	31 October 2001	5
Belarus	Fifth	7 November 2001	5
Jamaica	Third	7 November 2001	5
Bangladesh	Initial	6 December 2001	5
India	Fourth	31 December 2001	5
Lesotho	Second	30 April 2002	5
Cyprus	Fourth	1 June 2002	5
Zimbabwe	Second	1 June 2002	5
United Republic of Tanzania	Fourth	1 June 2002	5
Mexico	Fifth	30 July 2002	5
Cambodia	Second	31 July 2002	5

[a] The Committee considered the situation of civil and political rights in the Gambia during its seventy-fifth session (July 2002) in the absence of a report and a delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session (July 2004), the Committee decided to convert them into final and public observations (see chapter II).

[b] The Committee considered the situation of civil and political rights in Equatorial Guinea during its seventy-ninth session (October 2003) in the absence of a report and delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session (July 2004), the Committee decided to convert them into final and public observations (see chapter II).

[c] The Committee considered the situation of civil and political rights in Saint Vincent and the Grenadines during its eighty-sixth session (March 2006) in the absence of a report but in the presence of a delegation. Provisional concluding observations were sent to the State party, with a request to submit its second periodic report by 1 April 2007. A reminder was sent on 12 April 2007. In a letter dated 5 July 2007, Saint Vincent and the Grenadines undertook to submit its report within one month (see chapter II).

[d] The Committee considered the situation of civil and political rights in Grenada at its ninetieth session (July 2007) in the absence of a report and a delegation but on the basis of written replies from the State party. Provisional concluding observations were sent to the State party, which is requested to submit its initial report by 31 December 2008.

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

75. The Committee once again draws particular attention to the fact that 34 initial reports have not yet been submitted (including the 22 overdue initial reports listed above). The result is frustration of a major objective of the Covenant, namely, to enable the Committee to monitor compliance by States parties with their obligations under the Covenant on the basis of States parties' reports. The Committee addresses reminders at regular intervals to all those States parties whose reports are significantly overdue.

76. With respect to the circumstances that are set out in chapter II, paragraphs 58 and 60 of the present report, the amended rules of procedure now enable the Committee to consider compliance by States parties that have failed to submit reports under article 40, or have requested a postponement of their scheduled appearance before the Committee.

77. At its 1860th meeting, on 24 July 2000, the Committee decided to request the Government of Kazakhstan to submit its initial report by 31 July 2001, notwithstanding the fact that no instrument of succession or accession had been received from Kazakhstan following its independence. By the time of the adoption of the present report, the initial report of Kazakhstan had still not been received. The Committee once again invites the Government of Kazakhstan to submit its initial report under article 40 at its earliest convenience. In this context, it welcomes the ratification of the Covenant by Kazakhstan on 24 January 2006.

CHAPTER IV. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

78. The following sections, presented country by country in the order followed by the Committee in its consideration of the reports, contain the concluding observations adopted by the Committee on States parties' reports considered at its eighty-eighth, eighty-ninth and ninetieth sessions. The Committee urges States parties to adopt corrective measures, where indicated, consistent with their obligations under the Covenant and to implement these recommendations.

79. Honduras

(1) The Committee considered the initial report of Honduras (CCPR/C/HND/2005/1 and HRI/CORE/1/Add.96/Rev.1) at its 2398th, 2399th and 2400th meetings (CCPR/C/SR.2398, 2399 and 2400), on 16 and 17 October 2006, and adopted the following concluding observations at its 2414th meeting (CCPR/C/SR.2414), on 27 October 2006.

Introduction

(2) The Committee notes with satisfaction the initial report of Honduras. It regrets, however, that the report was submitted more than six years late. It expresses appreciation for the frankness shown by the State party both in its report and in its written and oral replies. The Committee commends the high level of the State party's delegation and its willingness to answer the Committee's questions, which facilitated an open and constructive dialogue concerning the various problems that exist in its territory.

Positive aspects

(3) The Committee welcomes the State party's ratification of the Rome Statute of the International Criminal Court (2002), as well as its accession to the principal international human rights instruments, including the International Convention on the Elimination of All Forms of Racial Discrimination (2002), the two optional protocols to the Convention on the Rights of the Child (2002), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1996) and the Inter-American Convention on Forced Disappearance of Persons (2005).

(4) The Committee takes note with satisfaction of the legislative reforms carried out by the State party, particularly the constitutional abolition of the death penalty, the recent amendments to the Criminal Code, the adoption of the new Code of Criminal Procedure (1999) and the Children and Adolescents Code (1996), as well as the reduction in the number of pending cases as a result of the adoption of the adversarial criminal justice system. It further welcomes the establishment of the offices of National Human Rights Commissioner and Public Prosecutor.

Principal subjects of concern and recommendations

(5) The Committee recognizes the State party's efforts to identify cases of enforced disappearances, including the publication by the National Human Rights Commissioner of the preliminary report on enforced disappearances in Honduras in 1993, which contains a list of 183 disappeared persons. It is concerned, however, that the fact that enforced disappearance is not qualified as a crime in the Criminal Code has contributed to impunity and that the cases included in the aforementioned list have not yet been investigated, particularly in the light of the time that has elapsed since the publication of the report (arts. 2 and 6).

The State party should amend the Criminal Code in order to include the crime of enforced disappearance. It should also ensure that the cases of enforced disappearance are duly investigated, that those responsible are prosecuted and, where appropriate, punished and that the victims or their relatives receive fair and adequate compensation.

(6) The Committee takes note of the establishment of the National Women's Institute, as well as of the progress made in promoting the public participation of women, through the adoption of the Equal Opportunity for Women Act. However, the Committee regrets that discrimination against women, particularly with regard to access to and participation in publicly elected posts and in the public administration, persists in practice and that the existing system of open lists does not make it possible to ensure a sufficient proportion of women representatives (arts. 3, 25 and 26).

The State party should ensure adequate financing for the National Women's Institute, as well as the effective implementation of the legislative measures adopted to increase the participation of women in all areas of public life.

(7) The Committee welcomes the adoption of the Domestic Violence Act, and the creation of the 114 telephone hotline, which enables the police to assist women endangered by domestic violence. The Committee is concerned, however, at the persistence of a high number of violent deaths of women and of ill-treatment as a recurrent practice, as well as at the impunity of the aggressors (arts. 3 and 7).

The State party should take appropriate steps to combat domestic violence and ensure that those responsible are prosecuted and appropriately punished. The State party is invited to educate the general public about the need to respect women's rights and dignity, with a view to changing cultural patterns. The Committee also invites the State party to provide statistics on the number of interventions carried out in response to calls to the 114 telephone hotline.

(8) The Committee is concerned at the unduly restrictive legislation on abortion, particularly in cases where the life of the mother is endangered (art. 6).

The State party should amend its legislation so as to help women avoid unwanted pregnancies and ensure that they need not resort to clandestine abortions, which could endanger their lives. The State party should also amend its legislation on abortion in order to bring it into line with the Covenant.

(9) The Committee takes note of the establishment of the Commission for the Physical and Moral Protection of Children and other bodies to investigate children's deaths. However, it is concerned at the persistently high number of extrajudicial executions of children, which apparently target street children and members of youth gangs in particular (arts. 6 and 24).

The Committee urges the State party to investigate all cases of extrajudicial executions of children, prosecute those responsible and ensure that the relatives of the victims receive fair and adequate compensation. The Committee recommends that the State party consider the possibility of establishing an independent mechanism, such as a children's ombudsman. The State party should ensure that incidents of this kind do not occur in the future. It should hold training courses for officials who deal with children. It should also conduct campaigns to raise awareness of this problem among the general public.

(10) The Committee notes with concern the excessive use of force and firearms by security forces and prison staff, as a recurrent practice, including beatings and killings, particularly in adult penitentiaries and juvenile detention centres. It is particularly concerned that no measures have been taken to punish those responsible for the incidents at El Porvenir and San Pedro Sula prisons. Another cause for concern is the failure to apply in practice the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (arts. 6 and 7).

The State party should supply and keep track of all weapons belonging to police forces and provide them with appropriate human rights training in order to ensure respect for the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. The State party should ensure that allegations of excessive use of force are thoroughly investigated and that those responsible are prosecuted. The victims of such practices, or their relatives, should receive fair and adequate compensation.

(11) The Committee notes with concern the situation of street children, of whom there are an alarming number. Such children are at the greatest risk of violence and are vulnerable to trafficking for the purpose of sexual exploitation (arts. 7, 8 and 24).

The State party should take urgent and appropriate steps to identify the causes of the growing number of street children, develop programmes to address those causes, provide shelter for the children, identify, compensate and assist the victims of sexual abuse and conduct investigations to bring those responsible to justice.

(12) The Committee notes with concern the alarming spread of child labour, particularly in rural and indigenous communities (arts. 8 and 24).

The State party should take urgent steps to eliminate child labour and ensure that all children of school age attend school.

(13) The Committee is concerned at the frequent use of arrest on suspicion by members of the security forces, including mass round-ups based on appearance alone and with no warrant from a competent authority. It notes with concern the broad wording of new article 332 of the Criminal Code, which establishes the offence of "unlawful association", on the basis of which large numbers of juveniles have reportedly been detained, along with human rights activists and homosexuals (arts. 9 and 26).

The State party should ensure that detentions are carried out in accordance with the provisions of article 9 of the Covenant and that those detained are brought before a court without delay. It should also consider the possibility of amending article 332 of the Criminal Code so as to restrict the definition of the offence of unlawful association.

(14) The Committee takes note of the progress made by the State party, since the adoption of the new Code of Criminal Procedure, in relieving overcrowding by reducing the number of persons in pretrial detention. The Committee is concerned, however, at the persistently high proportion of prisoners in pretrial detention and at the lengthy duration of such detention (arts. 9 and 14).

The State party should continue to take the necessary steps to reduce the number of persons in pretrial detention as well as the duration of such detention.

(15) The Committee is concerned about prison conditions in the State party, namely, overcrowding, unsatisfactory conditions of imprisonment, including at times a lack of drinking water or sanitation, the failure to separate accused persons from convicts and the practice of keeping prisoners in isolation for prolonged periods. It is also concerned at the ease with which prisoners can obtain firearms and drugs. The situation of juveniles deprived of their liberty gives particular cause for concern (arts. 7 and 10).

The State party should improve prison conditions in order to bring them into line with the provisions of article 10 of the Covenant. It should also ensure the application of the Standard Minimum Rules for the Treatment of Prisoners adopted by the United Nations.

(16) The Committee notes the State party's implementation of selection procedures for judges in accordance with the Judicial Council Act. It is concerned, however, at the failure to establish an independent body to safeguard the independence of the judiciary and to supervise the appointment, promotion and professional conduct of judges (art. 14).

The State party should take effective action to safeguard judicial independence, including the prompt establishment of an independent body to safeguard the independence of the judiciary and to supervise the appointment, promotion and professional conduct of judges.

(17) The Committee welcomes the Supreme Court's ruling that the offence of "disrespect for authority", which had become a means of restricting freedom of expression, is unconstitutional. It is nevertheless concerned at the cases of harassment and deaths of journalists and human rights defenders, and at the apparent impunity of the perpetrators (arts. 19 and 6).

The State party should take the necessary steps to prevent any harassment of journalists and human rights defenders and ensure the full implementation of the provisions of article 19 of the Covenant. The State party should also ensure that those responsible for the deaths of journalists and human rights defenders are prosecuted and punished and that the relatives of the victims are duly compensated.

(18) The Committee takes note of the State party's efforts to register all births. It regrets, however, the persistently high number of unregistered children, particularly in rural areas and indigenous communities (arts. 16, 24 and 27).

The Committee recommends that the State party adopt the necessary programme and budgetary measures to ensure the registration of births and of unregistered adults.

(19) The Committee is concerned at various problems affecting indigenous communities, particularly discrimination in the areas of health, employment and education, as well as indigenous communities' land rights. It is concerned at the failure to include in the Agrarian Reform Act a specific article on the recognition of title to ancestral indigenous lands (art. 27).

The State party should guarantee members of indigenous communities the full exercise of the right to enjoy their own culture. It should take the necessary steps to resolve the problems related to ancestral indigenous lands.

(20) The Committee requests that the State party's initial report and these concluding observations be published and widely disseminated throughout the State party in all official languages.

(21) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on the assessment of the situation and the implementation of the Committee's recommendations in paragraphs 9, 10, 11 and 19.

(22) The Committee requests the State party to provide in its next report, which it is scheduled to submit by 31 October 2010, information on the other recommendations made and on the Covenant as a whole.

80. **Bosnia and Herzegovina**

(1) The Committee considered the initial report of Bosnia and Herzegovina (CCPR/C/BIH/1) at its 2402nd, 2403rd and 2404th meetings (CCPR/C/SR.2402, 2403 and 2404), on 18 and 19 October 2006, and adopted the following concluding observations at its 2419th meeting (CCPR/C/SR.2419), on 1 November 2006.

Introduction

(2) The Committee welcomes the submission, albeit late, of the State party's initial report, as well as its written replies provided in advance by the delegation. It appreciates the detailed answers given by the delegation to the Committee's written and oral questions and the information it provided on the preparation of the report.

(3) The Committee regrets the absence of representatives of the Entities in the State party's delegation.

Positive aspects

(4) The Committee notes that the provisions of the Covenant have the rank of constitutional law and can be directly applied in the courts of the State party.

(5) The Committee welcomes the adoption, in March 2006, of a Law on Amendments to the Law on the Ombudsman for Human Rights in Bosnia and Herzegovina, which establishes a single independent Ombudsman Institution at the State level.

(6) The Committee notes with appreciation the establishment of a State Gender Agency and of Gender Centres in the Entities vested with competence to make inquiries into individual cases of alleged violations of the Gender Equality Law.

(7) The Committee welcomes the State party's reform of its criminal law and judicial system, in particular:

(a) The adoption of a Law on Protection from Violence in the Family providing for a range of protective measures and the fact that domestic violence and trafficking in persons have been established as discrete crimes in the State and Entity criminal codes;

(b) The adoption of State and Entity laws on protection of witnesses; and

(c) The establishment of a War Crimes Chamber at the Court of Bosnia and Herzegovina vested with competence to deal with war crimes cases transferred to it from the International Criminal Tribunal for the Former Yugoslavia and of a State Investigation and Protection Agency within the Ministry of Security to enhance cooperation by the police with war crimes prosecutors.

Principal subjects of concern and recommendations

(8) The Committee is concerned that, after the rejection of the relevant constitutional amendment on 26 April 2006, the State Constitution and Election Law continue to exclude "others", i.e. persons not belonging to one of the State party's "constituent peoples" (Bosniaks, Croats and Serbs), from being elected to the House of Peoples and to the tripartite Presidency of Bosnia and Herzegovina (arts. 2, 25 and 26).

The State party should reopen talks on the constitutional reform in a transparent process and on a wide participatory basis, including all stakeholders, with a view to adopting an electoral system that guarantees equal enjoyment of the rights under article 25 of the Covenant to all citizens irrespective of ethnicity.

(9) The Committee is concerned that the Covenant has not been translated into the official languages of Bosnia and Herzegovina and that judges, prosecutors and lawyers are not fully aware of the direct applicability of the provisions of the Covenant (art. 2).

The State party should give wide publicity to the provisions of the Covenant, inter alia, by translating it into the official languages of Bosnia and Herzegovina and by improving training provided to judges, prosecutors and lawyers on the application of the Covenant.

(10) The Committee regrets the failure to adopt an appropriate law on the establishment of a committee for truth and reconciliation, as well as of other initiatives to promote reconciliation (art. 2).

The State party should intensify its efforts to adopt a systematic approach to re-establishing mutual trust between different ethnic groups and accounting for past human rights abuses.

(11) The Committee notes with concern that, despite the introduction of quotas in the Election Law of Bosnia and Herzegovina requiring political parties to nominate at least 30 per cent women candidates, women are still underrepresented in legislative and executive bodies at all levels (arts. 3 and 25, para. (c)).

The State party should harmonize the quota system of the Election Law with the requirements of the Gender Equality Law and take special measures in addition to statutory quotas to enhance the representation of women in all legislative and executive bodies.

(12) The Committee is concerned about the reported lack of implementation of the State and Entity laws on protection against domestic violence, underreporting, lenient sentences for perpetrators and inadequate assistance for victims of acts of domestic violence in both Entities (arts. 3 and 7).

The State party should ensure the effective implementation of the legislation to combat domestic violence, intensify the training provided to judges, prosecutors and law enforcement officers on the application of such legislation, as well as to hospital and other staff working with victims of domestic violence and child abuse, introduce standard procedures for the collection of medical evidence of domestic violence, and enhance victim assistance programmes and access to effective remedies.

(13) The Committee expresses concern about the underfunding of district and cantonal courts dealing with war crimes cases and the unsatisfactory implementation of witness protection legislation at the Entity level (arts. 6, 7 and 14).

The State party should allocate sufficient funds and human resources to the district and cantonal courts trying war crimes and ensure the effective application of the State and Entity laws on protection of witnesses.

(14) The Committee notes with concern that the fate and whereabouts of some 15,000 persons who went missing during the armed conflict (1992-1995) remain unresolved. It reminds the State party that the family members of missing persons have the right to be informed about the fate of their relatives and that failure to investigate the cause and circumstances of death, as well as to provide information relating to the burial sites, of missing persons increases the uncertainty and, therefore, the suffering inflicted on family members and may amount to a violation of article 7 of the Covenant (art. 2, para. 3, and arts. 6 and 7).

The State party should take immediate and effective steps to investigate all unresolved cases of missing persons and ensure without delay that the Institute for Missing Persons becomes fully operational, in accordance with the Constitutional Court's decision of 13 August 2005. It should ensure that the central database of missing persons is finalized and accurate, that the Fund for Support to Families of Missing Persons is secured and that payments to families commence as soon as possible.

(15) The Committee notes with concern that, under the Federation Law on the Basics of Social Care, Protection of Civil Victims of War and Protection of Families with Children, torture victims, with the exception of victims of rape and sexual violence, must prove at least 60 per cent bodily harm in order to be recognized as civilian victims of war, and that this requirement may exclude victims of mental torture from personal disability benefits. The Committee is also concerned that personal disability benefits received by civilian victims of war are significantly lower than those received by war veterans in both Entities (arts. 2, 7 and 26).

The State party should ensure that victims of mental torture are granted victim of war status in both Entities and that the personal disability benefits received by civilian victims of war are harmonized among the Entities and cantons and adjusted to the personal disability benefits received by war veterans. The State party should include in its next periodic report updated statistical information on the number of victims of mental torture and/or sexual violence receiving disability benefits, disaggregated by sex, age, ethnic group and place of residence, as well as on the amount of such benefits.

(16) The Committee is concerned about the incidence of trafficking in persons, especially women and ethnic minority children, for purposes of prostitution or forced labour such as organized begging in the streets, and about the leniency of the sentences imposed on perpetrators of such acts of trafficking. It is also concerned about the failure to make adequate budgetary provisions for the State party's anti-trafficking programmes and the high dependency of such programmes on international donors (art. 8).

The State party should ensure that the perpetrators of acts of trafficking in persons are effectively prosecuted; that judges, prosecutors and law enforcement officers receive intensified training on the application of anti-trafficking and anti-corruption standards; that sufficient funds are allocated from the State budget to victim

assistance and witness protection programmes; and that effective measures are taken to combat the exploitation of children, especially Roma and other ethnic minority children, for the purpose of street begging or other forced labour.

(17) While acknowledging the existence of significant legal guarantees against arbitrary detention and possible ill-treatment, the Committee is concerned at the possibility of 72-hour detention in police custody and at the information suggesting that detainees are not always informed of their rights, including the right of legal representation, at the stages of both prosecutorial and judicial authorization for pretrial detention, and at the limited access to prosecutorial motions for detention (arts. 7 and 9).

The State party should ensure that all personnel involved in the administration of justice ensure full implementation of the rights of those deprived of freedom and that such persons are guaranteed full equality of arms.

(18) The Committee notes with concern that, under article 132 (d) of the Code of Criminal Procedure of Bosnia and Herzegovina, criminal suspects can be placed in pretrial detention if the alleged offence is punishable by a prison sentence exceeding 10 years solely on the ground that the judge finds that reasons of public security or security of property warrant such detention (art. 9).

The State party should consider removing from the Code of Criminal Procedure of Bosnia and Herzegovina the ill-defined concept of public security or security of property as a ground for ordering pretrial detention.

(19) The Committee is concerned about the poor conditions of detention in Entity police establishments and prisons, which are frequently overcrowded, understaffed, insufficiently equipped and offer inadequate out-of-cell activities and exercise. It is also concerned about poor material and hygienic conditions, lack of qualified staff and inadequate, pharmacotherapy-based treatment of mental health patients and inmates, in particular at Zenica Prison Forensic Psychiatric Annex and also at Sokolac Psychiatric Hospital (arts. 7 and 10).

The State party should improve the material and hygienic conditions in detention facilities, prisons and mental health institutions in both Entities and ensure sufficient staffing levels, as well as regular exercise and out-of-cell activities for inmates and adequate treatment of mental health patients. It should transfer all patients from Zenica Prison Forensic Psychiatric Annex and, to that end, ensure that Sokolac Psychiatric Hospital meets international standards.

(20) The Committee notes with concern that, despite the return of housing units to their pre-armed-conflict owners and the allocation of significant funds to the reconstruction of demolished housing units, many refugees and internally displaced persons have still not returned to their pre-armed-conflict places of residence or have left again after having returned there (art. 12).

The State party should increase its efforts to create the necessary conditions for sustainable returns, i.e. by combating discrimination against minority returnees, ensuring the social reintegration of returnees and their equal access to employment, education, and social and public services, such as water and electricity, and further demining areas with significant returnee populations.

(21) The Committee is concerned about the poor conditions in collective centres housing some 7,000 internally displaced persons, many of whom belong to ethnic minority or other vulnerable groups (arts. 17 and 26).

The State party should proceed with the phasing out of collective centres for internally displaced persons and provide adequate alternative housing to the residents of such centres.

(22) The Committee is concerned about the frequent failure of health institutions to issue birth certificates for Roma children whose parents have no health insurance or other means to pay hospital fees, although this documentation is necessary for registering a child with the public authorities and for the child's access to basic rights such as health insurance and education (arts. 16 and 24, para. 2).

The State party should remove administrative obstacles and fees in order to ensure that all Roma are provided with personal documents, including birth certificates, which are necessary for them to have access to health insurance, social security, education and other basic rights.

(23) The Committee notes with concern that the State party intends to forcibly relocate the inhabitants of the Roma settlement at Butmir, purportedly because it lacks the necessary infrastructure to prevent pollution of the water supply, while no such relocation plan exists for the non-Roma families living across the street. It also notes with concern that the relocation plan reportedly lacks any detail as to the legal remedies and compensation available to the Roma families concerned (arts. 2, 17 and 26).

The State party should reconsider the relocation plan for the Roma settlement at Butmir, taking into account the residence entitlements of the inhabitants of the settlement, which has existed for 40 years, as well as alternative solutions to prevent pollution of the water supply. The State party is reminded that any relocation must be carried out in a non-discriminatory manner and must comply with international human rights standards, including the rights of the individuals concerned to an effective remedy, compensation and provision of adequate alternative housing.

(24) The Committee is concerned by reports of discrimination and violence perpetrated against the Roma and notes the lack of information in the State party's report on the opportunities for the Roma to receive instruction in and on their language and on their culture (arts. 26 and 27).

The State party should vigorously undertake programmes of public information to combat anti-Roma prejudice in society. It should also include in its next periodic report detailed information on the measures implemented to give effect to the linguistic and educational rights of the Roma that are protected under the Law on the Protection of Rights of Persons Belonging to National Minorities, the

effectiveness of these measures, the number of Roma children receiving instruction in or on their language and on their culture, as well as data disaggregated by sex, age and place of residence, and information regarding the hours of instruction per week.

(25) The Committee is concerned about reports on the provocative use of religious and national symbols, which has a discriminatory effect on members of certain ethnic groups, and about the lack of implementation of the Constitutional Court decision of 31 March 2006 concerning the use of flags, coats of arms and anthems at the Entity level.

The State party should take effective measures to eliminate such discriminatory practices and implement the decision of the Constitutional Court of 31 March 2006 concerning the use of flags, coats of arms and anthems.

(26) The Committee sets 1 November 2010 as the date for the submission of the second periodic report of Bosnia and Herzegovina. It requests that the State party's initial report and the present concluding observations be published and widely disseminated in the official languages of the State party, to the general public, as well as to the judicial, legislative and administrative authorities. It also requests that the second periodic report be made available to civil society and to non-governmental organizations operating in the country.

(27) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 8, 14, 19 and 23 above. The Committee requests the State party to include in its next periodic report information on the remaining recommendations and on the implementation of the Covenant as a whole.

81. **Ukraine**

(1) The Committee considered the sixth periodic report of Ukraine (CCPR/C/UKR/6) at its 2407th and 2408th meetings (CCPR/C/SR.2407 and 2408), on 23 October 2006, and adopted the following concluding observations at its 2422nd meeting (CCPR/C/SR.2422), on 2 November 2006.

Introduction

(2) The Committee welcomes the State party's timely submission of its periodic report, prepared in conformity with the reporting guidelines. It expresses appreciation for the dialogue with the State party delegation, as well as for the answers provided to the Committee. The State party attempted to provide concrete information on its implementation of the Covenant.

(3) The Committee benefited from the presence of two representatives of the Office of the Ombudsman and notes the productive nature of the Ombudsman's recommendations, even though many are not yet implemented. However, the Committee regrets the absence of more extensive reporting from non-governmental organizations and the absence of broad representation from national human rights organizations prior to the dialogue with the State party.

Positive aspects

(4) The Committee notes with satisfaction:

(a) The adoption of a statute seeking to promote equal rights and opportunities for women and men, on 8 September 2005, and of a national plan of action for 2001-2005 to improve the position of women in public life and promote gender equality;

(b) The measures undertaken to combat the trafficking of women, such as the adoption of legislation to prosecute and punish the offenders;

(c) The establishment of a witness protection programme;

(d) The publication, with the support of the United Nations Development Programme, of a compilation of concluding observations and recommendations of the United Nations treaty bodies on reports of Ukraine in the area of human rights.

Principal subjects of concern and recommendations

(5) The Office of the Ombudsman lacks adequate resources for its work, even though it has key responsibilities, including processing complaints about serious problems, such as prison violence and ethnic discrimination. Many of the Ombudsman's reform proposals have not been acted on by the legislature (art. 2).

The State party should increase the resources of the Office of the Ombudsman to enable it to carry out its work effectively, in particular by increasing its capacity to investigate and remedy both individual complaints and systemic problems.

(6) The Committee is concerned that article 64 of the Constitution of Ukraine is not consistent with article 4 of the Covenant.

The State party should ensure that the provisions concerning states of emergency are compatible with article 4 of the Covenant. In this regard, the Committee draws the attention of the State party to its general comment No. 29 (2001) on derogations during a state of emergency.

(7) Some members of the police have mistreated persons arrested on criminal charges and persons held in detention; incidents include the fatal beating of a 36-year-old man in Zhytomyr on 7 April 2005, the fatal beating of a man in the Kharkiv detention centre on 17 December 2005 and the death of Mykola Zahadhevsky in pretrial detention in April 2004. The Committee notes the forthright admission of the Human Rights Ombudsman, on 11 October 2005, that acts of torture continue to occur in pretrial detention facilities (art. 6).

The State party should ensure the safety and proper treatment of all persons held in custody by the police, including by taking the measures necessary to guarantee freedom from torture and from cruel, inhuman or degrading treatment. The State party should consider the establishment of an independent police complaints mechanism, such as a civilian police review board, as well as the safeguard of

videotaping the interrogation of criminal suspects. The State party should also provide for the independent inspection of detention facilities, with the authority to interview any inmate in private.

(8) Criminal suspects have been held by the police for 72 hours as a "temporary preventive measure", prior to being arraigned before a judge. This practice is incompatible with the right to be brought promptly before a judge (art. 9).

The State party should limit the length of police custody and pretrial detention, in a manner compatible with article 9 of the Covenant.

(9) The State party has deported persons to countries where they face the risk of torture or cruel, inhuman or degrading treatment, without allowing them to file an appeal against the deportation order. The deportation of 10 Uzbeks in February 2006 is one example of this practice (arts. 7, 9 and 13).

The State party should not expel or deport aliens to any country where there is a risk of torture or ill-treatment and should permit aliens to file an appeal against any first-instance deportation order before the deportation is carried out.

(10) The State party has taken measures to combat domestic violence, including the adoption of a Domestic Violence Act and the establishment of crisis centres and medical and social rehabilitation centres for the victims. Nonetheless, the Committee remains concerned about the persistence of this serious crime. In addition, the centres are unavailable for women who are over the age of 35. The Committee is also concerned by the provision in the law regarding the behaviour of the victim, which authorizes official warnings to be given to victims of domestic violence about "provocative" behaviour (arts. 7 and 26).

The State party should intensify its efforts to combat domestic violence and ensure that social and medical centres for rehabilitation are available to all victims, regardless of their age and gender. It should also ensure that any notion of victim behaviour is not used as a pretext for impunity.

(11) There is grave overcrowding in detention and prison facilities, and a lack of adequate sanitation, light, food, medical care and facilities for physical exercise. The high incidence of HIV/AIDS and tuberculosis among detainees in facilities of the State party is also a cause for concern, along with the absence of specialized care for pretrial detainees (art. 10).

The State party should guarantee the right of detainees to be treated humanely and with respect for their dignity, particularly by relieving overcrowding, providing hygienic facilities and assuring access to health care and adequate food. The State party should reduce the prison population, including by using alternative sanctions.

(12) While the State party has announced plans to make the transition to all-volunteer armed forces, the right to conscientious objection to mandatory military service should be fully respected. Conscientious objection has been accepted only for religious reasons, and only for certain religions.

The State party should extend the right to conscientious objection to mandatory military service to persons who hold non-religious beliefs grounded in conscience, as well as beliefs grounded in all religions.

(13) New recruits in the armed forces are still subjected to the abusive practice of "hazing", including acts of considerable violence, such as the hazing death of a soldier from the Zhytomyr region in January 2005 (arts. 7 and 18).

The State party should ensure that the practice of "hazing" in the armed forces is stopped, including by facilitating the intervention of the Ombudsman and the adoption of disciplinary measures.

(14) Violent attacks against journalists, as well as the harassment of journalists, still pose a persistent threat to the freedom of the press. The Committee is concerned at the assassination of journalist Heorhiy Gongadze in November 2000, the killing of Ihor Alexsandrov, director of the Donetsk regional television station, in 2001, and the death of Volodymr Karachevtsev, head of the Melitopol independent journalists union, in December 2003 (arts. 6 and 19).

The State party should protect the freedom of opinion and expression, including the right to freedom of the press. The State party should vigorously investigate and prosecute attacks against journalists.

(15) During the 2004 elections, students participating in a peaceful protest march to Kyiv were arrested and detained en masse (art. 21).

The State party should ensure that there are clear standards protecting the right of individuals to engage in peaceful assembly and to exercise the right of free expression.

(16) Problems of anti-Semitism and impositions on Muslim religious activities persist in Ukraine. Members of the Jewish community, including Jewish school students, Yeshiva students, and a rabbi and his son, have suffered physical assaults in Kyiv. The Committee is also concerned about the anti-Semitic activities of the Inter-Regional Academy of Personnel Management. In addition, there are unresolved claims for restitution of Muslim religious property, including places of worship, and discrimination against the Tatar community in the Crimea (arts. 20 and 26).

The State party should ensure that all members of ethnic, religious or linguistic minorities are protected against violence and discrimination. The State party should provide robust remedies against these problems. The next periodic report of the State party should contain information on human rights training for the police, and on the investigation and prosecution of acts of private violence.

(17) Despite the State party's efforts to strengthen the independence and efficiency of the judiciary, corruption remains a persistent problem and the process for appointment of judges is not transparent (art. 14).

The State party should promote the integrity of the judiciary by providing adequate remuneration for judges and by establishing an independent body responsible for appointing, promoting and disciplining judges.

(18) Despite the progress made, the role of women in Ukraine is still restricted. There are few women in government, women generally earn less than men, and gender-discriminatory job advertisements are still used to recruit new employees (arts. 3 and 26).

The State party should continue to recruit women for public office, should prohibit and police discriminatory job advertisements, and should consider a legislative or administrative standard requiring equal pay for equal work.

(19) The Committee sets 2 November 2011 as the date for the submission of the seventh periodic report of Ukraine. It requests that the sixth periodic report and these concluding observations should be published and widely disseminated to the general public of the State party, as well as to judicial, legislative and administrative authorities. The non-governmental organizations operating in the country should be involved in the preparation of the seventh periodic report.

(20) In accordance with the Committee's rules of procedure, in particular rule 71, paragraph 5, the State party should submit information, within one year, on the follow-up given to the Committee's recommendations in paragraphs 7, 11, 14 and 16 above. The Committee requests the State party to include information in its next periodic report on the other recommendations and on the implementation of the Covenant as a whole.

82. **Republic of Korea**

(1) The Human Rights Committee considered the third periodic report of the Republic of Korea (CCPR/C/KOR/2005/3) at its 2410th and 2411th meetings (CCPR/C/SR.2410 and 2411), on 25 and 26 October 2006, and adopted the following concluding observations at its 2422nd meeting (CCPR/C/SR.2422), on 2 November 2006.

Introduction

(2) The Committee welcomes the submission by the Republic of Korea of its third periodic report, which was prepared in conformity with the reporting guidelines. The Committee commends the high-level delegation and the constructive dialogue with the delegation, which provided responses to the written and oral questions formulated by the Committee.

Positive aspects

(3) The Committee welcomes the establishment of the National Human Rights Commission in 2001, in conformity with the standards set out in the Paris Principles.

(4) The Committee notes with appreciation the initiatives undertaken to promote non-discrimination regarding women, including the establishment of the Ministry of Gender Equality and the introduction of the Basic Plan for the Realization of Gender Equal Employment and of a recruitment target scheme for women.

(5) The Committee welcomes the measures taken in order to combat domestic violence, in particular the nomination of special prosecutors charged with handling such crimes.

(6) The Committee also welcomes the adoption by the National Assembly in March 2005 of the Civil Code amendment, which includes the abolition of the family head system and which will come into force in 2008.

Principal areas of concern and recommendations

(7) The Committee remains concerned about the absence of domestic measures giving effect to the Views on Communications adopted by the Committee in respect of the Republic of Korea.

> **When the Committee has adopted its Views, the State party should immediately proceed to give effect to them.**

(8) The Committee notes that the State party has stated its intention to withdraw its reservation to article 14, paragraph 5, of the Covenant; however, it regrets that the State party intends to maintain its reservation to article 22.

> **The State party is invited to withdraw its reservation to article 14, paragraph 5, of the Covenant. The State party is also encouraged to withdraw its reservation to article 22.**

(9) While taking note of the draft counter-terrorism laws that are currently before the Legislation and Judiciary Committee, the Committee regrets that insufficient information was provided in relation to existing or proposed counter-terrorism legislation and that no definition of terrorism was provided (arts. 2, 9, 10, 13, 14, 17 and 26).

> **The State party should ensure that all counter-terrorism and related legislative measures are in conformity with the Covenant. In particular, national rules concerning the interception of communications, searches, detention and deportation should be in strict conformity with the relevant Covenant provisions. The State party should introduce a definition of "terrorist acts" in its domestic legislation.**

(10) The Committee remains concerned at the high number of women employed in small enterprises who are categorized as non-regular workers. It is also concerned that women are underrepresented in high-level positions in the political, legal and judicial spheres (arts. 2, 3 and 26).

> **The State party should take necessary legal and practical measures to increase the effective participation of women in the political, legal and economic sectors. In addition, initiatives to increase the representation of women in high-level positions in the National Assembly and the judiciary should be undertaken.**

(11) Notwithstanding a variety of measures and programmes intended to combat domestic violence, the Committee regrets the lack of progress in the prosecution and punishment of those responsible for domestic violence. The Committee is concerned that specific legal provisions on domestic violence, including marital rape, are lacking in the State party's legislation (arts. 3, 7 and 26).

> **The State party should assess the effectiveness of the measures taken by it to combat domestic violence. The Committee also recommends that the penal legislation of the State party be reformed to establish marital rape as a criminal offence. Law**

enforcement officials, in particular police officers, should be provided with appropriate training to deal with cases of domestic violence, and awareness-raising efforts should continue so as to sensitize the public.

(12) The Committee is concerned that migrant workers face persistent discriminatory treatment and abuse in the workplace and are not provided with adequate protection and redress. The confiscation and retention of official identification papers of such workers is also of concern (arts. 2, 22 and 26).

The State party should guarantee migrant workers' enjoyment of the rights contained in the Covenant without discrimination. In this regard, particular attention should be paid to ensuring equal access to social services and educational facilities, as well as the right to form trade unions and the provision of adequate forms of redress.

(13) The Committee is concerned about allegations of torture and other forms of ill-treatment in places of detention. Moreover, the Committee regrets the continued practice of certain forms of disciplinary punishment, in particular the use of manacles, chains and face masks, and the continuation of disciplinary punishment through the "stacking" of 30-day periods of isolation without any apparent time limit. In the light of this, the Committee is also concerned at the lack of thorough investigation and adequate punishment of the responsible officials (arts. 7 and 9).

The State party should take appropriate measures to prevent all forms of ill-treatment by law enforcement officials in all places of detention, including mental health hospitals. Such measures may include investigations by independent bodies, independent inspection of facilities and videotaping of interrogations. The State party should prosecute perpetrators of such acts and ensure that they are punished in a manner proportionate to the seriousness of the offences committed by them, and grant effective remedies, including compensation, to victims. In addition, the State party should discontinue harsh and cruel measures of disciplinary confinement, in particular the use of manacles, chains and face masks and the "stacking" of 30-day periods of isolation.

(14) The Committee is concerned by the State party's interference with the right to counsel during pretrial criminal detention, in particular by the fact that consultation with counsel is permitted only during interrogation and that, even during interrogation, police officials can deny access to counsel on grounds that it will purportedly interfere with the investigation, aid a fugitive defendant or endanger the acquisition of evidence. In addition, consultation with legal counsel is not provided during the involuntary commitment of persons to mental health facilities (art. 9).

The State party should ensure prompt access to counsel in all forms of custodial detention.

(15) The Committee expresses concern with regard to the urgent arrest procedure, whereby individuals can be detained without an arrest warrant for up to 48 hours. In particular, the Committee is concerned at reports of excessive recourse to and abuse of this procedure (arts. 7, 9, and 10).

The State party should take all necessary measures to restrict the use of the urgent arrest procedure and to guarantee the rights of persons so detained, in conformity with article 9 of the Covenant. In particular, the Committee urges the prompt adoption of the relevant amendments to the Criminal Procedure Act, pending before the National Assembly.

(16) The Committee remains concerned that those detained for the purposes of criminal investigation or under an arrest warrant do not enjoy an automatic right to be brought promptly before a judge to have the legitimacy of their detention determined as prescribed by article 9, paragraph 3, of the Covenant, particularly in view of the excessive length of permissible pretrial detention (30 days in ordinary cases and 50 days in cases involving the National Security Act) (art. 9).

The State Party is urged to reform legislation to reflect the protection due to persons arrested or detained on criminal charges as stipulated in article 9 of the Covenant. In particular, the State party should ensure that any detention is promptly subjected to judicial scrutiny.

(17) The Committee is concerned that: (a) under the Military Service Act of 2003, the penalty for refusal of active military service is imprisonment for a maximum of three years and that there is no legislative limit on the number of times a person may be recalled and subjected to fresh penalties; (b) those who have not satisfied military service requirements are excluded from employment in government or public organizations and that (c) convicted conscientious objectors bear the stigma of a criminal record (art. 18).

The State party should take all necessary measures to recognize the right of conscientious objectors to be exempted from military service. It is encouraged to bring its legislation into line with article 18 of the Covenant. In this regard, the Committee draws the attention of the State party to paragraph 11 of its general comment No. 22 (1993) on article 18 (freedom of thought, conscience and religion).

(18) The Committee notes the attempts in recent years to amend the National Security Act and the absence of consensus concerning its alleged continued necessity for reasons of national security. However, it is concerned that prosecutions continue to be pursued, in particular under article 7 of this law. The restrictions placed on the freedom of expression under these provisions do not meet the requirements of article 19, paragraph 3, of the Covenant (art. 19).

The State party should, as a matter of urgency, ensure the compatibility of article 7 of the National Security Act, and sentences imposed thereunder, with the requirements of the Covenant.

(19) The Committee expresses concern at the significant number of senior public officials who are not permitted to form or join trade unions and at the State party's unwillingness to recognize certain trade unions, in particular the Korean Government Employees' Union (art. 22).

The State party should reconsider its position vis-à-vis the rights of association of senior public officials and engage in dialogue with the representatives of the 76,000 members of the Korean Government Employees' Union with a view to ensuring the realization of their right of association.

(20) Although the Committee notes the efforts made by the State party to increase public awareness of the human rights set out in the Covenant, it is concerned that these efforts are limited.

The State party should integrate human rights education in primary, secondary, higher and vocational curricula and, in particular, in the training programmes of law enforcement officials.

(21) The Committee urges the State party to make the present concluding observations available in the Korean language to the general public, as well as to the legislative, judicial and administrative authorities. It requests that the next periodic report be widely disseminated among the general public, including civil society and non-governmental organizations working in the Republic of Korea.

(22) The Committee sets 2 November 2010 as the date for the submission of the Republic of Korea's fourth periodic report. It requests that the present concluding observations be published and widely disseminated to the general public, as well as to the judicial, legislative and administrative authorities.

(23) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the Republic of Korea should submit within one year information on the follow-up to the Committee's recommendations in paragraphs 12, 13 and 18. The Committee requests the Republic of Korea to include in its next periodic report information on the remaining recommendations and on the implementation of the Covenant as a whole.

83. Madagascar

(1) The Committee considered the third periodic report of Madagascar (CCPR/C/MDG/2005/3) at its 2425th and 2426th meetings (CCPR/C/SR.2425 and CCPR/C/SR.2426), held on 12 and 13 March 2007, and adopted the following concluding observations at its 2442nd meeting (CCPR/C/SR.2442) on 23 March 2007.

Introduction

(2) The Committee is pleased to be able to resume the dialogue with the State party, 15 years having passed since the consideration of the previous report (CCPR/C/28/Add.13). It notes that the report submitted by the State party contains useful information on domestic legislation and

on changes in certain legal and institutional areas since the consideration of the second periodic report. The Committee welcomes the dialogue with the delegation and notes with interest the oral and written responses to its questions.

Positive aspects

(3) The Committee welcomes the efforts undertaken by the State party to improve the situation of certain categories of vulnerable groups, in particular persons infected with the HIV/AIDS virus and the disabled.

(4) The Committee takes note with interest of the efforts by the State party to improve the functioning of its judicial institutions and underlines the importance of the Code of Ethics for magistrates established in accordance with the Bangalore Principles of Judicial Conduct (E/CN.4/2003/65, annex).

Principal areas of concern and recommendations

(5) The Committee regrets the lack of specific information on the exact status of the Covenant in the legal system of the State party. It also regrets the lack of significant jurisprudence on the implementation of the Covenant and on the possibilities it offers for the protection of the rights of individuals (art. 2).

> **The State party should ensure that the Covenant is accorded the status it is given in both the preamble and the body of its Constitution, and see that it can be effectively invoked before and applied by the courts.**

(6) The Committee notes the indication by the State party that article 8 of the Constitution in both French and in English prohibits discrimination only against nationals while the Malagasy text extends protection to all individuals under the jurisdiction of the State party. The English and French texts might give rise to violations of the Covenant.

> **The State party should ensure linguistic concordance among the texts in order to limit the possibility of discrimination and give full effect to the provisions of the Covenant for the benefit of all persons under its jurisdiction.**

(7) The Committee notes with interest that a National Human Rights Commission was established in 1996. It notes, however, that the membership has not been renewed and the mandate of its members has not been extended. This Commission is not presently operative and is not able to hear complaints from individuals (art. 2).

> **The State party should take the necessary measures to ensure the resumption of the work of the Commission, in accordance with the Paris Principles relating to the status and functioning of national institutions for protection and promotion of human rights** (General Assembly resolution 48/124, annex)**. The State party is also invited to provide the Commission with adequate resources to fulfil its role effectively, fully and regularly.**

(8) The Committee is concerned by practices and customs which pose obstacles to equality between men and women and hinder efforts for the promotion and protection of women (art. 3).

The State party should strengthen its efforts in education and training so as to bring about genuine equality between men and women and help to change mindsets and attitudes in order to promote effective observance of the Covenant.

(9) The Committee notes that despite the progress made in equality between men and women, women's employment in managerial positions in both the public and private sectors remains low. It is also concerned by the pay disparities between men and women. The participation of women in political life also remains insufficient (arts. 3 and 26).

The State party should develop specific programmes and targeted measures to allow women to enjoy equal access to the job market in the public and private sectors, including managerial positions, and equal pay for work of equal value. The participation of women in political life should also be encouraged and strengthened by means of measures effectively applied.

(10) The Committee remains concerned by the prevailing inequality in women's right to inherit property (arts. 3 and 26).

The State party should take appropriate measures in this regard and allow women to inherit property on the same basis as male heirs.

(11) The Committee is concerned by information reporting numerous cases of domestic violence. The victims of such violence reportedly do not file complaints because of social and family constraints (arts. 3 and 7).

The State party should provide better protection for women, strengthen preventive measures and punishment for domestic violence against women and children, and address the factors underlying women's vulnerability, including economic dependence on their partners. It should also establish support structures for victims and programmes to raise awareness, including training courses for law enforcement officials.

(12) The Committee regrets that, although it is prohibited under the Criminal Code, polygamy persists in some regions, and this undermines the dignity of women (arts. 3 and 26).

The State party should ensure that the relevant provisions of its Criminal Code are enforced without reservation throughout its territory, in order to put an end to this practice and ensure respect for the Covenant.

(13) The Committee regrets that the regime for a state of emergency does not specify the derogations that can be made to the Covenant and does not define the guarantees relative to the implementation of such derogations.

The State party should revise its legislation to make it fully compatible with article 4 of the Covenant. The Committee also recalls that under article 4, paragraph 3, of the Covenant, each time a state of emergency is declared by a State party, the latter is required to inform all States parties through the Secretary-General.

(14) The Committee is concerned about the law on abortion, especially in cases where the life of the mother is in danger (art. 6).

The State party should amend its legislation to help women avoid unwanted pregnancies and recourse to clandestine abortion at the risk of their lives. It should also consider amending its legislation on abortion so as to bring it into line with the Covenant.

(15) The Committee notes with concern that the Criminal Code lists a large number of crimes punishable by the death penalty, including stealing cattle. It takes note of the assurance by the State party that in practice the sentences imposed are automatically commuted to life imprisonment (art. 6).

The Committee invites the State party officially to abolish the death penalty. The State party is also invited to ratify the second Optional Protocol to the Covenant.

(16) The Committee is concerned about the existence of a system of customary justice (*Dina*) which does not always produce fair trials. It regrets that summary executions have been perpetrated on the strength of *Dina* decisions. It takes note of the assurance by the State party that *Dina* can no longer intervene in anything other than minor offences, and under judicial supervision (arts. 6 and 14).

The State party should ensure that the *Dina* administer a fair justice system under the supervision of the State courts. The State party is invited to ensure that no further summary executions are perpetrated on the strength of *Dina* decisions and that every accused person benefits from all the safeguards set forth in the Covenant.

(17) The Committee is also concerned by the fact that in the south-eastern region, the birth of twins is considered a bad omen (CCPR/C/MDG/2005/3, para. 86) and therefore only one of the newborns is kept by the family, while the other is automatically abandoned (arts. 6 and 24).

While taking note of the explanations provided by the State party in this regard, the Committee requests it to take appropriate vigorous, binding measures to eradicate this practice and ensure that twins are kept by their families so that every child benefits from effective protection measures.

(18) The Committee notes that the State party has not responded to its request for information on allegations of torture and cruel, inhuman or degrading treatment during arrest or detention.

The State party should submit information on existing measures for the prevention of torture and similar maltreatment, and on the number of complaints of such treatment received and the action taken in response.

(19) While noting that the State party has ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Committee is concerned by the fact that national legislation does not contain a definition of torture, and that torture is not a separate offence (art. 7).

The State party should define torture in its legislation, taking into account internationally established norms, and make it a separate offence with appropriate sanctions.

(20) The Committee notes that, even though under the national legislation in force, every person arrested may meet with a lawyer, in practice this right is not often observed. Moreover, legal assistance is provided only to those who risk prison sentences of over five years (arts. 7, 9, 10 and 14).

The State party should amend its legislation and its practice in order to guarantee to anyone under arrest access to effective legal assistance from the moment of arrest, in particular where people are unable to pay a private defence attorney.

(21) The Committee takes note of reports that children are often employed as domestic servants in conditions that are often tantamount to slavery and lend themselves to all kinds of abuse, in violation of articles 8 and 24 of the Covenant.

The State party should conduct information campaigns and take the necessary measures to put an end to this practice, and ensure compliance with articles 8 and 24 of the Covenant.

(22) The Committee regrets that, even though new prison infrastructure has been built recently and the renovation of existing prisons has been undertaken, the prisons remain overcrowded. Conditions of detention are said to be deplorable, and detainees are reportedly not provided with sufficient food. The Committee is concerned that frequently persons being held for questioning are not separated from convicted prisoners, and minors are held with adults (arts. 9 and 10).

The State party should continue the efforts undertaken to improve conditions of detention in its territory and ensure, in that regard, that the Covenant is observed. It should in particular establish a programme of prison rehabilitation and put in place a system to ensure that accused persons are separated from convicted prisoners, and minors from other detainees.

(23) The Committee remains concerned by the excessive length of police custody and remand detention which leads to persons being held for lengthy, sometimes indefinite periods (arts. 9 and 10).

The State party should bring its legislation and its practice into conformity with the Covenant and take vigorous measures to limit the duration of police custody and remand detention. Consequently, the Code of Criminal Procedure should be amended.

(24) The Committee remains concerned by certain dysfunctions in the State party's judicial system. Numerous files of court cases are said to have been lost or mismanaged (arts. 9 and 14).

The State party should ensure the proper functioning of its judicial structures in accordance with the Covenant and with the principles governing the rule of law. The judiciary should be given sufficient resources to allow it to function properly. Detainees whose case files are missing should be released without delay.

(25) The Committee notes with concern that the delegation mentioned the existence of a prisoner who has been held pending appeal since 1978 (application for appeal filed on 21 June 1979 according to a written response from the State party). Supposedly this is not an isolated case (arts. 9 and 14).

The State party should ensure that any case registered may be heard without excessive delay, in accordance with article 14, paragraph 3 (c), of the Covenant.

(26) The Committee remains concerned by the procedures in effect for appointing members of the Supreme Council of the Judiciary (CSM), as the Council holds extensive powers, in particular regarding the nomination, promotion and removal of judges. No mechanism is in place to prevent possible interference by the executive branch in the affairs of the judiciary (art. 14).

The State party should change the mechanism for the appointment of members of the CSM and guarantee the total independence and impartiality of the judiciary.

(27) The State party should disseminate widely its third periodic report and the present concluding observations.

(28) In accordance with rule 71, paragraph 5, of the rules of procedure of the Committee, the State party should provide additional information within a year updating the situation and concerning the implementation of the recommendations found in paragraphs 7, 24 and 25. The Committee requests the State party to provide information concerning the other recommendations made and the implementation of the Covenant as a whole in its next report, which should be submitted by 23 March 2011.

84. **Chile**

(1) The Committee considered the fifth periodic report of Chile (CCPR/C/CHL/5) at its 2429th and 2430th meetings (CCPR/C/SR.2429 and SR.2430), held on 14 and 15 March 2007, and adopted the following concluding observations at its 2445th meeting (CCPR/C/SR.2445), held on 26 March 2007.

Introduction

(2) The Committee welcomes the fifth periodic report of Chile, despite the four-year delay in its submission. The Committee appreciates the detailed information about the State party's legislation and draft legislation, but regrets that the report provides insufficient information about the effective implementation of the Covenant. The Committee appreciates the fact that the written responses were submitted well in advance, allowing them to be translated into the Committee's other working languages on time. The Committee also welcomes the quality of the replies given by the State party's delegation, as this allowed for an honest, open and constructive dialogue about the various problems that exist in Chile.

Positive aspects

(3) The Committee welcomes the major legislative (2005) and institutional changes that have been introduced in the State party with a view to consolidating the rule of law following the recommendations made by the Committee in 1999. These changes include:

(a) The constitutional reform that put an end to the system of appointed senators and senators for life and did away with the provision under which chiefs of the armed forces could not be removed from office by the President of the Republic, and the reform relating to the National Security Council;

(b) The constitutional reform establishing legal equality between men and women;

(c) The reform of the Code of Criminal Procedure, and the separation of functions between the authorities responsible for prosecution and those responsible for rendering judgements;

(d) Policies to improve the prison system;

(e) The provision in the new Civil Marriage Act permitting divorce, and the criminalization of sexual harassment and domestic violence.

(4) The Committee welcomes the fact that the death penalty was abolished in 2001.

Principal areas of concern and recommendations

(5) The Committee reiterates its concern regarding the 1978 Amnesty Decree-Law No. 2.191. While noting that according to the State party this decree is no longer applied by the courts, it considers that the fact that the Decree-Law remains in force leaves open the possibility that it might be applied. The Committee draws attention to its general comment No. 20 concerning the prohibition of torture and other cruel, inhuman and degrading treatment or punishment, which states that amnesties for human rights violations are generally incompatible with the State party's duty to investigate such violations, to guarantee freedom from such violations within their jurisdiction and to ensure that similar violations are not committed in the future (article 2 of the Covenant).

The State party should make greater efforts to incorporate the jurisprudence of the Supreme Court regarding 1978 Amnesty Decree-Law No. 2.191 into domestic positive law as soon as possible, in order to ensure that serious violations of human rights do not go unpunished.

(6) While recognizing the State party's efforts in this respect, the Committee notes with concern that a national human rights institution has still not been established in Chile (article 2 of the Covenant).

The State party should establish a national human rights institution as soon as possible, in full conformity with the Principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) annexed to General Assembly resolution 48/134. To that end, it should hold consultations with civil society.

(7) The Committee is concerned about the definition of terrorism contained in the Counter-Terrorism Act No. 18.314, which may be excessively broad. It is also concerned that this definition has allowed charges of terrorism to be brought against members of the Mapuche community in connection with protests or demands for protection of their land rights. The Committee also notes that the procedural guarantees set out in article 14 of the Covenant have been restricted by the application of this Act (articles 2, 14 and 27 of the Covenant).

The State party should adopt a narrower definition of crimes of terrorism, so as to ensure that it is not applied to individuals for political, religious or ideological reasons. Such a definition should be limited to offences which can justifiably be equated with terrorism and its serious consequences, and must ensure that the procedural guarantees established in the Covenant are upheld.

(8) The Committee reiterates its concern about Chile's unduly restrictive abortion laws, particularly in cases where the mother's life is in danger. The Committee regrets the fact that the Chilean Government has no plans to legislate in this area (article 6 of the Covenant).

The State party should amend its abortion laws to help women avoid unwanted pregnancies and not have to resort to illegal abortions that could put their lives at risk. The State party should also bring its abortion laws into line with the Covenant.

(9) The Committee welcomes the fact that the State party has taken steps, such as the establishment of the National Commission on Political Prisoners and Torture (CNPPT) in 2003, to ensure that victims of the human rights violations committed by Chile's military dictatorship receive compensation, but is concerned by the lack of official investigations to determine direct responsibility for the serious human rights violations committed during this period (articles 2, 6 and 7 of the Covenant).

The State party should see to it that serious human rights violations committed during the dictatorship do not go unpunished. Specifically, it should ensure that those suspected of being responsible for such acts are in fact prosecuted. Additional steps should be taken to establish individual responsibility. The suitability to hold public office of persons who have served sentences for such acts should be scrutinized. The State party should make public all the documentation collected by CNPPT that may help identify those responsible for extrajudicial executions, forced disappearances and torture.

(10) The Committee notes with concern that there continue to be cases of ill-treatment by the security forces, primarily at the moment of arrest and against the most vulnerable, including the poor (articles 7 and 26 of the Covenant).

The State party should take immediate, effective action to put an end to such abuse and should monitor, investigate and, where appropriate, try and punish police officers who ill-treat vulnerable groups. The State party should extend human rights training to all members of the security forces.

(11) The Committee reiterates its concern regarding the system of legally authorized detention incommunicado, which can last for up to 10 days (articles 7, 8, 9 and 10 of the Covenant).

The Committee recommends once again that the necessary legislative measures should be adopted in order to eliminate prolonged detention incommunicado.

(12) The Committee notes with concern that Chile's military tribunals continue to have jurisdiction to try civilians in civil matters, a situation that is incompatible with article 14 of the Covenant. The Committee is also concerned about the wording of article 330 of the Code of Military Justice, which may be interpreted as allowing the use of "unnecessary violence" (articles 7 and 14 of the Covenant).

The State party should expedite the adoption of the law amending the Code of Military Justice, limiting the jurisdiction of military tribunals solely to military personnel charged exclusively with military offences, and ensuring that the new law does not contain any provisions that could allow rights established in the Covenant to be violated.

(13) The Committee notes the State party's intention to adopt a law recognizing the right of conscientious objection to military service, but continues to be concerned that this right has still not been recognized (article 18 of the Covenant).

The State party should expedite the adoption of legislation recognizing the right of conscientious objection to military service, ensuring that conscientious objectors are not subject to discrimination or punishment and recognizing that conscientious objection can occur at any time, even when a person's military service has already begun.

(14) Although it is aware of the labour law reform that took place in 2005, the Committee is still concerned about continuing restrictions on trade union rights in Chile and about reports that in practice, changes are made unilaterally to the working day, striking workers are replaced, and threats of dismissal are used to prevent the formation of trade unions. In many cases, it would not be practicable for workers to bring complaints because trials are excessively long and costly (article 22 of the Covenant).

The State party should remove all legislative and other obstacles to the full exercise of the rights established under article 22 of the Covenant. The State party should streamline employment procedures and make legal aid available to workers to enable their complaints to be successfully heard.

(15) While it notes that the reference to the binominal system has been removed from the Constitution, the Committee observes with concern that, as the State party indicated, the electoral system in use in Chile can hamper the effective parliamentary representation of all individuals (articles 3 and 25 of the Covenant).

The State party should make greater efforts to overcome the political obstacles to amendment of the Constitutional Act on Popular Votes and Vote Counts, in order to guarantee the right to equal, universal suffrage established under article 25 of the Covenant.

(16) While it observes with satisfaction that the laws criminalizing homosexual relations between consenting adults have been repealed, the Committee remains concerned about the discrimination to which some people are subject because of their sexual orientation, for instance, before the courts and in access to health care (articles 2 and 26 of the Covenant).

The State party should guarantee equal rights to all individuals, as established in the Covenant, regardless of their sexual orientation, including equality before the law and in access to health care. It should also launch awareness-raising programmes to combat social prejudice.

(17) Although the Committee takes note of the progress made in the legal field to eliminate gender discrimination, it remains concerned because laws pertaining to the family remain in force which discriminate against women as administrators of their property, such as the joint property marital regime (articles 3 and 26 of the Covenant).

The State party should hasten the adoption by the Senate of the act repealing the joint property marital regime and replacing it with a community property regime.

(18) While the Committee observes that a Code of Conduct in the public sector has been adopted, it remains concerned about discrimination against women in the workforce, especially in the private sector (articles 3 and 26 of the Covenant).

The State party should redouble its efforts to combat discrimination against women in employment, through such measures as reversing the burden of proof in discrimination cases to favour women employees, so that employers must explain why women hold positions of lower rank, have lesser responsibilities and earn lower wages.

(19) While it notes the intention expressed by the State party to give constitutional recognition to indigenous peoples, the Committee is concerned about the variety of reports consistently indicating that some claims by indigenous peoples, the Mapuche in particular, have not been met, and about the slow progress made in demarcating indigenous lands, which has caused social tensions. It is dismayed to learn that "ancestral lands" are still threatened by forestry expansion and megaprojects in infrastructure and energy (arts. 1 and 27).

The State party should:

(a) Make every possible effort to ensure that its negotiations with indigenous communities lead to a solution that respects the land rights of these communities in accordance with article 1, paragraph 2, and article 27, of the Covenant. The State party should expedite procedures to recognize such ancestral lands;

(b) Amend Act No. 18.314 to bring it into line with article 27 of the Covenant, and revise any sectoral legislation that may contravene the rights spelled out in the Covenant;

(c) Consult indigenous communities before granting licences for the economic exploitation of disputed lands, and guarantee that in no case will exploitation violate the rights recognized in the Covenant.

(20) The Committee requests that the initial report of the State party and the present concluding observations be published and widely disseminated in the official languages of the State party.

(21) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the evaluation of the situation and the follow-up to the Committee's recommendations made in paragraphs 9 and 19 of these concluding observations.

(22) The Committee requests the State party to include in its next periodic report, which should be submitted before 1 April 2012, information on the remaining recommendations and on the Covenant as a whole.

85. **Barbados**

(1) The Human Rights Committee considered the third periodic report of Barbados at its 2439th and 2240th meetings, held on 21 and 22 March 2007 (CCPR/C/SR.2439 and 2440). At its 2451st meeting (CCPR/C/SR.2451), held on 29 March 2007 it adopted the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the State party's third periodic report and the opportunity thus offered to resume the dialogue with the State party based on a report after an interval of more than 18 years, the State party having not submitted a report since 1991 when its third periodic report was due. The Committee considers that the failure to submit a report for such a long period of time constitutes a breach by Barbados of its obligations under article 40 of the Covenant and an obstacle to a thoroughgoing consideration of the steps to be taken to ensure the satisfactory implementation of the provisions of the Covenant. The Committee expresses the hope that the State party will submit its reports in the future in accordance with the schedule established by the Committee.

Positive aspects

(3) The Committee welcomes:

(a) The adoption of the Penal System Reform Act, which puts a greater emphasis on rehabilitation, as well as providing the courts with a broader range of sentencing options;

(b) The establishment in 2001 of the Police Complaints Authority to investigate complaints of ill-treatment and misconduct by police;

(c) The adoption of the Evidence Act with its provisions for audio and videotaping of police interviews.

(4) The Committee notes with satisfaction that the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials are being implemented by the Police Force.

Principal subjects of concern and concluding observations

(5) The Committee notes that the Covenant as such has not been incorporated into the State party's law, although many of its principles are contained in Chapter 3 of the Constitution. It also notes the Constitutional Review Commission's recommendation that the amended Constitution should incorporate the State party's international legal obligations and that the Constitutional Review Commission will shortly report to Parliament on the "internationalization" of the Constitution, so as to give full consideration to all human rights norms (art. 2).

The State party is encouraged to undertake the necessary measures to incorporate the Covenant into the domestic law through, inter alia, the ongoing constitutional reform process.

(6) The Committee notes that the State party has not yet established a national human rights institution (art. 2).

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

(7) Although the Committee notes that no specific time limits have been set so far, it is concerned that the Constitutional (Amendment) Act 2002 permits limitation of the length of time granted to condemned prisoners, including those sentenced to death, to appeal to, or to consult external bodies, including international human rights bodies such as the Human Rights Committee(arts. 2 and 6).

The State party should guarantee the effective right to a remedy, in particular for all persons sentenced to death. It should ensure that interim measures of protection issued by the Human Rights Committee in cases brought by individuals under sentence of death are respected in all circumstances.

(8) The Committee is concerned about the lack of policy and legislative responses to trafficking in human beings in the State party (arts. 3, 7, 8, 26).

The State party should ensure that the human rights of the victims of trafficking are given prominent attention in the State party's response to this phenomenon, including with regard to provision of support and assistance to women and girls trafficked into the State party for purposes of prostitution. In addition, the State party should criminalize the trafficking of human beings in consultation with CARICOM.

(9) While the Committee takes note that the death penalty has not been applied in the last 24 years, it remains concerned that the State party's laws make the imposition of the death penalty mandatory in respect of certain crimes, thus depriving the sentencing court of any discretion in imposing the penalty in the light of all the circumstances of the case (art. 6).

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.

(10) The Committee is concerned by the fact that the laws of the State party do not provide for the granting of refugee status and do not codify the principle of non-refoulement (arts. 6, 7 and 13).

The State party is encouraged in its current efforts to adopt asylum policies in cooperation with UNHCR and to adopt in particular in its legislation the principle of non-refoulement.

(11) The Committee, while taking note that the Constitution prohibits torture, and inhuman or degrading treatment or punishment, remains concerned about the lack of a legal definition of torture in domestic law (art. 7).

The State party should introduce a legal definition of torture compatible with article 7 of the Covenant.

(12) The Committee is concerned that corporal punishment is still available as part of judicial sentences and is permitted within the penal and education systems (arts. 7 and 24).

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.

(13) The Committee expresses concern over discrimination against homosexuals in the State party, and in particular over the criminalizing of consensual sexual acts between adults of the same sex (art. 26).

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.

(14) The Committee requests the State party to widely disseminate the present concluding observations and its third periodic report to the general public, possibly by publishing them on the government website, making them available to newspapers, in public libraries and the Parliament library. The State party is also strongly encouraged to discuss the present concluding observations and its report with the Barbados Association of Non Governmental Organizations (BANGO).

(15) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on the assessment of the situation and the implementation of the Committee's recommendations in paragraphs 9, 12 and 13.

(16) The Committee requests the State party to provide in its next report, due to be submitted by 29 March 2011, information on the other recommendations made and on the Covenant as a whole.

86. **Zambia**

(1) The Human Rights Committee considered the third periodic report of Zambia (CCPR/C/ZMB/3) at its 2454th and 2455th meetings, held on 9 and 10 July 2007 (CCPR/C/SR.2454 and 2455). At its 2471st meeting, held on 20 July 2007 (CCPR/C/SR.2471), it adopted the following concluding observations.

Introduction

(2) The Committee welcomes the submission, albeit late, of the State party's third periodic report and the opportunity thus offered to resume the dialogue with the State party. The State party should submit its reports in the future in accordance with the schedule established by the Committee.

(3) The Committee appreciates the written replies submitted in advance by the delegation, as well as the detailed answers it provided to the Committee's oral questions. It particularly welcomes the efforts made by the State party, both in its periodic report and during the dialogue with the Committee, to acknowledge the difficulties faced in the implementation of the Covenant.

Positive aspects

(4) The Committee welcomes the establishment:

(a) In 1996, of the Zambian Human Rights Commission, with the mandate to promote and protect human rights;

(b) In 1999, of the Police Public Complaint Authority, with the mandate to address complaints of abuse of authority, unlawful detentions, brutality or torture, unprofessional conduct, death in custody and debt collection by police officers.

(5) The Committee notes with satisfaction that Zambia has made considerable progress in reducing maternal mortality.

(6) The Committee welcomes the abolition of corporal punishment by amendments to the Penal Code, the Criminal Procedure Code, the Prisons Act and the Education Act.

(7) The Committee welcomes the increased participation of women in Parliament, at the ministerial level and in the public service, and encourages the State party to strengthen its efforts in this matter.

(8) The Committee notes with satisfaction that the Electoral Act No. 12 of 2006 introduced a time frame of 180 days within which petitions relating to contentious elections matters should be heard and determined in the courts of law.

Principal subjects of concern and recommendations

(9) The Committee notes that the Covenant is not directly applicable in domestic law, and is concerned that not all rights provided for in the Covenant have been included in the Constitution and the legislation, or recognized in an appropriate manner therein. It is concerned that since the last consideration of the State party's report in 1996, the process of harmonization of domestic law with the Covenant has not been completed. It also notes that no time frame has been determined for the completion of the process (art. 2).

> **The State party should now ensure the harmonization of its domestic law with the Covenant in a timely manner. It should also, throughout the constitutional review process, raise awareness of the public at large of the international obligations the State party has undertaken upon ratification of the Covenant.**

(10) The Committee notes with concern that the Zambian Human Rights Commission lacks funds to carry out its activities in an appropriate manner, and that it cannot receive financial support from international institutions or any other source unless expressly approved by the President. The Committee also regrets that it did not receive sufficient information on whether the Commission can make public and disseminate its reports and recommendations (art. 2).

> **The State party should make all possible efforts to increase the budgetary resources of the Zambian Human Rights Commission to permit it to discharge its functions effectively. It should ensure that the Commission is able to seek and receive funds from international institutions or any other source as it deems appropriate. The State party is encouraged to enhance the powers and the status of the Commission. It should ensure that the rules governing the Commission are in full compliance with the Principles relating to the Status of National Institutions (The Paris Principles, adopted by the General Assembly resolution 48/134 of 20 December 1993).**

(11) The Committee notes with concern that the State party did not give effect to the Committee's Views regarding Communication No. 390/1990 (*Bernard Lubuto v. Zambia)*, before his demise on death row. It also notes the information provided by the delegation that compensation has been paid to the victim as recommended by the Committee in its Views

regarding Communication No. 856/1999 (*Alex Soteli Chambala v. Zambia)*, but regrets that such information remains insufficiently detailed. It also regrets that no information has been provided on measures adopted to ensure that no similar violations occur in the future, as recommended by the Committee (art. 2).

The State party should follow up on the Committee's recommendations in the above-mentioned cases and report thereon to the Committee as soon as possible.

(12) The Committee reiterates its concern that the exceptions taken to the right not to be discriminated against, as provided for in article 23 of the Constitution, are not in compliance with articles 2, 3 and 26 of the Covenant. The Committee is concerned, in particular, at exceptions relating to (a) non-citizens; (b) adoption, marriage, divorce, burial, devolution of property on death or other matters of personal law; and (c) the application of customary law.

The State party should review article 23 of the Constitution in order to bring it in line with articles 2, 3 and 26 of the Covenant.

(13) The Committee notes with interest the steps undertaken by the State party to review and codify customary laws. It remains concerned by the persistence, in the meantime, of customary practices that are highly detrimental to women's rights, such as discrimination in the area of marriage and divorce, early marriages and child bearing, bride price and polygamy, and reported restrictions on women's freedom of movement (arts. 2 and 3).

The State party should strengthen its efforts to ensure compliance of customary laws and practices with the rights provided for in the Covenant, and consider this issue as a high priority. It should pay particular attention to ensuring the full participation of women in the ongoing review and codification process of customary laws and practices. It should adopt immediate and concrete steps to discourage the persistence of customary practices that are highly detrimental to women's rights.

(14) The Committee notes with concern that the precedence of statutory law over customary law is not always ensured in practice, due especially to the low level of awareness the population has of its rights, in particular the right to appeal customary courts' decisions before statutory courts, and despite efforts made by the State party, insufficient training provided to those involved in the administration of local justice (arts 2 and 3).

The State party should increase its efforts to raise awareness of the precedence of statutory law over customary laws and practices, and of the right to appeal before statutory courts. It should make those involved in the administration of local justice aware of the rights contained in the Covenant and encourage them, in particular, to take into consideration the right of every person not to be discriminated against.

(15) The Committee reiterates its concern over the lack of clarity of the legal provisions governing the introduction and administration of a state of emergency. It notes in particular that under article 25 of the Constitution, derogations may be made to some of the rights identified as non-derogable under article 4 of the Covenant.

The State party should bring article 25 of the Constitution in line with article 4 of the Covenant. It should also establish a mechanism by which it informs other States

parties to the Covenant, through the intermediary of the Secretary-General of the United Nations, of the rights it has derogated from in time of public emergency, as required by article 4 (3) of the Covenant.

(16) The Committee notes that the State party is currently considering the adoption of legislation to counter terrorism (arts. 2 and 4).

The State party should ensure that the rights enunciated in the Covenant, and in particular its provisions governing limitations and derogations to these rights, are fully taken into consideration when adopting counter-terrorism provisions and laws. It should also bear in mind the need to define acts of terrorism in a precise and narrow manner.

(17) The Committee notes with appreciation the *de facto moratorium* on executions implemented in Zambia since 1997, as well as the commutation to imprisonment of many death sentences, but is concerned at the high number of persons remaining on death row. The Committee notes that there has been a public discussion of the death penalty, albeit with indications that the discussion has not been based on a fully informed documentation of the issues. The Committee also reiterates its view that mandatory imposition of death penalty for aggravated robbery in which a firearm is used is in violation of article 6 (2) of the Covenant.

The State party should review its Penal Code to ensure that death penalty is imposed only for the most serious crimes, a category to which aggravated robbery with the use of firearm, for example, does not belong. It should ensure that public debate of the death penalty is conducted on the basis of a full presentation of all aspects of the matter, especially the importance of achieving progress in the enjoyment of the right to life and the desirability of eventual ratification of the Second Optional Protocol to the Covenant. It should also consider the commutation of the death sentences of all those currently on death row.

(18) The Committee is concerned that despite progress made, maternal mortality remains high in Zambia. While noting the considerable efforts made by the State party in the area of family planning, the Committee is concerned that the requirement that three physicians must consent to an abortion may constitute a significant obstacle for women wishing to undergo legal and therefore safe abortion (art. 6).

The State party is encouraged to increase its efforts in combating maternal mortality. It should amend its abortion laws to help women avoid unwanted pregnancies and not have to resort to illegal abortions that could put their lives at risk.

(19) The Committee is concerned that, despite numerous and positive measures adopted to combat violence against and sexual abuse of women, the phenomenon continues to be a serious problem in Zambia. It is concerned that in practice, cases of indecent assault, defilement and rape tend to be considered as customary issues and are therefore often dealt with by customary courts rather than criminal courts. The Committee also notes with particular concern information according to which young girls are at risk of abuse when commuting to school and at the school (arts. 3, 6 and 7).

The State party is called upon to significantly strengthen its efforts to combat gender-based violence and to ensure that cases are dealt with in an appropriate and systematic manner. It is encouraged, in particular, to increase the training of the staff of Victim Support Unit offices and of the Police on violence against women, including sexual abuse and domestic violence. The State party should also adopt specific legislation criminalizing domestic violence, and adopt immediate and concrete measures to combat sexual violence against young girls in the school environment.

(20) The Committee, while noting that committing an act of violence against a prisoner is an offence under the Prisons Act, regrets that it has not received information on the practical implementation of this Act. The Committee appreciates that visiting justices as well as the Human Rights Commission may visit and inspect prisons, but regrets it has not received any qualitative assessment about the efficiency of such arrangements. While noting that female prisoners are not to be guarded by male officers, it also remains concerned at information according to which this rule has sometimes been relaxed, due to a lack of female officers, both in police stations and in prisons (art. 7).

The State party should ensure that any act of violence committed against a prisoner is duly prosecuted and punished, and that women held in police custody or in prisons are never guarded by male officers. It should provide the Committee with more detailed information on the system put in place to hear complaints of prisoners for acts of violence.

(21) The Committee, while noting efforts made by the State party to impose disciplinary sentences on police officers who have committed acts of torture or ill-treatment, regrets that it has not received sufficiently detailed information on prosecutions initiated, convictions and sentences handed down, and reparation granted in relation to such acts (art. 7).

The State party should ensure that each case of torture or ill-treatment is seriously investigated, prosecuted and punished in an appropriate manner under its criminal legislation, and that adequate reparation, including compensation, is granted to the victims. In order to facilitate such policy, the State party should envisage criminalizing torture and cruel, inhuman and degrading treatment as such. The State party is also encouraged to significantly increase its efforts to ensure that police investigators are adequately trained in techniques of investigations and in human rights, and that they are provided with sufficient investigation equipment.

(22) The Committee remains concerned at information according to which the legal recognition of the rights of parents and teachers to administer punishment on children brings confusion and jeopardizes their full protection against ill-treatment. It is further concerned that corporal punishment is still widely practised on children (arts. 7 and 24).

The State party should prohibit all forms of violence against children wherever it occurs, including corporal punishment in the schools, and undertake public information efforts with respect to appropriate protection of children from violence.

(23) The Committee expresses concern at the intolerable rate of prison overcrowding and the very poor conditions in places of detention. It notes however that the State party has acknowledged this situation and adopted some measures to address it. The Committee is also concerned that the length of pretrial detention is in many cases excessive (arts. 7, 9 and 10).

The State party should develop alternative measures to imprisonment. It should take measures to ensure that the accused awaiting trial are not kept in custody for an unreasonable period of time. It should significantly increase its efforts to guarantee the right of detainees to be treated with humanity and dignity, by ensuring that they live in healthy conditions and have adequate access to health care and food. To the extent that the State party is unable to meet the needs of detainees, it should immediately take action to reduce the prison population.

(24) The Committee notes with concern that the Penal Code criminalizes same-sex sexual activities between consenting adults (arts. 17 and 26).

The State party should repeal such provision of the Penal Code.

(25) The Committee notes with particular concern that under the Penal Code, defamation of the President and publication of false news are still considered as criminal offences. The Committee reiterates its concern over reports of arrests and charges brought against journalists for the publication of articles critical of the Government, which are used as harassment and censorship techniques (art. 19).

The State party should repeal the above-mentioned provisions of the Penal Code. It should find other means to ensure accountability of the press, so as to be in full compliance with the Covenant, in particular the right to freedom of expression.

(26) The Committee reiterates its concern that under the Penal Code, 8-year-old children are criminally responsible for their actions (art. 24).

The State party should take immediate action to raise the minimum age of criminal responsibility to an acceptable level under international standards.

(27) The Committee requests the State party to widely disseminate the present concluding observations and its third periodic report to the general public, including by publishing them on the government website, placing them in all public libraries and distributing them to the leaders of customary institutions.

(28) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on the assessment of the situation and the implementation of the Committee's recommendations in paragraphs 10, 12, 13 and 23.

(29) The Committee requests the State party to provide in its next report, due to be submitted by 20 July 2011, information on the remaining recommendations made and on the Covenant as a whole.

87. **Czech Republic**

(1) The Committee considered the second periodic report submitted by the Czech Republic (CCPR/C/CZE/2) at its 2464th and 2465th meetings (CCPR/C/SR.2464 and 2465), held on 16 and 17 July 2007, and adopted at its 2478th meeting (CCPR/C/SR.2480), held on 25 July 2007, the following concluding observations.

Introduction

(2) The Committee welcomes the submission of the State party's second periodic report, which contains detailed legal and factual information and helpfully makes reference to previous concluding observations. It also welcomes the written responses to the list of issues, which facilitated the dialogue with the Committee. The Committee appreciates the attendance of a delegation composed of experts in various fields relevant to the Covenant, and the seriousness of its oral and written replies.

Positive aspects

(3) The Committee notes that the Czech Republic, in 2006, acceded to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which should ensure better observance of article 7 of the Covenant.

(4) The Committee welcomes the amendment to the Constitution adopted in 2002 by which primacy was accorded to all international treaties approved by the Parliament.

(5) The Committee notes the progress made in combating domestic violence, including through the adoption of Act. No. 91/2004, which criminalizes "cruelty to a person living in a shared dwelling", and Act No. 135/2006, which introduced a new institution to protect victims.

(6) The Committee welcomes the adoption of regulations on police cells, issued by the Police President under No. 42/2007.

Principal subjects of concern and recommendations

(7) The Committee expresses its concern at the State party's restrictive interpretation of, and failure to fulfil its obligations under the Optional Protocol to the Covenant and the Covenant itself. The State party has advanced difficulties in implementing the Committee's Views, including in numerous cases, under Act No. 87/91 of 1991, concerning the restitution of property or compensation to persons who were forced to flee from the State party and adopted the nationality of the country of refuge. The Committee recalls that, by acceding to the Optional Protocol, the State party recognized the Committee's competence to receive and examine complaints from individuals under the State party's jurisdiction.

> **The Committee urges the State party to implement all of its Views, including those under Act No. 87/91 of 1991, in order to restore the property of persons concerned, or otherwise compensate them.**

(8) The Committee is concerned about allegations, albeit unsubstantiated, that Czech airports have been used as transit points for rendition flights of persons to countries where they risk being subjected to torture or ill-treatment, and notes that the State party denies knowledge of such incidents (arts. 2, 7 and 14).

The State party should investigate allegations related to incidents of transit through Czech airports of such flights and establish an inspection system to ensure that its airports are not used for such purposes.

(9) The Committee regrets the persistent reports of police misconduct, particularly against Roma and other vulnerable groups, especially at the time of arrest and detention, and the fact that the State party has failed to establish an independent body with authority to receive and investigate all complaints of excessive use of force and other abuses of powers by the police, as recommended in the Committee's previous concluding observations. The Committee notes that this omission could contribute to de facto impunity for police officers involved in human rights violations (arts. 2, 7, 9 and 26).

The State party should take firm measures to eradicate all forms of police ill-treatment, and in particular:

(a) Establish a mechanism for the investigation of complaints concerning actions of law enforcement officials which is completely independent from the Ministry of Interior, as recommended by the Governmental Council for Human Rights in 2006;

(b) Initiate disciplinary and criminal proceedings against alleged perpetrators, and grant compensation for victims; and

(c) Provide training to the police force with regard to the criminal nature of the excessive use of force.

(10) The Committee notes with concern that Roma and other women have been subjected to sterilization without their consent, and that the relevant recommendations of the Ombudsman's report of 2005 have not been implemented. In particular, the Committee regrets the latitude given to doctors in this regard, and the fact that no criminal proceedings have been initiated against perpetrators. The Committee is also concerned that no compensation mechanism has been established and that victims have not received any compensation (arts. 2, 3, 7 and 26).

The State party should:

(a) Implement the recommendations of the Ombudsman's report of 2005;

(b) Provide mandatory training on patients' human rights to medical professionals and social workers;

(c) Grant compensation and provide assistance to victims, including legal assistance to those who intend lodging a claim before the courts;

(d) Initiate criminal proceedings against alleged perpetrators;

(e) Ensure fully informed consent in all proposed cases of sterilization and take the necessary measures to prevent involuntary or coercive sterilization in the future, including written consent forms printed in the Roma language, and explanation of the nature of the proposed medical procedure by a person competent in the patient's language.

(11) The Committee notes with concern that no significant progress has been made with respect to the low participation of women in political life. The Committee recalls that general awareness of women's rights is not sufficient to guarantee the equal rights of men and women under the Covenant (arts. 3, 25 and 26).

The State party should take firm, positive and coordinated measures under articles 3 and 26 to increase the participation of women in the public sector.

(12) While the Committee acknowledges the efforts of the State party to address and combat the trafficking and commercial sexual exploitation of women and children, the Committee remains concerned about this phenomenon and the lack of a coordinated system of response (arts. 3, 8, 24 and 26).

The State party should continue to reinforce its measures to combat trafficking and commercial sexual exploitation of women and children, by establishing a coordinated system of response, and by prosecuting and punishing perpetrators. Prevention and rehabilitation programmes for the victims should also be established.

(13) The Committee expresses concern about the persistence of the use of enclosed restraint beds (cages/net beds) as a means to restrain psychiatric patients, and the State party's expressed intention not to discontinue the use of net beds entirely. The Committee recalls that this practice is considered an inhuman and degrading treatment of patients confined in psychiatric and related institutions (arts. 7, 9 and 10).

The State party should take firm measures to abolish completely the use of enclosed restraint beds in psychiatric and related institutions. It should establish inspection systems which take into account the United Nations Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care. The State party should ensure that the dignity and human rights of every patient confined in psychiatric and related institutions is respected.

(14) The Committee expresses concern that confinement in psychiatric hospitals can be based on mere "signs of mental illness". It regrets that court reviews of admissions to psychiatric institutions do not sufficiently ensure respect for the views of the patient and that guardianship is sometimes assigned to attorneys who do not meet the patient (arts. 9 and 16).

The State party should ensure that no medically unnecessary psychiatric confinement takes place, that all persons without full legal capacity are placed under guardianship that genuinely represents and defends the wishes and interest of those persons, and that an effective judicial review of the lawfulness of the admission and detention of such person in health institutions takes place in each case.

(15) The Committee notes with concern that, according to Section 125 of the Foreigners Act, a foreigner awaiting deportation who is under the age of 18 may be detained for up to 90 days (arts.10 and 24).

The State party should reduce the period of detention for foreigners awaiting deportation who are under the age of 18, bearing in mind its obligation under article 24 of the Covenant to take measures for the protection of children without discrimination.

(16) The Committee regrets that the State party has not so far adopted an anti-discrimination bill. It remains concerned that, despite the adoption of relevant programmes, discrimination against Roma continues to persist in practice, including in the areas of labour, access to employment, health care and education. The Committee is concerned at discrimination faced by Roma in access to housing, as well as the persistence of discriminatory evictions and the continued existence of de-facto "ghettos" (arts. 2, 26 and 27).

The State party should take effective measures to combat discrimination. In particular, it should:

(a) Enact comprehensive anti-discrimination legislation that ensures effective protection for the victims of racial and related discrimination in all areas and related policies and programmes;

(b) Provide legal aid for victims of discrimination;

(c) Institute effective monitoring mechanisms and adopt indicators and benchmarks to determine whether relevant anti-discrimination goals have been reached;

(d) Provide additional training to Roma to equip them for suitable employment and to promote employment opportunities;

(e) Prevent unjustified evictions and dismantle segregation of Roma communities in housing;

(f) Conduct campaigns of public information to overcome prejudice against the Roma.

(17) While acknowledging the elimination of the category of "special schools", the Committee remains concerned that a disproportionately large number of Roma children attend classes with distinct curricula, which appears to lack sensitivity for the cultural identity of, and specific difficulties faced by, Roma children. The Committee is also concerned at reports that a disproportionaly high number of Roma children are removed from their families and placed in social care institutions (arts. 24, 26 and 27).

The State party should carry out an assessment of the specific educational needs of the Roma, taking account of their cultural identity, and develop programs aimed at ending the segregation of Roma in schools. The State party should further ensure that Roma children are not deprived of their right to family life.

(18) The Committee is concerned about reports that non-citizens living in the State party suffer from discrimination, face a wide range of difficulties with regard to their integration into Czech society, and frequently lack information about their rights (art. 26).

The State party should establish mechanisms to remove obstacles to the practical enjoyment of the rights guaranteed by the Covenant to non-citizens living in the Czech Republic. It should take effective measures to promote equality of non-citizens and citizens under the Covenant, including by providing non-citizens with information, in a language that they understand, on the rights and services which they are entitled to enjoy.

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

The State party should consider adopting a comprehensive plan of action for human rights education including elements, of training activities for public officials, teachers, judges, lawyers and police officers on the rights protected under the Covenant and the Optional Protocol.

(20) The Committee sets 1 August 2011 as the date for the submission of the third periodic report of the Czech Republic. It requests that the State party's second periodic report and the present concluding observations be disseminated to the general public as well as to the judicial, legislative and administrative authorities. Hard copies of those documents should be distributed to universities, public libraries, the Parliamentary library, and all other relevant places. It also requests that the third periodic report and these concluding observations be distributed to civil society and to non-governmental organizations operating in the country. It would be desirable to distribute a summary of the report and the concluding observations to the Roma community, in the Roma language.

(21) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit within one year information on the follow-up given to the Committee's recommendations in paragraphs 9, 14 and 16 above. The Committee requests the State party to include in its next periodic report information on its remaining recommendations and on the implementation of the Covenant as a whole.

88. **Sudan**

(1) The Human Rights Committee considered the third periodic report of the Sudan (CCPR/C/SDN/3) at its 2458th, 2459th and 2460th meetings on 11 and 12 July (CCPR/C/SR.2458, 2459 and 2460). It adopted the following concluding observations at its 2479th meeting (CCPR/C/SR.2479) on 26 July 2007.

Introduction

(2) The Committee welcomes the submission of the third periodic report of the Sudan, albeit nine years late, and the opportunity thus offered to resume its dialogue with the State party. The Committee invites the State party to respect the schedule it has established for the submission of

reports. It is grateful to the Government for the additional documents supplied before, during and after consideration of the report. It regrets, however, that the State party did not provide answers to each of the questions set out in the list of issues and that, partly for lack of time, the answers given to some questions were not detailed or specific.

Positive aspects

(3) The Committee welcomes the signature of the Comprehensive Peace Agreement on 9 January 2005, which contributed significantly to ending multiple, serious violations of the guarantees provided under the Covenant.

(4) The Committee welcomes the adoption of the Interim National Constitution of 9 July 2005, which provides for safeguards of fundamental rights and describes the process for adapting Sudanese legislation to these new provisions. The Committee also welcomes the adoption of the Interim Constitution of Southern Sudan adopted on 6 December 2005.

(5) The Committee welcomes the signature of the Darfur Peace Agreement on 5 May 2006, and the continued efforts to find sustainable peace in Darfur.

(6) The Committee takes note with interest of the new 2007 Law on political parties.

Principal subjects of concern and recommendations

(7) The Committee notes the efforts made by the State party on the issue of self-determination in Southern Sudan. It takes note in particular of article 222 of the Interim National Constitution, which provides for a referendum on self-determination. The Committee regrets, however, the lack of information from the State party concerning the human rights situation in Southern Sudan.

> **The State party should deploy all the human and material resources required to hold within the prescribed time limit the referendum provided for by the Interim National Constitution. The State party should ensure that its next periodic report covers the human rights situation throughout the Sudan, including Southern Sudan.**

(8) The Committee notes that pursuant to article 27 of the Interim National Constitution of 2005, the Covenant is binding and may be invoked as a constitutional text. It regrets, however, that the rights protected by the Covenant have not been fully incorporated into domestic law, and that the Covenant has not been sufficiently well publicized to be easily invoked before the courts and administrative authorities (article 2 of the Covenant).

> **The State party should ensure that its legislation gives full effect to the rights recognized in the Covenant. It should in particular ensure that remedies are available to safeguard the exercise of those rights The Covenant should be made known to the general public, and in particular to law enforcement personnel.**

(9) Despite the information provided by the State party about prosecutions of a number of perpetrators of human rights violations, the Committee notes with concern, particularly in the context of armed conflict, that widespread and systematic serious human rights violations, including murder, rape, forced displacement and attacks against the civil population, have been and continue to be committed with total impunity throughout the Sudan and particularly in

Darfur. It is particularly concerned at the immunity provided for in Sudanese law and untransparent procedure for waiving immunity in the event of criminal proceedings against State agents. It also notes that the State party has provided few examples of serious crimes that have been prosecuted and punished, whether by criminal courts or courts set up to investigate violations in Darfur. The Committee continues to be concerned at Decree No. 114 of 11 June 2006 relating to a general amnesty and its scope of application. While also taking note of the information provided by the delegation, the Committee remains concerned with respect to the State party's ability to prosecute and punish war crimes or crimes against humanity committed in Darfur (articles 2, 3, 6, 7 and 12 of the Covenant).

The State party should:

(a) Take all appropriate measures to guarantee that State agents, including all security forces, and militia under State control put an end to such violations immediately;

(b) Ensure that State bodies and agents afford the protection needed by victims of serious violations committed by third parties;

(c) Take all appropriate steps, including cooperation with the International Criminal Court, to ensure that all human rights violations brought to its attention are investigated, and that those responsible for such violations, including State agents and militia members, are prosecuted at national or international level;

(d) Ensure that no financial support or materiel is channelled to militias that engage in ethnic cleansing or the deliberate targeting of civilians;

(e) Undertake to abolish all immunity in the new legislation governing the police, armed forces and national security forces;

(f) Ensure that no amnesty is granted to anyone believed to have committed, or to be committing, crimes of a particularly serious nature;

(g) Ensure that victims of serious violations of human rights are guaranteed an appropriate reparation.

(10) The Committee notes with concern the scale of values applied to punishment in the State party's legislation. It considers that corporal punishment including flogging and amputation is inhuman and degrading. The Committee also notes with concern the continued practice of, and legislation concerning, *diya* (blood money) which may be paid in exchange for less severe punishment (articles 2, 7, 10 and 14 of the Covenant).

The State party should abolish all forms of punishment that are in breach of articles 7 and 10 of the Covenant. It should also review the practice of the payment of *diya* (blood money) for murder and similar crimes. The State party should also ensure that sentences are proportional to the crimes and offences committed.

(11) While taking note of the work of the Sudan's national commission of inquiry, the Committee notes with concern that the authorities have not carried out any exhaustive, independent appraisal of serious violations of human rights committed in the territory of the Sudan and in particular in Darfur, and that few victims have received reparations (arts. 2, 6 and 7).

The State party should:

(a) Undertake to ensure, in all circumstances, that the victims of violations of human rights are guaranteed effective remedy, which is implemented in practice, including the right to as full compensation and reparations as possible;

(b) Provide the human and financial resources required for the efficient functioning of the Sudanese legal system, particularly the special courts and tribunals established to try crimes committed in the Sudan.

(12) The Committee notes with concern the insufficient information provided on the national human rights commissions, in particular the Southern Sudan Human Rights Commission.

The State party should speed up the process of establishing independent human rights commissions in the Sudan and Southern Sudan, including ensuring that they are given appropriate resources and powers.

(13) While noting the State party's willingness to implement legislative reform and give thought to the condition of women in the Sudan, the Committee notes with concern a persistent pattern of discrimination against women in legislation, particularly in the area of marriage and divorce (articles 3, 23, 25 and 26 of the Covenant).

The State party should:

(a) Speed up the adaptation of its laws governing the family and personal status to articles 3, 23 and 26 of the Covenant, in particular with regard the institution of the *wali* (guardian) and the rules on marriage and divorce.

(b) Step up its efforts to raise popular awareness of women's rights, promote further women's participation in public affairs and ensure their education and access to employment. In its next report, the State party should inform the Committee what action it has taken in this area and what results it has achieved.

(14) While taking note of steps taken to reduce violence against women in the Sudan, the Committee continues to be concerned that violence against women persists - in particular, the many cases of rape in Darfur. It notes with concern the information from the State party that women do not trust the police, and that women are reticent to report rape to which they have been subjected, which would explain in part the small number of rapes that are reported (articles 2, 6, and 7 of the Covenant).

The State party should:

(a) Step up its efforts to raise awareness of, and educate the police and general public about, violence against women;

(b) Undertake to review its legislation, in particular articles 145 and 149 of the 1991 Criminal Code, so that women are not deterred from reporting rapes by fears that their claims will be associated with the crime of adultery;

(c) Ensure implementation of the Action Plan to combat violence against women in Darfur, and its extension to the rest of the country.

(15) While noting that the State party has made efforts to end and criminalize female genital mutilation, the Committee remains concerned that this assault on human dignity, which in the Sudan occurs in one of its most serious forms (type III - infibulation), persists (articles 3, 7 and 24 of the Covenant).

The State party should:

(a) Prohibit in its legislation the practice of female genital mutilation, and step up its efforts to completely eradicate the practice, in particular in communities where the practice remains widespread;

(b) Ensure that the perpetrators of female genital mutilation are brought to justice.

(16) The Committee notes with concern reports suggesting that torture and cruel, inhuman or degrading treatment are widespread in the State party, especially in prisons, and is concerned that such abuse is carried out in particular by law-enforcement officers. Moreover, these law-enforcement officers and their accomplices reportedly very often go unpunished. The Committee regrets that there is no definition of torture in the Sudan's Criminal Code (articles 2, 6, and 7 of the Covenant).

The State party should:

(a) Guarantee that all allegations of torture or cruel, inhuman or degrading treatment are investigated by an independent body, and that the perpetrators of such acts are prosecuted and punished as appropriate and that victims are granted effective reparation;

(b) Improve the training of State agents in this regard, in order to ensure that all persons who are arrested or held in custody are informed of their rights;

(c) In its next report, provide detailed information on complaints filed in connection with such acts, the number of persons prosecuted and convicted, including members of national security forces, and the reparations paid to victims;

(d) Provide a legal definition of torture in its legislation, in accordance with article 7 of the Covenant.

(17) While noting efforts by the State party to eradicate the practice of forced recruitment of child soldiers, including the establishment of disarmament, demobilization and reintegration commissions, and the reference made by the State party to the disarmament, demobilization and reintegration commission website, the Committee remains concerned at the small number of children who have actually been demobilized. It also notes the statement by the State party that in the absence of a comprehensive civil register it is difficult to determine the exact ages of the people serving in its armed forces (articles 8 and 24 of the Covenant).

The State party should put an end to all recruitment and use of child soldiers, and provide disarmament, demobilization and reintegration commissions with the human and financial resources they need to fulfil their mandates, in order to ensure the expertise required to demobilize child soldiers. The State party should also speed up its programme for the establishment of a civil register, and ensure that all births are registered throughout the country.

(18) While noting efforts by the State party to eradicate the practice of abducting women and children and secure the return of abductees, in the light of reports from non-governmental sources and the State party of large numbers of abductions the Committee remains concerned at the small numbers of people who are traced. The Committee also takes note of the explanations put forward regarding the role and responsibility of tribes in the matter (articles 8 and 24 of the Covenant).

The State party should put a stop to all forms of slavery and abduction in its territory and prosecute those engaging in such practices. It should make available to the Committee for the Elimination of Abduction of Women and Children the human and financial resources it needs to fulfill its mandate. The State party should also provide abductees with assistance in settling back into their families and communities. It enjoins the State party to hold the tribes more accountable, and to take forceful action against tribes that continue to engage in abduction.

(19) The imposition in the State party of the death penalty for offences which cannot be characterized as the most serious, including embezzlement by officials, robbery with violence and drug trafficking, as well as practices which should not be criminalised such as committing a third homosexual act and illicit sex, is incompatible with article 6 of the Covenant (articles 6 and 7 of the Covenant).

The State party should ensure that the death penalty, if used at all, should be applicable only to the most serious crimes, in accordance with article 6, and should be repealed for all other crimes. Any imposition of the death penalty should comply with the requirements of article 7. In its next report, the State party is asked to furnish information on the number of executions which have taken place and the type of offence for which the death penalty has been imposed.

(20) The Committee notes with concern that although the Interim National Constitution prohibits the imposition of the death penalty on those under the age of 18, exceptionally in Northern Sudan the death penalty can in fact be imposed on minors. While it takes note of the State party's reply that offenders under the age of 18 are subjected to protection and re-education

measures, it emphasises that the Constitutional Court has been seized, by a person claiming to be a minor, with a case challenging a death sentence against the individual concerned. It repeats that the Covenant does not allow the death penalty to be imposed for crimes committed by individuals aged under 18, and permits no derogation from that article (articles 2, 4 and 6 of the Covenant).

In keeping with article 6 of the Covenant, the State party should guarantee that the death penalty will not be applied to persons aged under 18 years.

(21) The Committee expresses concern at the permitted legal duration of detention in police custody (*garde à vue*), which can be prolonged to as much as six months and, in practice, beyond. It also notes with concern that in actual fact the right of the detainee to have access to a lawyer, a doctor and family members, and to be tried within a reasonable time, is often not respected (articles 7 and 9 of the Covenant).

The State party should ensure that the permitted legal duration of detention in police custody (*garde à vue*) is restricted by the Code of Criminal Procedure in accordance with the Covenant, and guarantee that that permitted duration will be respected in practice. The right of detainees to have access to a lawyer, a doctor and family members should be laid down in the Code of Criminal Procedure. In its next report, the State party is invited to supply detailed information on the steps it has taken to uphold the rights of detainees in practice, and on the methods employed to monitor conditions in detention.

(22) Despite assurances from the State party, the Committee voices concern at the many reports from non-governmental sources of "ghost houses" and clandestine detention centres. Following the events of 13 June 2007, 13 people were arrested during a protest against the construction of the Kajbar dam and four of them were held incommunicado for a week; to this day the whereabouts in detention of two of these people is unknown (article 9 of the Covenant).

The State party should ensure that all detention facilities operate under the supervision of the Prisons Administration, and uphold all the provisions of article 9 of the Covenant.

(23) The Committee notes the steps taken to facilitate humanitarian assistance and the State party's expressed willingness to respect the voluntary return of internally displaced persons. It remains concerned at the absence of measures to ensure the protection of displaced persons and humanitarian workers, and the lack of resources made available to allow the displaced to return home under acceptable conditions (article 12 of the Covenant).

In keeping with all international standards governing the matter, including the Guiding Principles on Internal Displacement, the State party should:

(a) Take such steps as are necessary to afford displaced persons, in particular women in and around camps, greater protection;

(b) Take appropriate steps to ensure the safety of humanitarian workers and their vehicles and supplies, and facilitate their access to the beneficiaries of humanitarian aid;

(c) Not resort to forced relocation of displaced persons living in camps or unsafe areas without consulting them beforehand and offering acceptable alternatives;

(d) Redouble its efforts to guarantee the safe, voluntary return of displaced persons.

(24) The Committee, while taking note of the 1974 Asylum Act, is concerned that certain asylum-seekers cannot access asylum procedures thus exposing them to the risk of being deported in violation of the principle of non-refoulement as well as about reports that asylum-seekers and refugees trying to obtain or renew identity documents faced numerous obstacles (articles 7 and 12 of the Covenant).

The State party should, in order to avoid any instances of refoulement, ensure full access to asylum procedures for all asylum seekers in all parts of the Sudan as well as to documentation for asylum-seekers and refugees.

(25) The Committee is concerned that confessions obtained in violation of article 7 of the Covenant are not explicitly proscribed by the law of the State party, and that such confessions have been used in some inquiries and have culminated in death sentences (articles 7 and 14 of the Covenant).

Besides banning torture outright, the State party should prohibit the use of confessions obtained in violation of article 7 of the Covenant in any Sudanese court. In its next report, the State party should also indicate the number of appeals for review of conviction resulting from an unfair trial or the use of a confession obtained under torture.

(26) The Committee is concerned that apostasy is a crime under the 1991 Penal Code (article 18 of the Covenant).

The State party should abolish the crime of apostasy, which is incompatible with article 18 of the Covenant.

(27) While taking note of legislative reforms allowing greater press freedom, and the fact that article 130 of the Code of Criminal Procedure has not applied to the press or reporters since April 2007, the Committee nevertheless notes with concern that many reporters have been subject to pressure, intimidation or aggression, have been deprived of their liberty or have suffered ill-treatment at the hands of the State party's authorities (article 19 of the Covenant).

The State party should guarantee the exercise of freedom of the press and ensure that reporters are protected in conformity with article 19 of the Covenant.

(28) While taking note of legislative reforms, the Committee nevertheless notes with concern that many demonstrations have been violently dispersed and a number of people have suffered through the excessive use of force by State employees. The Committee notes in this connection information from the State party indicating that several people died when security forces recently dispersed two demonstrations (articles 6 and 21 of the Covenant).

The State party should respect the right to express opinions and should protect peaceful demonstration. It should ensure that any restriction on the exercise of the right to demonstrate is compatible with article 21 of the Covenant, and that inquiries are mounted into the excessive use of force when demonstrations are dispersed.

(29) The Committee is troubled that many human rights organizations and defenders are unable to operate freely and suffer frequent harassment and intimidation including arbitrary detention at the hands of State employees. The Committee remains concerned about the controversy over the 2006 Act regulating Humanitarian and Voluntary Action (articles 9, 21 and 22 of the Covenant).

The State party should respect and protect the activities of human rights organizations and defenders. It should ensure that any governmental regulation is compatible with articles 21 and 22 of the Covenant, and make sure that the 2006 Act is consistent with the Covenant.

(30) The Committee has set 26 July 2010 as the due date for the next periodic report of the Sudan. It requests that the text of the present report and these concluding observations be made public and disseminated adequately and promptly throughout the Sudan. It also requests that the next periodic report be made available to civil society and to non-governmental organizations operating in the State party.

(31) In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should submit information within one year on the follow-up given to the Committee's recommendations contained in paragraphs 9, 11 and 17. The Committee requests the State party to provide information in its next report on the Committee's other recommendations and on the application of the Covenant as a whole.

CHAPTER V. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL

89. Individuals who claim that any of their rights under the International Covenant on Civil and Political Rights have been violated by a State party, and who have exhausted all available domestic remedies, may submit written communications to the Human Rights Committee for consideration under the Optional Protocol. No communication can be considered unless it concerns a State party to the Covenant that has recognized the competence of the Committee by becoming a party to the Optional Protocol. Of the 160 States that have ratified, acceded to or succeeded to the Covenant, 109 have accepted the Committee's competence to deal with individual complaints by becoming parties to the Optional Protocol (see annex I, section B).

90. Consideration of communications under the Optional Protocol is confidential and takes place in closed meetings (article 5, paragraph 3, of the Optional Protocol). Under rule 102 of the Committee's rules of procedure, all working documents issued for the Committee are confidential unless the Committee decides otherwise. However, the author of a communication and the State party concerned may make public any submissions or information bearing on the proceedings, unless the Committee has requested the parties to respect confidentiality. The Committee's final decisions (Views, decisions declaring a communication inadmissible, decisions to discontinue the consideration of a communication) are made public; the names of the authors are disclosed unless the Committee decides otherwise.

91. Communications addressed to the Human Rights Committee are processed by the Petitions Team of the Office of the United Nations High Commissioner for Human Rights (OHCHR). This Team also services the communications procedures under article 22 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and under article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination.

A. Progress of work

92. The Committee started its work under the Optional Protocol at its second session, in 1977. Since then, 1,575 communications concerning 82 States parties have been registered for consideration by the Committee, including 87 registered during the period covered by the present report. At present, the status of the 1,575 communications registered is as follows:

(a) Consideration concluded by the adoption of Views under article 5, paragraph 4, of the Optional Protocol: 595, including 473 in which violations of the Covenant were found;

(b) Declared inadmissible: 479;

(c) Discontinued or withdrawn: 240;

(d) Not yet concluded: 263.

93. The Petitions Team has also received hundreds of communications in respect of which complainants were advised that further information would be needed before their communications could be registered for consideration by the Committee. Several thousand complainants were informed that their cases would not be dealt with by the Committee, for example because they fell clearly outside the scope of application of the Covenant or of the Optional Protocol. A record of this correspondence is kept in the secretariat and reflected in its database.

94. During the eighty-eighth, eighty-ninth and ninetieth sessions, the Committee concluded consideration of 49 cases by adopting Views thereon. These are cases Nos. 1017/2001 and 1066/2002 (*Strakhov and Fayzullaev v. Uzbekistan*), 1039/2001 (*Zvozskov et al. v. Belarus*), 1041/2002 (*Tulayganov v. Uzbekistan*), 1043/2002 (*Chikunova v. Uzbekistan*), 1047/2002 (*Sinitsin v. Belarus*), 1052/2002 (*N.T. v. Canada*), 1057/2002 (*Kornetov v. Uzbekistan*), 1071/2002 (*Agabekov v. Uzbekistan*), 1108/2002 and 1121/2002 (*Karimov and Nursatov. v. Tajikistan*), 1124/2002 (*Obodzinsky v. Canada*), 1140/2002 (*Khudayberganov v. Uzbekistan*), 1143/2002 (*El Dernawi v. Libyan Arab Jamahiriya*), 1172/2003 (*Madani v. Algeria*), 1173/2003 (*Benhadj v. Algeria*), 1181/2003 (*Amador and Amador v. Spain*), 1255, 1256, 1259, 1260, 1266, 1268, 1270 and 1288/2004 (*Shams et al. v. Australia*), 1274/2004 (*Korneenko et al. v. Belarus*), 1291/2004 (*Dranichnikov v. Australia*), 1295/2004 (*El Awani v. Libyan Arab Jamahiriya*), 1295/2004 (*Belyatsky et al. v. Belarus*), 1320/2004 (*Pimentel et al. v. the Philippines*), 1321/2004 and 1322/2004 (*Yoon and Choi v. the Republic of Korea*), 1324/2004 (*Shafiq v. Australia*), 1325/2004 (*Conde v. Spain*), 1327/2004 (*Grioua v. Algeria*), 1328/2004 (*Kimouche v. Algeria*), 1332/2004 (*García Sánchez and González Clares v. Spain*), 1342/2005 (*Gavrilin v. Belarus*), 1347/2005 (*Dudko v. Australia*), 1348/2005 (*Ashurov v. Tajikistan*), 1353/2005 (*Afuson v. Cameroon*), 1361/2005 (*X v. Colombia*), 1368/2005 (*E.B. v. New Zealand*), 1381/2005 (*Hachul Moreno v. Spain*), 1416/2005 (*Alzery v. Sweden*), 1439/2005 (*Aber v. Algeria*), 1445/2006 (*Polacek and Polacková v. Czech Republic*) and 1454/2006 (*Lederbauer v. Austria*). These Views are reproduced in annex VII (vol. II).

95. The Committee also concluded consideration of 30 cases by declaring them inadmissible. These are cases Nos. 982/2001 (*Singh Bullar v. Canada*), 996/2001 (*Stolyar v. the Russian Federation*), 1098/2002 (*Guardiola Martínez v. Spain*), 1151/2003 (*González v. Spain*), 1154/2003 (*Katsuno et al. v. Australia*), 1187/2002 (*Verlinden v. the Netherlands*), 1201/2003 (*Ekanayake v. Sri Lanka*), 1213/2003 (*Sastre v. Spain*), 1219/2003 (*Roasavljevic v. Bosnia and Herzegovina*), 1224/2003 (*Litvina v. Latvia*), 1234/2003 (*P.K. v. Canada*), 1285/2004 (*Klečkovski v. Lithuania*), 1305/2004 (*Villamón v. Spain*), 1341/2005 (*Zundel v. Canada*), 1355/2005 (*X v. Serbia*), 1359/2005 (*Esposito v. Spain*), 1365/2005 (*Camara v. Canada*), 1367/2005 (*Anderson v. Australia*), 1370/2005 (*González and Muñoz v. Spain*), 1384/2005 (*Petit v. France*), 1386/2005 (*Roussev v. Spain*), 1391/2005 (*Rodrigo v. Spain*), 1419/2005 (*Lorenzo v. Italy*), 1424/2005 (*Armand v. Algeria*), 1438/2005 (*Taghi Khadje v. the Netherlands*), 1446/2006 (*Wdowiak v. Poland*), 1451/2006 (*Gangadin v. the Netherlands*), 1452/2006 (*Chytil v. Czech Republic*), 1453/2006 (*Brun v. France*) and 1468/2006 (*Winkler v. Austria*). These decisions are reproduced in annex VIII (vol. II).

96. Under the Committee's rules of procedure, the Committee will normally decide on the admissibility and merits of a communication together. Only in exceptional circumstances will the Committee request a State party to address admissibility only. A State party which has received a request for information on admissibility and merits may, within two months, object to admissibility and apply for separate consideration of admissibility. Such a request will not, however, release the State party from the requirement to submit information on the merits within six months, unless the Committee, its Working Group on Communications or its designated special rapporteur decides to extend the time for submission of information on the merits until after the Committee has ruled on admissibility.

97. During the period under review, nine communications were declared admissible separately for examination on the merits. Decisions declaring communications admissible are not normally published by the Committee. Procedural decisions were adopted in a number of pending cases (under article 4 of the Optional Protocol or under rules 92 and 97 of the Committee's rules of procedure).

98. The Committee decided to discontinue the consideration of nine communications following withdrawal by the author (cases Nos. 1109/2002, *Jacob v. the Philippines*, 1111/2002, *Nardo v. the Philippines*, 1171/2003, *Palero v. the Philippines*, 1199/2003, *Dulay v. the Philippines*, 1217/2003, *Velasco v. the Philippines*, 1245/2004, *Kupalov v. Uzbekistan*, 1282/2004 *Sunnatov v. Uzbekistan*, 1339/2005, *Nawaqaliva v. Australia*, 1431/2005, *Lyssenko et al. v. Australia*), and to discontinue consideration of 13 communications because counsel lost contact with the author (case No. 1286/2004, *Kuldashev v. Uzbekistan*); or because the author or counsel failed to respond to the Committee despite repeated reminders (cases Nos. 782/1997, *Kozlyuk v. Ukraine*, 914/2000, *Khojinemekammedov v. Uzbekistan*, 1000/2001 *Mraz v. Czech Republic*, 1025/2001, *Getke v. Poland*, 1067/2002 *Khakimov v. Uzbekistan*, 1068/2002 *Salyakov v. Uzbekistan*, 1072/2002 *Annenkov v. Uzbekistan*, 1146/2002 *Malyarchuk v. Belarus*, 1147/2002 *Klimovich v. Belarus*, 1148/2002 *Nikolayuk v. Belarus*, 1244/2004, *Rafeev v. Belarus*); or because the author voluntarily left the State party from which he was going to be deported (case No. 1428/2005, *Secilmis v. Denmark*).

99. In four cases decided during the period under review, the Committee noted that the State party had failed to cooperate in the examination of the author's allegations. The Committee deplored that situation and recalled that it was implicit in the Optional Protocol that States parties should transmit to the Committee all information at their disposal. In the absence of a reply, due weight had to be given to the author's allegations, to the extent that they had been properly substantiated.

B. Increase in the Committee's caseload under the Optional Protocol

100. As the Committee has stated in previous reports, the increasing number of States parties to the Optional Protocol and better public awareness of the procedure have led to a growth in the number of communications submitted to the Committee. The table below sets out the pattern of the Committee's work on communications over the last eight years, to 31 December 2006.

Communications dealt with, 1999-2006

Year	New cases registered	Cases concluded[a]	Pending cases at 31 December
2006	96	109	296
2005	106	96	309
2004	100	78	299
2003	88	89	277
2002	107	51	278
2001	81	41	222
2000	58	43	182
1999	59	55	167

[a] Total number of cases decided (by the adoption of Views, inadmissibility decisions and decisions to discontinue consideration).

C. Approaches to considering communications under the Optional Protocol

1. Special Rapporteur on new communications

101. At its thirty-fifth session, in March 1989, the Committee decided to designate a special rapporteur authorized to process new communications as they were received, i.e. between sessions of the Committee. At the Committee's eighty-second session, in October 2004, Mr. Kälin was designated as the new Special Rapporteur. In the period covered by the present report, the Special Rapporteur transmitted 87 new communications to the States parties concerned under rule 97 of the Committee's rules of procedure, requesting information or observations relevant to the questions of admissibility and merits. In 10 cases, the Special Rapporteur issued requests for interim measures of protection pursuant to rule 92 of the Committee's rules of procedure. The competence of the Special Rapporteur to issue and, if necessary, to withdraw requests for interim measures under rule 92 of the rules of procedure is described in the annual report for 1997.[1]

2. Competence of the Working Group on Communications

102. At its thirty-sixth session, in July 1989, the Committee decided to authorize the Working Group on Communications to adopt decisions declaring communications admissible when all members of the Group so agreed. Failing such agreement, the Working Group refers the matter to the Committee. It also does so whenever it believes that the Committee itself should decide the question of admissibility. During the period under review, nine communications were declared admissible by the Working Group on Communications.

103. The Working Group also makes recommendations to the Committee concerning the inadmissibility of certain communications. At its eighty-third session the Committee authorized the Working Group to adopt decisions declaring communications inadmissible if all members so agreed. At its eighty-fourth session, the Committee introduced the following new rule 93 (3) in its rules of procedure: "A working group established under rule 95, paragraph 1, of these rules of

procedure may decide to declare a communication inadmissible, when it is composed of at least five members and all the members so agree. The decision will be transmitted to the Committee plenary, which may confirm it without formal discussion. If any Committee member requests a plenary discussion, the plenary will examine the communication and take a decision."

104. At its fifty-fifth session, in October 1995, the Committee decided that each communication would be entrusted to one member of the Committee, who would act as rapporteur for it in the Working Group and in the plenary. The role of the rapporteur is described in the report for 1997.[2]

D. Individual opinions

105. In its work under the Optional Protocol, the Committee seeks to adopt decisions by consensus. However, pursuant to rule 104 of the Committee's rules of procedure, members can add their individual or dissenting opinions to the Committee's Views. Under this rule, members can also append their individual opinions to the Committee's decisions declaring communications admissible or inadmissible.

106. During the period under review, individual opinions were appended to the Committee's Views concerning cases Nos. 1017/2001 and 1066/2001 (*Strakhov and Fauzullaev v. Uzbekistan*), 1047/2002 (*Sinitsin v. Belarus*), 1151/2003 (*González v. Spain*), 1172/2003 (*Madani v. Algeria*), 1173/2003 (*Madani v. Algeria*), 1173/2003 (*Benhadj v. Algeria*), 1255, 1256, 1259, 1260, 1266, 1268, 1270 and 1288/2004 (*Shams et al. v. Australia*), 1321/2004 and 1322/2004 (*Yoon and Choi v. the Republic of Korea*), 1361/2005 (*X v. Colombia*), 1368/2005 (*E.B. v. New Zealand*) and 1454/2006 (*Lederbauer v. Austria*), and to the inadmissibility decisions concerning cases Nos. 1424/2005 (*Armand v. Algeria*) and 1453/2006 (*Brun v. France*).

E. Issues considered by the Committee

107. A review of the Committee's work under the Optional Protocol from its second session in 1977 to its eighty-seventh session in July 2006 can be found in the Committee's annual reports for 1984 to 2006, which contain summaries of the procedural and substantive issues considered by the Committee and of the decisions taken. The full texts of the Views adopted by the Committee and of its decisions declaring communications inadmissible under the Optional Protocol are reproduced in annexes to the Committee's annual reports to the General Assembly. The texts of the Views and decisions are also available in the treaty body database on the website of the Office of the United Nations High Commissioner for Human Rights (www.ohchr.org).

108. Seven volumes of "Selected decisions of the Human Rights Committee under the Optional Protocol", from the second to the sixteenth sessions (1977-1982), from the seventeenth to the thirty-second sessions (1982-1988), from the thirty-third to the thirty-ninth sessions (1980-1990), from the fortieth to the forty-sixth sessions (1990-1992), from the forty-seventh to the fifty-fifth sessions (1993-1995), from the fifty-sixth to the sixty-fifth sessions (March 1996 to April 1999) and from the sixty-sixth to the seventy-fourth sessions (July 1999 to March 2002) have been published. Some volumes are available in English, French, Russian and Spanish. The most recent volumes are currently available in only one or two languages. As domestic courts

increasingly apply the standards contained in the International Covenant on Civil and Political Rights, it is imperative that the Committee's decisions can be consulted worldwide in a properly compiled and indexed volume, available in all the official languages of the United Nations.

109. The following summary reflects developments concerning issues considered during the period covered by the present report. In order to reduce the length of the report, only the most significant decisions have been covered.

1. Procedural issues

(a) Inadmissibility because the victim is not subject to the jurisdiction of the State party (Optional Protocol, art. 1)

110. Under article 1 of the Optional Protocol, the Committee may receive communications only from individuals under the jurisdiction of the State party in question. In case No. 1359/2005 (*Esposito v. Spain*), the Committee noted that the author's complaint in relation to articles 7 and 10, on the grounds that the penalty imposed by an Italian court would involve cruel, inhuman or degrading treatment, by virtue of its duration and the conditions in which it would be enforced, referred to acts that took place outside the jurisdiction of the State party. The Committee recalled that if a State party had lawfully extradited an individual, it generally bore no responsibility under the Covenant for any violations of that person's rights under another State party's jurisdiction, as a State party could in no way be required to guarantee the rights of a person in another jurisdiction. Nevertheless, if a State party were to take a decision regarding a person under its jurisdiction and the necessary and foreseeable consequence of that decision was the violation of that person's rights under the Covenant in another jurisdiction, the State party itself might be in violation of the Covenant. In the case in question, it could not be asserted that the subjection of the author to treatment that violated the Covenant was the necessary and foreseeable consequence of his extradition to Italy. Consequently, the Committee considered that the communication was inadmissible with regard to the claims under articles 7 and 10, in accordance with article 1 of the Optional Protocol.

(b) Inadmissibility *ratione temporis* (Optional Protocol, art. 1)

111. Under article 1 of the Optional Protocol, the Committee may receive only communications concerning alleged violations of the Covenant which occurred after the entry into force of the Covenant and the Optional Protocol for the State party concerned, unless continuing effects exist which in themselves constitute a violation of a Covenant right.

112. In case No. 1367/2005 (*Anderson v. Australia*), concerning the right to compensation following the reversal of a conviction, the Committee noted that the author's first conviction, the decision to pardon him and the decision to compensate him all pre-dated the entry into force of the Optional Protocol for the State party. The Committee did not consider that the alleged violation continued to have effects after the decision to compensate him which could in themselves have constituted violations of the author's Covenant rights. The Committee therefore found this part of the communication inadmissible *ratione temporis*, under article 1 of the Optional Protocol.

113. In case No. 1424/2005 (*Armand v. Algeria*), the Committee noted that the State party had adopted certain laws since the entry into force of the Covenant and the Protocol regarding the restitution of certain property to persons of Algerian nationality. However, the author had not shown that those laws applied to him, since they concerned only persons "whose land [had] been nationalized or who [had] given their land as a gift under Ordinance No. 71-73 of 8 November 1971". The only remaining issue which could arise under article 17 was whether there were continuing effects by virtue of the State party's failure to compensate the author for the confiscation of his property. The Committee recalled that the mere fact that the author had still not received compensation since the entry into force of the Optional Protocol did not constitute an affirmation of a prior violation. The claims were therefore inadmissible *ratione temporis*, under article 1 of the Optional Protocol.

(c) Inadmissibility for lack of standing (Optional Protocol, art. 1)

114. In case No. 1039/2001 (*Zvozskov et al. v. Belarus*), the Committee noted that the author had submitted the communication in his own name and on behalf of 33 other individuals, but had provided letters from only 23 co-authors (out of 33) authorizing him to act on their behalf before the Committee. The Committee also noted that there was nothing in the material before the Committee concerning the claims brought on behalf of the 10 remaining individuals to show that they had authorized Mr. Zvozskov to represent them. The Committee considered that the author had no standing before the Committee required by article 1 of the Optional Protocol with regard to those 10 individuals, but considered that the communication was nevertheless admissible so far as the author himself and the other 23 members of "Helsinki XXI" were concerned. Similarly, in case No. 1274/2004 (*Korneenko et al. v. Belarus*), the Committee noted that the author had presented the communication in his own name and on behalf of 105 other named individuals. However, he had not presented to the Committee any proof whatsoever of their consent, by requesting the other 105 individuals to sign the initial complaint or issue a letter of authorization. The Committee considered that the author had no standing before the Committee required by article 1 of the Optional Protocol with regard to those 105 individuals, but considered that the communication was nevertheless admissible so far as the author himself was concerned.

115. In case No. 1172/2003 (*Madani v. Algeria*), the Committee considered the question of the validity of the power of attorney submitted by counsel. The Committee recalled that, normally, a communication should be submitted by the individual personally or by that individual's representative; a communication submitted on behalf of an alleged victim could, however, be accepted when it appeared that the individual in question was unable to submit the communication personally. In the case in question, the representative stated that the victim had been placed under house arrest on the date of the submission of the initial communication, and that he was able to communicate only with members of his immediate family. The Committee therefore considered that the power of attorney submitted by counsel on behalf of the victim's son was sufficient for the purposes of registering the communication. Furthermore, the representative had subsequently provided a power of attorney signed by the victim, expressly and unequivocally authorizing him to represent him before the Committee in the case in question. The Committee therefore concluded that the communication had been submitted to it in accordance with the rules.

116. In case No. 1355/2005 (*X v. Serbia*), the Committee recalled that children must generally rely on other persons to present their claims and represent their interests, and might not be of an age or capacity to authorize any steps to be taken on their behalf. Even though the Committee did not exclude that the counsel of the child in the domestic proceedings could continue to present the child's claims to the Committee, it noted that the author had conceded that it was not authorized to act by the child, his legal guardian or his parents. Indeed, the question of instructing the author to submit a communication to the Committee on behalf of the child had not been discussed with the child, his legal guardian or the parents. There was no indication either that the child, who was 12 at the time of the submission of the communication and thus likely to be able to give his consent to the presentation of a complaint, the legal guardian or the parents had, at any time, consented to the author's acting on behalf of the child. Furthermore, there was no indication that the author had sought to obtain informal consent from the child, with whom it was no longer in contact. In the absence of express authorization, the author should have provided evidence that it had a sufficiently close relationship with the child to justify its having acted without such authorization. The Committee noted that, since the author had ceased to represent the child in the domestic proceedings, it had not been in contact with him, his legal guardian or his parents. In such circumstances, the Committee could not even assume that the child did not object to the author's proceeding with a communication to the Committee. Consequently, notwithstanding that the Committee was gravely disturbed by the evidence in this case, it was precluded by the provisions of the Optional Protocol from considering the matter, since the author had not shown that it was authorized to act on the victim's behalf in submitting the communication.

(d) Inadmissibility for lack of victim status (Optional Protocol, art. 1)

117. In case No. 1453/2006 (*Brun v. France*), the Committee noted that the author claimed that, in the context of the domestic proceedings, he had been the victim of a violation by the State party of his rights under article 17 of the Covenant. The Committee recalled that any person claiming to be a victim of a violation of a right protected by the Covenant must demonstrate either that a State party had by an act or omission already impaired the exercise of his right or that such impairment was imminent, basing his argument for example on legislation in force and/or on a judicial or administrative decision or practice. In the case in question, the Committee noted that the author's arguments referred to the dangers allegedly stemming from the use of genetically modified organisms and observed that the facts of the case did not show that the position of the State party on the field cultivation of transgenic plants represented, in respect of the author, an actual violation or an imminent threat of violation of his right to life and his right to privacy, family and home. The Committee concluded therefore that the author could not claim to be a victim of the alleged violation within the meaning of article 1 of the Optional Protocol.

(e) Claims not substantiated (Optional Protocol, art. 2)

118. Article 2 of the Optional Protocol provides that "individuals who claim that any of their rights enumerated in the Covenant have been violated and who have exhausted all available domestic remedies may submit a written communication to the Committee for consideration".

119. Although an author does not need to prove the alleged violation at the admissibility stage, he or she must submit sufficient material substantiating the allegation for purposes of admissibility. A "claim" is, therefore, not just an allegation, but an allegation supported by

substantiating material. In cases where the Committee finds that the author has failed to substantiate a claim for purposes of admissibility, it has held the communication inadmissible, in accordance with rule 96 (b) of its rules of procedure.

120. In case No. 996/2001 (*Stolyar v. the Russian Federation*), the Committee noted the absence of any pertinent information, in particular the absence of a detailed description of the acts of ill-treatment the author was allegedly subjected to during the investigation, and the absence of medical evidence or information as to whether the author or counsel had complained about that ill-treatment. Consequently, the Committee considered that the author had failed to substantiate his claim of a violation under article 7 sufficiently for the purposes of admissibility. It also considered that the alleged violations under article 9 and article 14, paragraphs 1, 3 (d), 3 (e) and 3 (g) were not sufficiently substantiated.

121. Other claims were declared inadmissible for lack of substantiation in cases Nos. 1057/2002 (*Kornetov v. Uzbekistan*), 1098/2002 (*Guardiola Martínez v. Spain*), 1151/2003 (*González v Spain*), 1154/2003 (*Katsuno et al. v. Australia*), 1187/2003 (*Verlinden v. the Netherlands*), 1213/2003 (*Sastre v. Spain*), 1219/2003 (*Roasavljevic v. Bosnia and Herzegovina*), 1234/2003 (*P.K. v. Canada*), 1274/2004 (*Korneenko et al. v. Belarus*), 1305/2004 (*Villamón v.Spain*), 1370/2005 (*González and Muñoz v. Spain*), 1386/2005 (*Roussev v. Spain*), 1438/2005 (*Taghi Khadje v. the Netherlands*), 1451/2006 (*Gangadin v. the Netherlands*) and 1453/2006 (*Brun v. France*).

(f) Competence of the Committee with respect to the evaluation of facts and evidence (Optional Protocol, art. 2)

122. A specific form of lack of substantiation is represented by cases where the author invites the Committee to re-evaluate issues of fact and evidence addressed by domestic courts. The Committee has repeatedly recalled its jurisprudence that it is not for it to substitute its views for the judgement of the domestic courts on the evaluation of facts and evidence in a case, unless the evaluation is manifestly arbitrary or amounts to a denial of justice. If a jury or court reaches a reasonable conclusion on a particular matter of fact in the light of the evidence available, the decision cannot be held to be manifestly arbitrary or to amount to a denial of justice. Claims involving the re-evaluation of facts and evidence have thus been declared inadmissible under article 2 of the Optional Protocol. This was true for cases Nos. 996/2001 (*Stolyar v. the Russian Federation*), 1039/2001 (*Zvozskov et al. v. Belarus*), 1057/2002 (*Kornetov v. Uzbekistan*) and 1391/2005 (*Rodrigo v. Spain*).

(g) Inadmissibility *ratione materiae* (Optional Protocol, art. 3)

123. In case No. 1367/2005 (*Anderson v. Australia*), the Committee observed that the author's conviction by the Supreme Court of New South Wales had been quashed by the Court of Criminal Appeal. The decision of the Supreme Court of New South Wales was subject to appeal and did not therefore constitute a "final decision" within the meaning of article 14, paragraph 6. The final decision was the decision of the Court of Criminal Appeal which acquitted the author. Accordingly, the Committee considered that article 14, paragraph 6, did not apply in the case in question, and that the claim was inadmissible *ratione materiae* under article 3 of the Optional Protocol.

124. Claims were also declared inadmissible *ratione materiae* in cases Nos. 1219/2003 (*Roasavljevic v. Bosnia and Herzegovina*) and 1359/2005 (*Esposito v. Spain*).

(h) Inadmissibility for abuse of the right to submit a communication (Optional Protocol, art. 3)

125. Under article 3 of the Optional Protocol, the Committee can declare inadmissible any communication which it considers to be an abuse of the right to submit communications. In case No. 1452/2006 (*Chytil v. Czech Republic*), the Committee noted that the last decision in the file was the decision of the Constitutional Court of 4 March 1996, rejecting the author's request to appeal the previous decision of 29 November 1995. Thus, a period of almost 10 years had passed before the author submitted his case to the Committee on 16 January 2006. The Committee noted that there were no fixed time limits for submission of communications under the Optional Protocol and that mere delay in submission did not in itself, except in exceptional circumstances, constitute an abuse of the right to submit a communication. In the current case, although the State party had raised the issue of the delay which, in its view, amounted to an abuse of the right of petition, the author had not explained or justified why he waited for nearly ten years before bringing his claims to the Committee. Taking into account the fact that the Committee's decision in *Simunek* was rendered in 1995, and the file indicated that the author had learned of that decision soon thereafter, the Committee regarded the delay as so unreasonable and excessive as to amount to an abuse of the right of submission, and declared the communication inadmissible pursuant to article 3 of the Optional Protocol.

(i) Inadmissibility because of submission to another procedure of international investigation or settlement (Optional Protocol, art. 5, para. 2 (a))

126. Pursuant to article 5, paragraph 2 (a), of the Optional Protocol, the Committee shall ascertain that the same matter is not being examined under another procedure of international investigation or settlement. Upon becoming parties to the Optional Protocol, some States have made a reservation to preclude the Committee's competence if the same matter has already been examined under another procedure.

127. In case No. 1468/2006 (*Winkler v. Austria*), the Committee recalled that, despite certain differences in the interpretation of article 6, paragraph 1, of the European Convention and article 14, paragraph 1, of the Covenant by the competent organs, both the content and scope of these provisions largely converged In the light of the similarities between the two provisions, and on the basis of the State party's reservation, the Committee had to decider the decision of the European Court constituted a "examination" of the "same matter" as that which was before it. It recalled its jurisprudence that an inadmissibility decision which entailed the at least implicit consideration of the merits of a complaint amounted to an "examination" for the purpose of article 5, paragraph 2 (a), of the Optional Protocol. It also recalled that the European Court must be considered to have gone beyond the examination of purely procedural admissibility criteria when declaring the application inadmissible because it did not "disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols". The Committee thus considered itself precluded from reviewing the examination of the author's claim by the European Court under article 6, paragraph 1, of the European Convention. It found the relevant part of the communication inadmissible under article 5, paragraph 2 (a), of the Optional Protocol.

128. Claims were also declared inadmissible because of submission to another procedure of international investigation or settlement in cases Nos. 1383/2005 (*Petit. v. France*) and 1419/2005 (*Lorenzo v. Italy*).

(j) The requirement of exhaustion of domestic remedies (Optional Protocol, art. 5, para. 2 (b))

129. Pursuant to article 5, paragraph 2 (b), of the Optional Protocol, the Committee shall not consider any communication unless it has ascertained that the author has exhausted all available domestic remedies. However, it is the Committee's constant jurisprudence that the rule of exhaustion applies only to the extent that those remedies are effective and available. The State party is required to give details of the remedies which it submitted had been made available to the author in the circumstances of his case, together with evidence that there would be a reasonable prospect that such remedies would be effective.

130. In case No. 1201/2003 (*Ekanayake v. Sri Lanka*), the Committee noted that the author had not raised any claim before the State party's courts with respect to his dismissal from judicial service, which he claimed violated article 26 of the Covenant. The author confirmed that he could have appealed his dismissal to the Court of Appeal but chose not to do so, claiming that the judiciary was not independent. The Committee considered that the author had not substantiated his generalized claim that none of the judges of the Court of Appeal or the Supreme Court could deal with his case impartially, since all were influenced by the Chief Justice. The Committee concluded that the author had failed to exhaust domestic remedies or to show that they would have been ineffective in the circumstances of this case.

131. In case No. 1324/2004 (*Shafiq v. Australia*), the Committee noted that the author's application for a visa on humanitarian grounds under section 501J of the Migration Act remained pending. While the Committee noted that the Minister's power was discretionary, in the particular circumstances of the author's case, which fell under the exclusion clause of article 1F of the 1951 Convention relating to the Status of Refugees, it could not be excluded that the exercise of this prerogative might in principle provide the author with an effective remedy. The Committee accordingly concluded that the claim was inadmissible.

132. In case No. 1446/2006 (*Wdowiak v. Poland*), the Committee noted the fact that the author had not complied with the formal requirements for filing an appeal, namely that the appeal should be prepared and filed by a qualified lawyer or legal consultant. It noted the State party's submission that the author had not lodged with the Regional Court a motion for exemption from court fees and for the appointment of a lawyer ex officio. While the author had presented evidence to the Supreme Court proving that her financial situation did not allow her to retain a lawyer, she had not demonstrated that she was unable to file such a motion with the Regional Court without the assistance of legal counsel. In the absence of such further information, the Committee could not conclude that the author had exhausted available domestic remedies.

133. During the period under review, other claims were declared inadmissible for failure to exhaust domestic remedies, including cases Nos. 982/2001 (*Singh Bullar v. Canada*), 1154/2003 (*Katsuno et al. v. Australia*), 1224/2003 (*Litvina v. Latvia*), 1285/2004 (*Klečkovski v. Lithuania*), 1341/2005 (*Zundel v. Canada*) and 1365/2005 (*Camara v. Canada*).

(k) Interim measures under rule 92 (old rule 86) of the Committee's rules of procedure

134. Under rule 92 of the Committee's rules of procedure, the Committee may, after receipt of a communication and before adopting its Views, request a State party to take interim measures in order to avoid irreparable damage to the victim of the alleged violations. The Committee continues to apply this rule on appropriate occasions, mostly in cases submitted by or on behalf of persons who have been sentenced to death and are awaiting execution and who claim that they were denied a fair trial. In view of the urgency of such communications, the Committee has requested the States parties concerned not to carry out the death sentences while the cases are under consideration. Stays of execution have specifically been granted in this connection. Rule 92 has also been applied in other circumstances, for instance in cases of imminent deportation or extradition which may involve or expose the author to a real risk of violation of rights protected under the Covenant. For the Committee's reasoning on whether or not to issue a request under rule 92, see the Committee's Views in case No. 558/1993 (*Canepa v. Canada*).

135. In case No. 1041/2002 (*Tulyaganova v. Uzbekistan*), the Committee took note of the author's complaint that the State had breached its obligations under the Covenant by executing her son when the Committee had sent a request for interim measures. The State party had not responded to that request or offered any explanation for the author's claim that her son had been executed after her communication had been registered by the Committee and the request for interim measures had been submitted to the State party. The Committee recalled that requesting interim measures was an essential part of its role under the Optional Protocol. Ignoring such a request, and in particular taking irreversible steps such as executing alleged victims, undermined the protection of Covenant rights through the Optional Protocol. In the circumstances, the Committee concluded that the facts as submitted by the author disclosed a violation of the Protocol. The Committee reached a similar conclusion in cases Nos. 1017/2001 and 1066/2002 (*Strakhov and Fayzullaev v. Uzbekistan*), where victims had reportedly been executed before the Committee had concluded its examination despite a request to the State party for interim measures and several reminders.

136. In cases Nos. 1327/2004 (*Grioua v. Algeria*) and 1328/2004 (*Kimouche v. Algeria*), both involving disappearances, counsel requested interim measures relating to the State party's draft *Charte pour la Paix et la Réconciliation Nationale*, which was submitted to a referendum on 29 September 2005. In counsel's view, the draft law was likely to cause irreparable harm to the victims of disappearances, putting at risk those persons who were still missing, and to deprive victims of an effective remedy and render the views of the Human Rights Committee ineffective. Counsel therefore requested the Committee to invite the State party to suspend its referendum until the Committee had issued views in three cases (including case No. 1196/2003 (*Boucherf v. Algeria*)). The request for interim measures was transmitted to the State party for comment but there was no reply. The Special Rapporteur on new communications and interim measures requested the State party not to invoke, against individuals who had submitted or might submit communications to the Committee, the provisions of the law affirming "that no one, in Algeria or abroad, has the right to use or make use of the wounds caused by the national tragedy in order to undermine the institutions of the People's Democratic Republic of Algeria, weaken the State, impugn the integrity of all the agents who served it with dignity, or tarnish the image of Algeria abroad", and rejecting "all allegations holding the State responsible for deliberate

disappearances. They [the Algerian people] consider that reprehensible acts on the part of agents of the State, which have been punished by law whenever they have been proved, cannot be used as a pretext to discredit the security forces as a whole, who were doing their duty for their country with the support of the general public".

2. Substantive issues

(a) The right to an effective remedy (Covenant, art. 2, para. 3)

137. In case No. 1295/2004 (*El Awani v. Libyan Arab Jamahiriya*), the Committee considered a complaint relating to detention incommunicado and forced disappearance. It pointed out that it attached importance to States parties' establishment of appropriate judicial and administrative mechanisms for addressing alleged violations of rights under domestic law. It also referred to its general comment No. 31, which states that failure by a State party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant. In the present case, the information before the Committee indicated that neither the author nor his brother had had access to effective remedies, and the Committee thus concluded that the facts before it disclosed a violation of article 2, paragraph 3, of the Covenant, read in conjunction with article 6, article 7, and article 9 with respect to the author's brother; and a violation of article 2, paragraph 3, read in conjunction with article 7 of the Covenant with respect to the author himself. It found similar violations of article 2, paragraph 3, of the Covenant in cases Nos. 1327/2004 (*Grioua v. Algeria*), 1328/2004 (*Kimouche v. Algeria*) and 1439/2005 (*Aber v. Algeria*).

(b) Right to life (Covenant, art. 6)

138. In case No. 1043/2002 (*Chikunova v. Uzbekistan*), the Committee recalled that the imposition of a death sentence upon conclusion of a trial in which the provisions of the Covenant have not been respected constitutes a violation of article 6 of the Covenant. In this case, the death sentence was imposed in violation of the fair trial guarantees set out in article 14, paragraph 3 (b), (d) and (g), of the Covenant, and thus also in breach of article 6, paragraph 2.

139. In cases Nos. 1108/2002 and 1121/2002 (*Karimov and Nursatov v. Tajikistan*), the sentences had been imposed on all the victims in violation of article 7 read together with article 14, paragraph 3 (g) of the Covenant. In addition, the death sentences on Mr. Karimov and Mr. Askarov had been imposed in violation of the fair trial guarantees set out in article 14, paragraph 3 (b) and (d), of the Covenant. The Committee therefore concluded that the victims' rights under article 6, paragraph 2, of the Covenant, had also been violated. The Committee also found violations of article 6 in cases Nos. 1017/2001 and 1066/2002 (*Strakhov and Fayzullaev v. Uzbekistan*), 1041/2002 (*Tulayganov v. Uzbekistan*) and 1140/2002 (*Khudayberganov v. Uzbekistan*) because the death sentences had been handed down in violation of article 7 and article 14, paragraph 3 (b) and (d), of the Covenant.

140. In case No. 1295/2004 (*El Alwani v. Libyan Arab Jamahiriya*), the Committee recalled its general comment 6 on article 6, which states that "The protection against arbitrary deprivation of life which is explicitly required by the third sentence of article 6 (1) is of paramount importance. The Committee considers that States parties should take measures not only to prevent and punish deprivation of life by criminal acts, but also to prevent arbitrary killing by their own security forces. The deprivation of life by the authorities of the State is a matter of the utmost gravity.

Therefore, the law must strictly control and limit the circumstances in which a person may be deprived of his life by such authorities." In that case, the Committee observed that sometime in 2003, the author was provided with his brother's death certificate, without any explanation of the exact date, cause or whereabouts of his death or any information on investigations undertaken by the State party. In addition, the State party had not denied that the disappearance and subsequent death of the author's brother was caused by individuals belonging to the Government's security forces. In the circumstances, the Committee found that the right to life enshrined in article 6 had been violated by the State party.

(c) Right to seek pardon or commutation of death sentence (Covenant, art. 6, para. 4)

141. In case No. 1043/2002 (*Chikunova v. Uzbekistan*), several pardon requests had been filed with the Presidential administration, but no reply had been received. As the State party had not commented on the author's allegation, the Committee considered that the material before it disclosed a violation of article 6, paragraph 4, of the Covenant.

(d) Right not to be subjected to torture or to cruel, inhuman or degrading treatment or punishment (Covenant, art. 7)

142. In case No. 1043/2002 (*Chikunova v. Uzbekistan*), the author claimed that her son had confessed guilt under torture and that during the preliminary investigation she had complained to the authorities about this, but to no avail. The State party had only contended that the courts had examined those allegations and had found them to be groundless. The Committee considered that the documents presented by the author, which contained a detailed description of the torture allegedly suffered by her son, indicated that the State party's authorities had not reacted adequately or in a timely way to the complaints filed on behalf of the author's son. No information had been provided by the State party to confirm that a further inquiry or medical examination had been conducted in order to verify the veracity of Mr. Chikunov's torture allegations. In the circumstances of the case, the Committee concluded that the facts as presented disclosed a violation of article 7, read together with article 14, paragraph 3 (g), of the Covenant. In cases Nos. 1057/2002 (*Kornetov v. Uzbekistan*), 1108/2002 and 1121/2002 (*Karimov and Nursatov v. Tajikistan*) and 1140/2002 (*Khudayberganov v. Uzbekistan*), the Committee also found violations of article 7, read together with article 14, paragraph 3 (g), of the Covenant. In cases Nos. 1017/2001 and 1066/2002 (*Strakhov and Fayzullaev v. Uzbekistan*), 1041/2002 (*Tulayganov v. Uzbekistan*) and 1348/2005 *(Ashurov v. Tajikistan*), the Committee found violations of article 7 and of article 14, paragraph 3 (g), of the Covenant.

143. In case No. 1071/2002 (*Agabekov v. Uzbekistan*), the author claimed that her son had been tortured and ill-treated by investigators to make him confess guilt, that he had been refused medical care, and that when he had complained in court about torture, the presiding judge had refused to order an inquiry or request a medical examination. In the absence of any information from the State party, and in the light of the detailed description provided by the author of how her son had been ill-treated by investigators, the methods of torture used and the names of those responsible, the Committee concluded that the facts as presented disclosed a violation of article 7 of the Covenant.

144. In case No. 1124/2002 (*Obodzinsky v. Canada*), the author claimed that he had serious heart problems and that the initiation and the continuation of citizenship revocation proceedings had consequently placed him under considerable stress, amounting to cruel and inhuman

treatment. The Committee considered that there might be exceptional circumstances in which putting a person in poor health on trial could constitute cruel treatment incompatible with article 7, for example where relatively minor justice or procedural issues were made to prevail over relatively serious health risks. In this case, the citizenship revocation proceedings had been provoked by serious allegations that the author had participated in the gravest crimes. Moreover, the Committee noted that in the case in question the citizenship revocation proceedings had been conducted primarily in writing and that the author's presence had not been required. It considered that the author had not shown how the initiation and continuation of the citizenship revocation proceedings constituted cruel and inhuman treatment since the conclusions of the medical affidavits he had obtained differed on the impact of the proceedings on his health. The Committee therefore considered that the author had failed to establish that the State party was responsible for causing deterioration of his health to the extent required to constitute a violation of article 7.

145. In case No. 1295/2004 (*El Alwani v. Libyan Arab Jamahiriya*), the Committee considered a complaint relating to detention incommunicado. It acknowledged the considerable suffering involved in being held indefinitely without contact with the outside world. It recalled its general comment No. 20, on article 7, which recommends that States parties should make provision against detention incommunicado. It thus concluded that the disappearance of the author's brother, preventing him from any contact with his family or the outside world, constituted a violation of article 7 of the Covenant. Further, the circumstances surrounding the disappearance of the author's brother and the testimony that the brother was tortured strongly suggested that the brother had been so treated. The Committee received nothing from the State party to dispel or counter such an inference. It concluded that the treatment of the authors' brother amounted to a violation of article 7. The Committee also noted the anguish and distress caused to the author by his brother's disappearance and subsequent death. Consequently, it found that the facts before it revealed a violation of article 7 of the Covenant with regard to the author himself. It found similar violations of article 7 of the Covenant in cases Nos. 1327/2004 (*Grioua v. Algeria*) and 1328/2004 (*Kimouche v. Algeria*). In case No. 1439/2005 (*Aber v. Algeria*), which related to several periods of detention incommunicado, it found several violations of article 7.

146. In case No. 1353/2005 (*Afuson v. Cameroon*), the Committee noted that the author had provided detailed information and evidence, including several medical reports, to corroborate his claims of physical and mental torture by the security forces. He had identified by name most of the individuals alleged to have participated in all of the incidents in which he claimed to have been harassed, assaulted, tortured and arrested. He had also provided copies of numerous complaints made to several different bodies, none of which appeared to have been investigated. In the circumstances, and in the absence of any explanations from the State party in this respect, the Committee gave due weight to the author's allegations and found that the treatment of the author by the security forces amounted to violations of article 7 of the Covenant, alone and in conjunction with article 2, paragraph 3.

147. In case No. 1416/2005 (*Alzery v. Sweden*), the Committee noted that the diplomatic assurances given by Egypt to the State party contained no mechanism for monitoring their enforcement and verifying that the author was not ill-treated following his expulsion. It considered that the State party had not shown that the diplomatic assurances were sufficient in this case to eliminate the risk of ill-treatment to a level consistent with the requirements of article 7 of the Covenant. The author's expulsion thus amounted to a violation of article 7. On the issue of the treatment suffered by the author at Bromma airport, the Committee noted that a

State party was responsible for acts of foreign officials exercising acts of sovereign authority on its territory if such acts were performed with the consent or acquiescence of the State party. It followed that the acts complained of, which occurred in the course of performance of official functions in the presence of the State party's officials and within the State party's jurisdiction, were properly imputable to the State party itself, in addition to the State on whose behalf the officials were engaged. Since the use of force was excessive and amounted to a breach of article 7, the Committee concluded that the State party had violated article 7 as a result of the treatment suffered by the author at Bromma airport. With regard to the effectiveness of the State party's investigation into the treatment suffered at Bromma airport, the Committee noted that the State party's authorities had been aware of the mistreatment suffered by the author from the time of its occurrence, since its officials had witnessed the conduct in question, and that the State party had waited over two years for a private criminal complaint before engaging its criminal process. The Committee considered that that delay alone offered sufficient grounds for considering that the State party had failed to fulfil its obligation to conduct a prompt, independent and impartial investigation into the events that had taken place. In the Committee's view, the State party was under an obligation to ensure that its investigative apparatus was organized in a manner which preserved the capacity to investigate, as far as possible, the criminal responsibility of all relevant officials, domestic and foreign, for conduct in breach of article 7 committed within its jurisdiction, and to bring the appropriate charges in consequence. The State party's failure to preserve this capacity, in the case in question, amounted to a violation of its obligations under article 7, read in conjunction with article 2 of the Covenant. As for the absence of independent review of the Cabinet's decision to expel, given the presence of a real risk of torture, the Committee considered that by definition, it must be possible for an effective review of a decision to expel to a real risk of torture to take place prior to expulsion, in order to avoid causing irreparable harm to the individual and rendering the review otiose and devoid of meaning. The absence of any opportunity for effective, independent review of the decision to expel in the author's case accordingly amounted to a breach by the State party of article 7, read together with article 2 of the Covenant.

(e) Liberty and security of person (Covenant, art. 9, para. 1)

148. In case No. 1172/2003 (*Madani v. Algeria*), the Committee recalled that under article 9, paragraph 1, of the Covenant everyone has the right to liberty of person, and that no one shall be deprived of his or her liberty except on such grounds and in accordance with such procedures as are established by law. It further recalled that house arrest may give rise to violations of article 9, which guarantees everyone the right to liberty and the right not to be subjected to arbitrary detention. Since the State party had not cited any particular provisions for the enforcement of prison sentences or legal ground for ordering house arrest, the Committee concluded that a deprivation of liberty had taken place. The detention had thus been arbitrary in nature and therefore constituted a violation of article 9, paragraph 1.

149. In case No. 1295/2004 (*El Alwani v. Libyan Arab Jamahiriya*), the Committee decided that in the light of the State party's failure to provide any information on the admissibility and merits of this communication, due weight must be given to the information provided by the author. It based its assessment on the following undisputed facts: that the author's brother had been arbitrarily arrested and detained on 27 July 1995; that he had not been informed of the charges against him or been brought promptly before a judge; and had been denied an opportunity to challenge the legality of his detention. The Committee recalled that detention incommunicado as such might violate article 9 and noted the author's claim that his brother had been held in

detention incommunicado from July 1995 until June 1996. For those reasons, and in the absence of adequate explanations on this point from the State party, the Committee was of the opinion that the author's brother had been subjected to arbitrary arrest and detention, contrary to article 9 of the Covenant. It found similar violations of article 9 in cases Nos. 1327/2004 (*Grioua v. Algeria*), 1328/2004 (*Kimouche v. Algeria*) and 1439/2005 (*Aber v. Algeria*).

150. In case No. 1324/2004 (*Shafiq v. Australia*), the Committee found that the author's prolonged immigration detention for some six years, without appropriate justification, was arbitrary within the meaning of article 9, paragraph 1. It also considered that the author's right under article 9, paragraph 4, to have his detention reviewed by a court had been violated. The authors in cases Nos. 1255, 1256, 1259, 1260, 1266, 1268, 1270 and 1288/2004 (*Shams et al. v. Australia*), were held in immigration detention for periods ranging from three to over four years with no possibility of judicial review. The Committee thus found violations of article 9, paragraphs 1 and 4, in these cases also.

151. In case No. 1348/2005 (*Ashurov v. Tajikistan*), the author's son was arrested without being informed of the reasons, and the detention protocol was drawn up only two days later. His detention was extended by the public prosecutor on several occasions, except for a period of three weeks when it had no legal basis. The Committee noted that the matter had been brought to the courts' attention and had been rejected by them without explanation. Given that the State party had not advanced any explanations in this respect, the Committee considered that the facts before it disclosed a violation of the author's son's rights under article 9, paragraphs 1 and 2, of the Covenant.

152. In case No. 1353/2005 (*Afuson v. Cameroon*), the Committee noted that the author had been arrested on three occasions without a warrant and without being informed of the reasons for his arrest or of any charges against him. It also noted that the author had made complaints to several bodies, which appeared not to have been investigated. For these reasons, the Committee found that the State party had violated article 9, paragraphs 1 and 2, of the Covenant, alone and in conjunction with article 2, paragraph 3. The Committee also noted the author's claim that he had been subjected to threats on his life from police officers on numerous occasions and that the State party had failed to take any action to ensure that he was and continued to be protected from such threats. In the absence of any explanations from the State party in this respect, the Committee concluded that the author's right to security of person, under article 9, paragraph 1 of the Covenant, in conjunction with article 2, paragraph 3, had been violated.

(f) Right to be brought promptly before a judge (Covenant, art. 9, para. 3)

153. In case No. 1172/2003 (*Madani v. Algeria*), the Committee recalled that according to article 9, paragraph 3, anyone detained must be brought promptly before a judge or other officer authorized by law to exercise judicial power and is entitled to trial within a reasonable time or to release. In this case, the author's father had been released from house arrest after almost six years. Given that the State party had not given any justification for the length of the detention, the Committee concluded that the facts before it disclosed a violation of article 9, paragraph 3.

154. In case No. 1348/2005 (*Ashurov v. Tajikistan*), the pretrial detention of the author's son had been approved by the Public Prosecutor and there was no judicial review of the lawfulness of his detention until a year later. The Committee recalled that article 9, paragraph 3, entitles

detained persons charged with a criminal offence to review of their detention by the courts. In this case, the Committee was not satisfied that the Public Prosecutor could be characterized as having the institutional objectivity and impartiality necessary to be considered an "officer authorized to exercise judicial power" within the meaning of article 9, paragraph 3. The Committee therefore concluded that there had been a violation of that provision of the Covenant.

155. In case No. 1439/2005 (*Aber v. Algeria*), the Committee recalled that the right to be brought "promptly" before a judicial authority meant within a few days and that detention incommunicado per se might be a violation of article 9, paragraph 3. It took note of the State party's argument that the author had been tried before the Oran criminal court, which acquitted him on 4 February 1992. According to the State party, that decision had been upheld on appeal by the Oran court in March 1992. However, the Committee noted that the author had meanwhile been arrested on 9 February 1992, despite his acquittal, and kept in detention until 23 November 1995. It also observed that the author was never brought before a judge during his second period of detention from 11 October 1997 to 23 March 1998. The Committee considered that the two periods of detention, of three years and eight months and of five months respectively, constituted, in the author's case and in the absence of satisfactory explanations from the State party or any other justification in the file, a violation of the right set forth in article 9, paragraph 3.

(g) Right to take proceedings before a court, in order that that court may decide without delay on the lawfulness of detention and order release if the detention is not lawful (Covenant, art. 9, para. 4)

156. In case No. 1172/2003 (*Madani v. Algeria*), the Committee noted the author's allegations that for the duration of his house arrest his father had been denied access to a lawyer and had been unable to challenge the lawfulness of his detention. The Committee recalled that in accordance with article 9, paragraph 4, review of the lawfulness of detention by the courts must provide for the possibility of ordering the release of the detainee if his or her detention is declared incompatible with the provisions of the Covenant, in particular those of article 9, paragraph 1. In this case, the author's father was kept under house arrest for almost six years without any specific grounds relating to the case file, and without the possibility of review by the courts concerning the substantive issue of whether his detention was compatible with the Covenant. Accordingly, and in the absence of adequate explanations by the State party, the Committee concluded that there had been a violation of article 9, paragraph 4, of the Covenant. It found a similar violation of article 9, paragraph 4, in case No. 1173/2003 (*Benhadj v. Algeria*).

(h) Treatment during imprisonment (Covenant, art. 10)

157. In cases Nos. 1108/2002 and 1121/2002 (*Karimov and Nursatov v. Tajikistan*), both authors claimed that the conditions of detention at the Ministry of Internal Affairs installations were inadequate for lengthy periods of detention. They pointed out that the alleged victims had been unlawfully detained during periods largely exceeding the statutorily authorized time limits for detention in Ministry of Internal Affairs installations and in the temporary detention centre. During this period, no parcels sent to the victims by their families had been transmitted to them, and the food distributed had been insufficient. In addition, Mr. Askarov and the Davlatov

brothers had been denied food for the first three days of their detention. As the State party had not commented on the allegations, the Committee considered that the facts as submitted revealed a violation by the State party of the rights of Mr. Karimov, Mr. Askarov and the Davlatov brothers under article 10 of the Covenant.

158. In case No. 1439/2005 (*Aber v. Algeria*), the Committee took note of the author's allegations that the conditions of detention in the various centres in which he was detained were inhuman. It reiterated that persons deprived of their liberty must not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty and that they must be treated with humanity and respect for their dignity. In the absence of information from the State party on the author's conditions of detention in the various centres in which he stayed, the Committee found a violation of article 10, paragraph 1. It found a similar violation of article 10 in case No. 1173/2003 (*Benhadj v. Algeria*).

(i) Freedom to leave any country (Covenant, art. 12, para. 2)

159. In case No. 1143/2002 (*El Dernawi v. Libyan Arab Jamahiriya*), the Committee affirmed that a passport provided a national with the means to exercise the right to freedom of movement, including the right to leave one's own State, conferred by article 12 of the Covenant. The confiscation of the author's wife's passport, which also covered her three youngest children, and the failure to restore the document to her, accordingly amounted to interference with the right to freedom of movement which must be justified in terms of the permissible limitations set out in article 12, paragraph 3, concerning national security, public order/ordre public, public health or morals or the rights and freedoms of others. The State party had not offered any such justification, and none was apparent to the Committee from the material before it. The Committee accordingly concluded that there had been a violation of article 12, paragraph 2, in respect of the author's wife and the three youngest children whom the wife's passport also covered.

(j) Guarantees of a fair hearing (Covenant, art. 14, para. 1)

160. In case No. 1172/2003 (*Madani v. Algeria*), the Committee considered that it was incumbent on a State party trying civilians before military courts to justify the practice. It considered that the State party must demonstrate, with regard to the specific class of individuals at issue, that the regular civilian courts were unable to undertake the trials, that alternative forms of special or high-security civilian courts were inadequate to the task and that recourse to military courts was unavoidable. It considered that the State party must further demonstrate how military courts ensured the full protection of the rights of the accused pursuant to article 14. In this case, the State party had not shown why recourse to a military court was required and had not indicated why the ordinary civilian courts or alternative forms of civilian court were inadequate to the task of trying the author's father. Nor did the mere invocation of domestic legal provisions for the trial by military court of certain categories of serious offences constitute an argument under the Covenant in support of recourse to such tribunals. The Committee found that the State party's *failure* to demonstrate the need to rely on a military court in this case meant that the Committee need not examine whether the military court, as a matter of fact, had afforded the full guarantees of article 14. The Committee therefore concluded that the trial and conviction of the author's father by a military tribunal disclosed a violation of article 14 of the Covenant. It found a similar violation of article 14 in case No. 1173/2003 (*Benhadj v. Algeria*).

161. In case No. 1368/2005 (*E.B. v. New Zealand*), the Committee recalled its constant jurisprudence that the very nature of custody proceedings or proceedings concerning access of a divorced parent to his or her children required that the issues complained of be adjudicated expeditiously. In this case it considered that the State party had not demonstrated to the Committee the justification for the delay in the proceedings. In particular, the State party had not shown that the length of the police investigations was justified by the allegations which, while certainly serious, were not legally complex and which at the factual level involved assessment of oral testimony of a very limited number of persons. The Committee noted further the concerns expressed by the domestic courts as to the length of the proceedings. Consequently, given the priority accorded to resolution of such matters and in the light of the Committee's jurisprudence in comparable cases, the Committee concluded that the author's right to an expeditious trial under article 14, paragraph 1, of the Covenant had been violated with respect to the application concerning his two eldest children and continued to be violated concerning his youngest child, given the still outstanding resolution of the application at the time of consideration by the Committee.

162. In case No. 1291/2004 (*Dranichnikov v. Australia*), the author claimed that she was a victim of a violation of article 14, paragraph 1, of the Covenant, since the Refugee Review Tribunal was not independent and objective as it had deliberately delayed the review of her husband's case. The Committee noted that, while the delay in consideration of the author's husband's refugee claim was indeed substantial, it had been caused by the totality of the proceedings, and not just by the Refugee Review Tribunal. The Committee concluded that the information before it did not show that the author had been a victim of lack of independence of the Tribunal in this respect.

163. In case No. 1347/2005 (*Dudko v. Australia*) the Committee recalled its jurisprudence that the disposition of an appeal does not necessarily require an oral hearing. However, the High Court did choose to conduct an oral hearing in its consideration of the author's application for leave to appeal. A solicitor representing the Director of Public Prosecutions was present and presented arguments at that oral hearing. A question of fact was put by the court to the solicitor for the Director of Public Prosecutions, and the author had no opportunity, either in person or through counsel, to comment on that question. One member of the High Court noted that there was no apparent reason why a defendant held in custody could not, at a minimum, be enabled to take part in the hearing by means of a telecommunications link, at least where he or she did not otherwise enjoy any representation. The same judge noted that a right to attend appellate hearings is already the practice in several jurisdictions of the State party. The State party offered no explanation, other than to say it was not the practice in New South Wales. The Committee observed that when a defendant was not given an opportunity equal to that of the State party in the adjudication of a hearing bearing on the determination of a criminal charge, the principles of fairness and equality were engaged. It was for the State party to show that any procedural inequality was based on reasonable and objective grounds, not entailing actual disadvantage or other unfairness to the author. In fact the State party had offered no reason why counsel for the State should be able to take part in the hearing in the absence of the unrepresented defendant, or why an unrepresented defendant in detention should be treated more unfavourably than unrepresented defendant *not* in detention who could participate in the proceedings. Accordingly, the Committee concluded that there had been a violation of the guarantee of equality before the courts given in article 14, paragraph 1.

164. In case No. 1454/2006 (*Lederbauer v. Austria*), the Committee recalled that the right to a fair hearing under article 14, paragraph 1, entailed a number of requirements, including the condition that the procedure before the national tribunals must be conducted expeditiously. This guarantee related to all stages of the proceedings, including the time until the final appeal judgement. Whether a delay was unreasonable must be assessed in the light of the circumstances of each case, taking into account, inter alia, the complexity of the case, the conduct of the parties, the manner in which the case was dealt with by the administrative and judicial authorities, and any detrimental effects that the delay might have had on the legal position of the complainant. The Committee took into consideration the author's uncontested argument that the High Administrative Court had taken no procedural action whatsoever in over seven and a half years, while his salary was reduced by one third and he was left in a state of legal uncertainty about his professional situation. The Committee concluded that the delay in the proceedings before the High Administrative Court concerning the author's suspension was unreasonable and in breach of article 14, paragraph 1, of the Covenant.

165. The Committee concluded that there had been violations of article 14 of the Covenant in other cases, for example cases Nos. 1052/2002 (*Tcholatch v. Canada*), 1320/2004 (*Pimentel et al. v. the Philippines*) and 1348/2005 (*Ashurov v. Tajikistan*).

(k) Right to be presumed innocent (Covenant, art. 14, para. 2)

166. In cases Nos. 1108/2002 and 1121/2002 (*Karimov and Nursatov v. Tajikistan*), the victims had been handcuffed and placed in a metal cage in court. A high-ranked official had publicly affirmed at the beginning of the trial that their handcuffs could not be removed because they were all dangerous criminals and might escape. In the absence of any information from the State party, the Committee concluded that the facts as presented revealed a violation by the State party of article 14, paragraph 2, of the Covenant.

167. In case No. 1348/2005 (*Ashurov v. Tajikistan*), the Committee reaffirmed that it was generally for the courts of States parties to review or evaluate facts and evidence, or to examine the interpretation of domestic legislation by national courts and tribunals, unless it could be ascertained that the conduct of the trial or the evaluation of facts and evidence or interpretation of legislation was manifestly arbitrary or amounted to a denial of justice. In this case, from the information before the Committee, which was not contested by the State party, it transpired that the charges and evidence against the author's son left room for considerable doubt, while their evaluation by the State party's courts was in itself in violation of the fair trial guarantees of article 14, paragraph 3. There was no information before the Committee to suggest that, despite their having being raised by Mr. Ashurov and his counsel, these matters had been taken into account during the second trial or by the Supreme Court. In the absence of any explanation from the State party, these concerns gave rise to reasonable doubts about the propriety of the author's son's conviction. From the material available to it, the Committee considered that Mr. Ashurov had not been afforded the benefit of this doubt in the criminal proceedings against him. In the circumstances, the Committee concluded that his trial had not respected the principle of presumption of innocence, in violation of article 14, paragraph 2.

(l) Rights of defence (Covenant, art. 14, para. 3 (b) and (d))

168. In case No. 1043/2002 (*Chikunova v. Uzbekistan*), the author's son had not been provided with a lawyer until two days after his arrest. Moreover, he had been able to meet with this lawyer

only once, and in the presence of investigators. While the author's son had a privately hired lawyer, that lawyer was allowed to act only two months later, once the preliminary investigation had ended. The Committee recalled its constant jurisprudence that, particularly in capital cases, the accused must be effectively assisted by a lawyer at all stages of the proceedings. In this case, the Committee concluded that the author's son's rights under article 14, paragraph 3 (b) and (d), of the Covenant had been violated. In cases Nos. 1108/2002 and 1121/2002 (*Karimov and Nursatov v. Tajikistan*), the Committee also found a violation of article 14, paragraph 3 (b) and (d), of the Covenant.

(m) Right not to be compelled to testify against oneself or to confess guilt (Covenant, art. 14, para. 3 (g))

169. In case No. 1348/2005 (*Ashurov v. Tajikistan*), the Committee found a violation of article 7. As the acts in question had been inflicted on the author's son in order to force him to confess to a crime for which he was subsequently sentenced to 20 years' imprisonment, the Committee concluded that the facts before it also disclosed a violation of article 14, paragraph 3 (g), of the Covenant.

170. The Committee found violations of article 14, paragraph 3 (g), read together with article 7 of the Covenant, in other cases such as Nos. 1017/2001 and 1066/2002 (*Strakhov and Fayzullaev v. Uzbekistan),* 1041/2002 (*Tulayganov v. Uzbekistan*), 1043/2002 (*Chikunova v. Uzbekistan*), 1057/2002 (*Kornetov v. Uzbekistan*), 1108/2002 and 1121/2002 (*Karimov and Nursatov v. Tajikistan*) and 1140/2002 (*Khudayberganov v. Uzbekistan*).

(n) Right to appeal (Covenant, art. 14, para. 5)

171. In case No. 1325/2004 (*Conde v. Spain*), the author claimed that his conviction by an appeal court on two counts of which he had been cleared by the trial court, and the subsequent imposition of a heavier penalty, could not be reviewed by a higher court. The Committee noted that the Supreme Court had found the author guilty of forgery of a commercial document, a charge of which he had been acquitted in the lower court, and that it had characterized the offence of misappropriation as a continuing offence, which was thus not time-barred. On that basis the Supreme Court had partially set aside the lower court's sentence and increased the penalty, with no opportunity for review of either the conviction or the sentence in a higher court, in accordance with the law. The Committee found that the facts before it constituted a violation of article 14, paragraph 5. The Committee also found a violation of article 14, paragraph 5, in case No. 1332/2004 (*Garcia Sánchez and González Clares v. Spain*) and case No. 1381/2005 (*Hachuel Moreno v. Spain*).

172. In case No. 1181/2003 (*Amador and Amador v. Spain*), the Committee noted that the Supreme Court had thoroughly and objectively reviewed each of the grounds for the appeal, which had been primarily based on an appraisal of the evidence examined by the trial court, and that it had been rightly on the basis of this reappraisal that the Court had concluded that the refusal to hear expert testimony that would have established the precise quantity of trafficked cocaine was a violation of the authors' right to be presumed innocent. That was why the Court had allowed part of the appeal in cassation and had reduced the sentence imposed by the trial court. In the light of the circumstances of the case, the Committee concluded that there had been a genuine review of the conviction and sentence handed down by the trial court and that the facts before it did not disclose any violation of article 14, paragraph 5, of the Covenant.

(o) Right not to receive a heavier penalty than the one that was applicable at the time when the criminal offence was committed (Covenant, art. 15, para. 1)

173. In case No. 1342/2005 (*Gavrilin v. Belarus*), the Committee considered that it must determine whether, in a case in which the sentence handed down under a previous law fell within the sentencing margin introduced under a later law, the provision of article 15, paragraph 1, of the Covenant required the State party to reduce the original sentence proportionally, in order to allow the accused to benefit from a lighter penalty under the later law. In this regard, the Committee referred to its jurisprudence in an earlier case that there had been no violation of article 15, paragraph 1, because the author's sentence was well within the margin provided by the earlier law and the State party had referred to the existence of aggravating circumstances. In applying this jurisprudence mutatis mutandis to the case in question, the Committee could not, on the basis of the material made available to it, conclude that the author's sentence had been handed down in a way incompatible with article 2, paragraph 2, and article 15, paragraph 1, of the Covenant.

(p) Right to recognition as a person before the law (Covenant, art. 16)

174. In case No. 1327/2004 (*Grioua v. Algeria*), which related to a forced disappearance, the Committee observed that intentionally removing a person from the protection of the law for a prolonged period of time might constitute a refusal to recognize that person before the law if the victim had been in the hands of the State authorities when last seen and, at the same time, if the efforts of his or her relatives to obtain access to potentially effective remedies, including judicial remedies (Covenant, art. 2, para. 3) had been systematically impeded. In such situations, disappeared persons were in practice deprived of their capacity to exercise entitlements under law, including all their other rights under the Covenant, and of access to any possible remedy as a direct consequence of the actions of the State, which must be interpreted as a refusal to recognize such victims as persons before the law. The Committee noted that, under article 1, paragraph 2, of the Declaration on the Protection of All Persons from Enforced Disappearance, enforced disappearance constituted a violation of the rules of international law guaranteeing, inter alia, the right to recognition as a person before the law. It also recalled that article 7, paragraph 2 (i), of the Rome Statute of the International Criminal Court, recognized that the "intention of removing [persons] from the protection of the law for a prolonged period of time" was an essential element in the definition of enforced disappearance. Lastly, article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance mentioned that enforced disappearance placed the person concerned outside the protection of the law. In *Grioua*, the author indicated that her son had been arrested together with other individuals by members of the National People's Army on 16 May 1996. After an identity check, he had allegedly been taken to the Baraki military barracks. There had been no news of him since that date. The Committee noted that the State party had neither contested these facts nor conducted an investigation into the fate of the author's son. It took the view that if a person was arrested by the authorities, there was subsequently no news of his of her fate and no investigation was mounted, the disappeared person was effectively left outside the protection of the law. Consequently, the Committee concluded that the facts before it disclosed a violation of article 16 of the Covenant.

(q) Right not to be subjected to interference with one's privacy, family, home or correspondence (Covenant, art. 17)

175. In case No. 1052/2002 (*N.T. v. Canada*), the Committee noted that the authorities' initial removal of the author's daughter from her care, and her placement under the care of the Catholic Children's Aid Society of Toronto, was based on their belief, later confirmed when the author was convicted, that she had assaulted her child. The Committee also noted that although the order was temporary, it granted the author access to her daughter only under extremely harsh circumstances, and considered that the initial three-month placement of the author's daughter in the care of the Society was disproportionate. The Committee noted that the author was denied access twice, for long periods of time. Even when she was allowed to visit her daughter, conditions were very strict. The Committee observed that the child had repeatedly expressed the wish to go home, that she cried at the end of visits and that her psychologist had recommended that access be reinstated. It considered that the conditions of access, which also excluded telephone contact, were very severe vis-à-vis a 4-year-old child and her mother. In the Committee's view, the Society's exercise of its power to terminate access unilaterally, without a judge having reassessed the situation or the author having been given the opportunity to present a defence, constituted arbitrary interference with the author and her daughter's family, in violation of article 17 of the Covenant.

176. In case No. 1143/2002 (*El Dernawi v. Libyan Arab Jamahiriya*), the Committee noted that the State party's confiscation of the author's wife's passport was a definitive barrier to family reunion in Switzerland, but also the sole barrier. In the absence of justification by the State party, the Committee concluded that the interference with family life was arbitrary in terms of article 17 with respect to the author, his wife and six children, and the State party had failed to discharge its obligation under article 23 to respect the family unit in respect of each member of the family. That being so, in view of the advantage to a child's development of living with both parents and in the absence of persuasive countervailing arguments from the State party, the Committee concluded that the State party had failed to provide the special protection due to minors, and thus found a violation of the rights of children below 18 years of age guaranteed by article 24 of the Covenant.

(r) Right to freedom of thought, conscience and religion (Covenant, art. 18)

177. In case No. 1321-1322/2004 (*Yoon and Choi v. the Republic of Korea*), the Committee observed that while the right to manifest one's religion or belief did not as such imply the right to refuse all obligations imposed by law, it provided a certain protection, consistent with article 18, paragraph 3, against being forced to act against genuinely held religious belief. The Committee noted, in the case in question, that the authors' refusal to be drafted for compulsory service was a direct expression of their religious beliefs which, it was uncontested, were genuinely held. The authors' conviction and sentence, accordingly, amounted to a restriction on their ability to manifest their religion or belief. Such restriction must be justified by the permissible limits described in article 18, paragraph 3, namely that any restriction must be prescribed by law and be necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others. However, such restriction must not impair the very essence of the right in question.

178. The Committee noted that under the laws of the State party there was no procedure for recognition of conscientious objection to military service. The Committee also noted, in relation to relevant State practice, that an increasing number of the States parties to the Covenant which had retained compulsory military service had introduced alternatives, and considered that the State party had failed to show what special disadvantage it would suffer if the rights of the authors under article 18 were to be fully respected. As to the issue of cohesion and equitability, the Committee considered that respect on the part of the State for conscientious beliefs and manifestations thereof was itself an important factor in ensuring cohesive and stable pluralism in society. It likewise observed that it was in principle possible, and in practice common, to conceive alternatives to compulsory military service that did not erode the basis of the principle of universal conscription but rendered equivalent social good and made equivalent demands on the individual, eliminating unfair disparities between those engaged in compulsory military service and those in alternative service. The Committee considered that the State party had not demonstrated that in this case the restriction in question was necessary, within the meaning of article 18, paragraph 3, of the Covenant.

(s) Freedom of opinion and expression (Covenant, art. 19)

179. In case No. 1353/2005 (*Afuson v. Cameroon*), the author claimed to have been persecuted for having published articles denouncing corruption and violence on the part of the security forces. The Committee recalled that any restriction of freedom of expression pursuant to paragraph 3 of article 19 must meet the following conditions: it must be provided for by law, it must address one of the aims enumerated in paragraphs 3 (a) and (b) of article 19 and it must be necessary to achieve a legitimate purpose. The Committee considered that there could be no legitimate restriction under article 19, paragraph 3, which would justify the arbitrary arrest, torture and threats to the life of the author, and thus the question of deciding which measures might meet the "necessity" test in such situations did not arise. It concluded that there had been a violation of article 19, paragraph 2, read together with article 2, paragraph 3, of the Covenant.

(t) Freedom of association (Covenant, art. 22)

180. In case No. 1039/2001 (*Zvozskov et al. v. Belarus*) concerning denial of registration of a human rights association by the State party's authorities, the Committee observed that, in accordance with article 22, paragraph 2, any restriction on the right to freedom of association must cumulatively meet the following conditions: (a) it must be provided for by law, (b) may only be imposed for one of the purposes set out in paragraph 2, and (c) must be "necessary in a democratic society" for achieving one of these purposes. The reference to "democratic society" indicated, in the Committee's opinion, that the existence and operation of associations, including those which peacefully promoted ideas not necessarily favourably viewed by the Government or the majority of the population, was a cornerstone of a democratic society. The Committee indicated that even if such restrictions were indeed prescribed by law, the State party had not advanced any argument as to why it would be *necessary*, for the purposes of article 22, paragraph 2, to make registration of an association conditional on a limitation of the scope of its activities to the exclusive representation and defence of the rights of its own members. Taking into account the consequences of denial of registration, i.e. to render the operation of unregistered associations on the State party's territory unlawful, the Committee concluded

that the denial of registration did not meet the requirements of article 22, paragraph 2. The Committee reached a similar conclusion concerning the dissolution of a human rights association in cases Nos. 1274/2004 (*Korneenko et al. v. Belarus*) and 1296/2004 (*Belyatsky et al. v. Belarus*).

(u) Right to family life and right of minors to protection (Covenant, arts. 23 and 24, para. 1)

181. In case No. 1052/2002 (*N.T. v. Canada*), the Committee recalled that the law should establish certain criteria so as to enable the courts to apply the full provisions of article 23 of the Covenant, and that it was essential, except in exceptional circumstances, that those criteria should include the maintenance of personal relations and direct and regular contact between child and parents. In the absence of such special circumstances, the Committee recalled that it could not be deemed to be in the best interest of a child to eliminate altogether a parent's access to him or her. In the case in question the judge, during the child protection trial, considered that "there were no special circumstances demonstrated which would justify the restoration of access", instead of examining the issue of whether there were exceptional circumstances justifying the termination of access, thereby reversing the perspective under which such issues should be considered. Given the need to preserve family bonds, the Committee considered that it was essential that any proceedings which had an impact on the family unit should deal with the question of whether the family bonds should be broken, keeping in mind the best interests of the child and of the parents. The Committee did not consider that there had been exceptional circumstances which would justify total severance of contact between the author and her child. It found that the process by which the State party's legal system had decided to completely deny the author access to her daughter, without considering a less intrusive option, amounted to a failure to protect the family unit, in violation of article 23 of the Covenant. The Committee concluded that the facts as submitted also disclosed a violation of article 24 with respect to the author's daughter, who was entitled to additional protection as a minor.

(v) Right to vote and to be elected (Covenant, art. 25 (b))

182. In case No. 1047/2002 (*Sinitsin v. Belarus*), the Committee observed that the exercise of the right to vote and to be elected could not be suspended or excluded except on grounds, established by law, which were objective and reasonable. It recalled that article 2, paragraph 3, of the Covenant guaranteed an effective remedy to any person claiming a violation of the rights and freedoms spelled out in the Covenant. In the case in question, no effective remedies were available to the author to challenge the ruling of the Central Electoral Commission (CEC) declaring his nomination invalid, or the subsequent refusal by the CEC to register him as a presidential candidate, before an independent and impartial body. The Committee considered that the absence of an independent and impartial remedy to challenge the CEC ruling on the invalidity of the author's nomination and, in the case in question, the CEC refusal to register his candidacy, resulted in a violation of his rights under article 25 (b) of the Covenant, read together with article 2.

(w) The right to equality before the law and the prohibition of discrimination (Covenant, art. 26)

183. In case No. 1361/2005 (*X v. Colombia*), the Committee noted that the author had not been recognized as the permanent partner of Mr. Y for pension purposes because the courts had ruled

that the right to receive pension benefits was limited to members of a heterosexual de facto marital union. The Committee recalled that in several previous communications it had found that differences in benefit entitlements between married couples and heterosexual unmarried couples were reasonable and objective, as the couples in question had the choice to marry or not, with all the ensuing consequences. The Committee also noted that, while it was not open to the author to enter into marriage with his same-sex permanent partner, the Act in question did not make a distinction between married and unmarried couples but between homosexual and heterosexual couples. The Committee found that the State party had put forward no convincing argument that might demonstrate that such a distinction between same sex partners, who were not entitled to pension benefits, and unmarried heterosexual partners, who were so entitled, was reasonable and objective. Nor had the State party adduced any evidence of the existence of factors that might justify making such a distinction. In that context, the Committee found that the State party had violated article 26 of the Covenant by denying the author's right to his life partner's pension on the basis of his sexual orientation.

184. In case no. 1445/2006 (*Polacek and Polacková v. Czech Republic*), the Committee recalled Views in which it had found that "the authors … and many others in analogous situations had left Czechoslovakia because of their political opinions and had sought refuge from political persecution in other countries, where they eventually established permanent residence and obtained a new citizenship. Taking into account that the State party itself is responsible for the author's ... departure, it would be incompatible with the Covenant to require the author … to obtain Czech citizenship as a prerequisite for the restitution of [his] property or, alternatively, for the payment of appropriate compensation". The Committee further recalled its jurisprudence that the citizenship requirement in such circumstances was unreasonable. It considered that the precedent established in the earlier cases also applied to the authors of the present communication. It noted the State party's confirmation that the only criteria considered by the domestic courts in dismissing the authors' request for restitution had been that they did not fulfil the citizenship criterion. Thus, the Committee concluded that the application to the authors of Act No. 87/1991, which lays down a citizenship requirement for the restitution of confiscated property, violated their rights under article 26 of the Covenant.

(x) Right to submit a complaint to the Committee (Optional Protocol, art. 1)

185. In case No. 1416/2005 (*Alzery v. Sweden*), the Committee recalled that a State party was obliged to permit the exercise in good faith of the right of complaint to the Committee conferred by the Optional Protocol, and to refrain from steps which would render a decision on the communication nugatory and futile. In the case in question, the Committee noted that the author's (then) counsel had expressly advised the State party, in advance of the Government's decision, of his intention to pursue international remedies in the event of an adverse decision. Counsel was incorrectly advised after the decision had been taken that none had been reached, and the State party executed the expulsion in the full knowledge that advice of its decision would reach counsel after the event. In the Committee's view, these circumstances disclosed a manifest breach by the State party of its obligations under article 1 of the Optional Protocol.

F. Remedies called for under the Committee's Views

186. After the Committee has made a finding of a violation of a provision of the Covenant in its Views under article 5, paragraph 4, of the Optional Protocol, it proceeds to ask the State party to

take appropriate steps to remedy the violation. Often, it also reminds the State party of its obligation to prevent similar violations in the future. When pronouncing a remedy, the Committee observes that:

> "Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views."

187. During the period under review the Committee took several decisions regarding remedies.

188. In case No. 1039/2001 (*Zvozskov et al. v. Belarus*) regarding a violation of article 22, paragraph 1, the Committee considered that the authors were entitled to an appropriate remedy, including compensation and reconsideration of their application for registration of their association in the light of article 22.

189. In case No. 1043/2002 (*Chikunova v. Uzbekistan*) regarding violations of article 6, paragraph 4, article 7, and article 14, paragraphs 3 (b), (d) and (g), read together with article 6, the Committee declared that the State party was under an obligation to provide Ms. Chikunova with an effective remedy in the form of compensation. Remedies in the form of compensation were also recommended in cases Nos. 1017/2001 and 1066/2002 (*Strakhov and Fayzullaev v. Uzbekistan*) and 1041/2002 (*Tulayganov v. Uzbekistan*) in connection with violations of article 7 and article 14, paragraph 3 (g), read together with article 6.

190. In case No. 1047/2002 (*Sinitsin v. Belarus*) regarding a violation of article 25 (b), read together with article 2, the Committee declared that the State party was under an obligation to provide the author with an effective remedy, namely, compensation for damages incurred in the 2001 Presidential campaign.

191. In case No. 1052/2002 (*N.T. v. Canada*) regarding violations of articles 14, 17, 23 and 24, the Committee considered that the State party was under an obligation to provide the author and her daughter with an effective remedy consisting in regular access by the author to her daughter and appropriate compensation for the author.

192. In case No. 1057/2002 (*Kornetov v. Uzbekistan*) regarding a violation of article 7, read together with article 14, paragraph 3 (g), of the Covenant, the Committee declared that the State party was under an obligation to provide the author with an effective remedy. The remedy could include consideration of a reduction of his sentence and compensation. An effective remedy including a commutation of sentence and compensation was also recommended in case No. 1140/2002 (*Khudayberganov v. Uzbekistan*) in connection with violations of article 7 and article 14, paragraph 3 (g), read together with article 6.

193. In case No. 1071/2002 (*Agabekov v. Uzbekistan*) regarding a violation of article 7, the Committee declared that the State party was under an obligation to provide Mr. Agabekov with an effective remedy, including compensation.

194. In cases Nos. 1108/2002 and 1121/2002 (*Karimov and Nursatov v. Tajikistan*) regarding a violation of the Davlatov brothers' rights under article 6, paragraph 2, article 7, and article 14, paragraph 3 (g), read together, and article 10 and article 14, paragraph 2, as well as Messrs. Karimov's and Askarov's rights under article 6, paragraph 2, article 7 read together with article 14, paragraph 3 (g), article 10 and article 14, paragraph 3 (b) and (d), the Committee declared that the State party was under an obligation to provide an effective remedy, including compensation.

195. In case No. 1143/2002 (*El Dernawi v. Libyan Arab Jamahiriya*), concerning a violation of article 12, paragraph 2, of the Covenant in respect of the author's wife and her three youngest children, a violation of articles 17 and 23 in respect the author, his wife and all children, and a violation of article 24 in respect of the children aged under 18 in September 2000, the Committee found the State party under an obligation to ensure that the author, his wife and their children had an effective remedy, including compensation and return of the author's wife's passport without further delay so that she and the children covered by her passport could depart the State party for purposes of family reunification.

196. In case No. 1172/2003 (*Madani v. Algeria*) regarding violations of articles 9 and 14, the Committee found that the State party was under an obligation to provide an effective remedy for the victim and take the necessary steps to ensure that the author obtained an appropriate remedy, including compensation. It required a similar remedy in case No. 1173/2003 (*Benhadj v. Algeria*) concerning violations of articles 9, 10 and 14.

197. In cases Nos. 1255, 1256, 1259, 1260, 1266, 1268, 1270 and 1288/2004 (*Shams et al. v. Australia*), concerning violations of article 9, paragraphs 1 and 4, the Committee found that the State party should offer the authors an effective remedy taking the form of adequate compensation for the length of the detention to which they had been subjected.

198. In case No. 1274/2004 (*Korneenko et al. v. Belarus*) regarding a violation of article 22, paragraph 1, the Committee considered that the author was entitled to an appropriate remedy, including the re-establishment of "Civil Initiatives" and compensation. In case No. 1296/2004 (*Belyatsky et al. v. Belarus*), concerning another violation of the same provision, the Committee also found that the authors were entitled to an appropriate remedy, including re-registration of the "Viasna" association and compensation.

199. In case No. 1295/2004 (*El Awani v. Libyan Arab Jamahiriya*), concerning violation of article 2, paragraph 3, of the Covenant, read in conjunction with article 6, article 7, and article 9 with respect to the author's brother; and a violation of article 2, paragraph 3, read in conjunction with article 7 of the Covenant with respect to the author himself, the Committee found the State party under an obligation to provide the author with an effective remedy, including a thorough and effective investigation into the disappearance and death of his brother, appropriate information on the outcome of its investigation, and adequate compensation for the violations the author had suffered. The State party was also under a duty to prosecute, try and punish those held responsible for such violations.

200. In case No. 1320/2004 (*Pimentel et al. v. the Philippines*) regarding a violation of article 14, paragraph 1, read together with article 2, paragraph 3, the Committee considered that the authors were entitled to an effective remedy and that the State party was under an obligation to ensure an adequate remedy to the authors, including compensation and a prompt resolution of their case on the enforcement of the United States judgement in the State party.

201. In cases Nos. 1321-1322/2004 (*Yoon and Choi v. the Republic of Korea*) regarding violations of article 18, paragraph 1, in respect of each author, the Committee declared that the State party was under an obligation to provide the authors with an effective remedy in the form of compensation. It called for a similar remedy in case No. 1454/2006 (*Lederbauer v. Austria*) relating to a violation of article 14, paragraph 1.

202. In case No. 1324/2004 (*Shafiq v. Australia*) regarding a violation of article 9, paragraphs 1 and 4, the Committee found that the State party was under an obligation to provide the author with an effective remedy, including release and appropriate compensation.

203. In case No. 1325/2004 (*Conde v. Spain*) regarding a violation of article 14, paragraph 5, the Committee requested the State party to furnish the author with an effective remedy which allowed a review of his conviction and sentence by a higher tribunal. In cases Nos. 1332/2004 (*Garcia Sánchez and González Clares v. Spain*) and 1381/2005 (*Hachuel Moreno v. Spain*), also regarding violations of article 14, paragraph 5, the Committee requested the State party to furnish similar remedies.

204. In case No. 1327/2004 (*Grioua v. Algeria*), concerning violations by the State party of articles 7, 9 and 16 of the Covenant, and of article 2, paragraph 3, in conjunction with articles 7, 9 and 16, in respect of the author's son, and of article 7 and article 2, paragraph 3, in conjunction with article 7, in respect of the author herself, the Committee found the State party under an obligation to provide the author with an effective remedy, including a thorough and effective investigation into the disappearance and fate of her son, his immediate release if he was still alive, appropriate information on the outcome of its investigation, and adequate reparation, including compensation, for the author and her family. While the Covenant does not give individuals the right to demand the criminal prosecution of another person, the Committee nevertheless considered the State party duty-bound not only to conduct thorough investigations into alleged violations of human rights, particularly enforced disappearances and violations of the right to life, but also to prosecute, try and punish the culprits. The State party was thus also under an obligation to prosecute, try and punish those held responsible for such violations. The Committee called for a similar remedy in case No. 1328/2004 (*Kimouche v. Algeria*) for violations of the same provisions of the Covenant.

205. In case No. 1347/2005 (*Dudko v. Australia*), concerning a violation of article 14, paragraph 1, the Committee declared that the State party was required to provide the author with an effective remedy.

206. In case No. 1348/2005 (*Ashurov v. Tajikistan*) regarding a violation of the author's son's rights under article 7, article 9, paragraphs 1, 2 and 3, and article 14, paragraphs 1, 2 and 3 (a), (b), (e), and (g), the Committee declared that the State party was under an obligation to provide the author with an effective remedy, in the form of immediate release, appropriate compensation, or, if required, the revision of the trial with all the guarantees enshrined in the Covenant, as well as reparation.

207. In case No. 1361/2005 (*X v. Colombia*) regarding a violation of article 26, the Committee declared that the author was entitled to an effective remedy, including reconsideration of his request for a pension without discrimination on grounds of sex or sexual orientation.

208. In case No. 1353/2005 (*Afuson v. Cameroon*) regarding violations of article 7, article 9, paragraphs 1 and 2, and article 19, paragraph 2, read in conjunction with article 2, paragraph 3, the Committee considered that the author was entitled to an effective remedy and that the State party was under an obligation to take effective measures to ensure that: (a) criminal proceedings were initiated seeking the prompt prosecution and conviction of the persons responsible for the author's arrest and torture; (b) the author was protected from threats and/or intimidation from members of the security forces; and (c) he was granted reparation, including full compensation and complete rehabilitation.

209. In case No. 1368/2005 (*E.B. v. New Zealand*) regarding a violation of article 14, paragraph 1, the Committee found that the State party was under an obligation to provide the author with an effective remedy, including expeditious resolution, consistent with the requirements of the Covenant, of the access proceedings in relation to his son.

210. In case No. 1416/2005 (*Alzery v. Sweden*) regarding violations of article 7, read alone and together with article 2 of the Covenant, as well as article 1 of the Optional Protocol, the Committee declared that the State party was under an obligation to provide the author with an effective remedy, including compensation. The State party was also under an obligation to avoid similar violations in the future. The Committee welcomed the institution of specialized independent migration courts with power to review expulsion decisions such as had occurred in the case in question.

211. In case No. 1439/2005 (*Aber v. Algeria*), concerning violations of article 7 and of article 9, paragraphs 1 and 3, read alone and in conjunction with article 2, paragraph 3, and of article 10, paragraph 1, of the Covenant, the Committee considered that the author was entitled, in accordance with article 2, paragraph 3 (a), of the Covenant, to an effective remedy. The State party was under an obligation to take appropriate steps to (a) institute criminal proceedings, in view of the facts of the case, for the immediate prosecution and punishment of the persons responsible for the ill-treatment to which the author had been subjected, and (b) provide the author with appropriate reparation, including compensation.

212. In case No. 1445/2006 (*Polacek and Polacková v. Czech Republic*), concerning a violation of article 26, the Committee considered the State party under an obligation to provide the authors with an effective remedy, which should be restitution, or otherwise, compensation. It reiterated that the State party should review its legislation to ensure that all persons enjoyed both equality before the law and the equal protection of the law.

Notes

[1] *Official Records of the General Assembly, Fifty-second Session, Supplement No. 40* (A/52/40), vol. I, para. 467.

[2] Ibid., para. 469.

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
Algeria (9)	992/2001, *Bousroual* A/61/40				X	X
	1172/2003, *Madani* A/62/40					
	1085/2002, *Tarigh* A/61/40	Not due			X	
	1173/2003, *Benhadj* A/62/40	Not due				
	1196/2003, *Boucherf* A/61/40					X
	1297/2004, *Medjnoune* A/61/40				X	
	1327/2004, *Grioua* A/62/40	Not due				
	1328/2004, *Kimouche* A/62/40	Not due				
	1439/2005, *Aber* A/62/40	Not due				
Angola (2)	711/1996, *Dias* A/55/40	X A/61/40		X A/61/40		X
	1128/2002, *Marques* A/60/40	X A/61/40		X A/61/40		X
Argentina (1)	400/1990, *Mónaco de Gallichio* A/50/40	X A/51/40				X
Australia (24)	488/1992, *Toonen* A/49/40	X A/51/40	X			
	560/1993, *A.* A/52/40	X A/53/40, A/55/40, A/56/40		X		X
	802/1998, *Rogerson* A/58/40	Finding of a violation was considered sufficient	X			
	900/1999, *C.* A/58/40	X A/58/40, CCPR/C/80/FU1 A/60/40 (annex V to this report) A/62/40				X
	930/2000, *Winata et al.* A/56/40	X CCPR/C/80/FU1 and A/57/40 and A/60/40 (annex V to this report) A/62/40				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
Australia (*cont'd*)	941/2000, *Young* A/58/40	X A/58/40, A/60/40 (annex V to this report) A/62/40		X		X
	1011/2002, *Madaferri* A/59/40	X A/61/40	X			
	1014/2001, *Baban et al.* A/58/40	X A/60/40 (annex V to this report) A/62/40		X		X
	1020/2001, *Cabal and Pasini* A/58/40	X A/58/40, CCPR/C/80/FU1		X*		X
* In CCPR/C/80/FU1 the State party's response is set out. It submitted that it is unusual for two persons to share cells and that it has asked the Victorian police to take the necessary steps to ensure that a similar situation does not arise again. It does not accept that the authors are entitled to compensation. The Committee considered that this case should not be considered any further under the follow-up procedure.						
	1036/2001, *Faure* A/61/40	X A/61/40				X
	1050/2002, *Rafie and Safdel* A/61/40	X A/62/40			X	
	1157/2003, *Coleman* A/61/40	X A/62/40				X A/62/40
	1069/2002, *Bakhitiyari* A/59/40	X A/60/40 (annex V to this report) A/62/40		X		X
	1184/2003, *Brough* A/61/40	X A/62/40			X	X A/62/40
	1255, 1256, 1259, 1260, 1266, 1268, 1270 and 1288/2004, *Shams, Atvan, Shahrooei, Saadat, Ramezani, Boostani, Behrooz and Sefed* A/62/40	Not yet due				
	1324/2004, Shafiq A/62/40	X A/62/0				X A/62/40
	1347/2005, Dudko A/62/40	Not yet due				
Austria (6)	415/1990, *Pauger* A/57/40	X A/47/40, A/52/40		X		X
	716/1996, *Pauger* A/54/40	X A/54/40, A/55/40, A/57/40 CCPR/C/80/FU1		X*		X
	**Note*: Although the State party has made amendments to its legislation as a result of the Committee's findings, the legislation is not retroactive and the author himself has not been provided with a remedy.					

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
Austria (*cont'd*)	965/2001, *Karakurt* A/57/40	X A/58/40, CCPR/C/80/FU1, A/61/40				X
	1086/2002, *Weiss* A/58/40	X A/58/40, A/59/40, CCPR/C/80/FU1, A/60/40, A/61/40				X
	1015/2991, *Perterer* A/59/40	X A/60/40, A/61/40				X
	1454/2006, *Lederbauer* A/62/40	Not yet due				
Belarus (14)	780/1997, *Laptsevich* A/55/4				X A/56/40, A/57/40	X
	814/1998, *Pastukhov* A/58/40				X A/59/40	X
	886/1999, *Bondarenko* A/58/40	X A/62/40			X A/59/40	X
	887/1999, *Lyashkevich* A/58/40	X A/62/40			X A/59/40	X
	921/2000, *Dergachev* A/57/40				X	X
	927/2000, *Svetik* A/59/40	X A/60/40 (annex V to this report), A/61/40 A/62/40				X A/62/40
	1009/2001, *Shchetko* A/61/40	Not due			X	
	1022/2001, *Velichkin* A/61/40				X A/61/40	X
	1039/2001, *Boris et al.* A/62/40	X A/62/40				X
	1047/2002, *Sinitsin, Leonid* A/62/40				X	
	1100/2002, *Bandazhewsky* A/61/40	X A/62/40				X
	1207/2003, *Malakhovsky* A/60/40	X A/61/40		X		X
	1274/2004, *Korneenko* A/62/40	X A/62/40				X A/62/40
	1296/2004, *Belyatsky* A/62/40	Not yet due				

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
Bolivia (2)	176/1984, *Peñarrieta* A/43/40	X A/52/40				X
	336/1988, *Fillastre and Bizouarne* A/52/40	X A/52/40	X			
Burkino Faso (1)	1159/2003, *Sankara* A/61/40	X A/61/40 A/62/40				X A/62/40
Cameroon (4)	458/1991, *Mukong* A/49/40				X A/52/40	X
	630/1995, *Mazou* A/56/40	X A/57/40	X A/59/40			
	1134/2002, *Gorji-Dinka* A/60/40				X	X
	1353/2005, *Afuson* A/62/40	Not yet due				
Canada (12)	24/1977, *Lovelace* Selected Decisions, vol. 1	X Selected Decisions, vol. 2, annex 1	X			
	27/1978, *Pinkney* Selected Decisions, vol. 1				X	X
	167/1984, *Ominayak et al.* A/45/50	X A/59/40,* A/61/40, A/62/40				X A/62/40
	**Note*: According to this report, information was provided on 25 November in 1995 (unpublished). It appears from the Follow-up file that in this response, the State party stated that the remedy was to consist of a comprehensive package of benefits and programmes valued at $45 million and a 95 square mile reserve. Negotiations were still ongoing as to whether the Band should receive additional compensation.					
	359/1989, *Ballantyne and Davidson* A/48/40	X A/59/40*	X			
	**Note*: According to this report, information was provided on 2 December 1993, but was unpublished. It appears from the Follow-up file that in this response, the State party stated that sections 58 and 68 of the Charter of the French Language, the legislation which was central to the communication, will be modified by Bill 86 (S.Q. 1993, c. 40). The date for the entry into force of the new law was to be around January 1994.					
	385/1989, *McIntyre* A/48/40	X*	X			
	**Note*: See footnote on Case 359/1989 above.					
	455/1991, *Singer* A/49/40	Finding of a violation was considered sufficient	X			
	469/1991, *Ng* A/49/40	X A/59/40*	X			
	**Note*: According to this report, information was provided on 3 October in 1994 (unpublished). The State party transmitted the Views of the Committee to the Government of the United States of America and asked it for information concerning the method of execution currently in use in the State of California, where the author faced criminal charges. The Government of the United States of America informed Canada that the law in the State of California currently provides that an individual sentenced to capital punishment may choose between gas asphyxiation and lethal injection. In the event of a future request for an extradition with the possibility of the death penalty, the Views of the Committee in this communication will be taken into account.					

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
Canada (*cont'd*)	633/1995, *Gauthier* A/54/40	X A/55/40, A/56/40, A/57/40	X A/59/40			
	694/1996, *Waldman* A/55/40	X A/55/40, A/56/40, A/57/40, A/59/40, A/61/40		X		X
	829/1998, *Judge* A/58/40	X A/59/40, A/60/40	X A/60/40, A/61/40			X* A/60/40
	**Note*: The Committee decided that it should monitor the outcome of the author's situation and take any appropriate action.					
	1051/2002, *Ahani* A/59/40	X A/60/40, A/61/40		X		X* A/60/40
	**Note*: The State party went some way to implementing the Views: the Committee has not specifically said implementation is satisfactory.					
	1052/2002, *Tscholatch* A/62/40	Not yet due				
Central African Republic (1)	428/1990, *Bozize* A/49/40	X A/51/40	X A/51/40			
Colombia (15)	45/1979, *Suárez de Guerrero* Fifteenth session Selected Decisions, vol. 1	X A/52/40*				X
	**Note*: In this case the Committee recommended that the State party should take the necessary measures to compensate the husband of Mrs. Maria Fanny Suárez de Guerrero for the death of his wife and to ensure that the right to life is duly protected by amending the law. The State party stated that the Ministerial Committee set up pursuant to enabling legislation No. 288/1996 recommended that compensation be paid to the author.					
	46/1979, *Fals Borda* Sixteenth session Selected Decisions, vol. 1	X A/52/40*		X		X
	**Note*: In this case, the Committee recommended adequate remedies and for the State party to adjust its laws in order to give effect to the right set forth in article 9 (4) of the Covenant. The State party stated that given the absence of a specific remedy recommended by the Committee the Ministerial Committee set up pursuant to enabling legislation No. 288/1996 does not recommend that compensation be paid to the victim.					
	64/1979, *Salgar de Montejo* Fifteenth session Selected Decisions, vol. 1	X A/52/40*		X		X
	**Note*: In this case the Committee recommended adequate remedies and for the State party to adjust its laws in order to give effect to the right set forth in article 14 (5) of the Covenant. Given the absence of a specific remedy recommended by the Committee, the Ministerial Committee set up pursuant to Act No. 288/1996 did not recommend that compensation be paid to the victim.					
	161/1983, *Herrera Rubio* Thirty-first session Selected Decisions, vol. 2	X A/52/40*				X
	**Note*: The Committee recommended effective measures to remedy the violations that Mr. Herrera Rubio has suffered and further to investigate said violations, to take action thereon as appropriate and to take steps to ensure that similar violations do not occur in the future. The State party provided compensation to the victim.					
	181/1984, *Sanjuán Arévalo brothers* A/45/40	X A/52/40*		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
Colombia (*cont'd*)	**Note*: The Committee takes this opportunity to indicate that it would welcome information on any relevant measures taken by the State party in respect of the Committee's Views and, in particular, invites the State party to inform the Committee of further developments in the investigation of the disappearance of the Sanjuán brothers. Given the absence of a specific remedy recommended by the Committee the Ministerial Committee set up pursuant to Act No. 288/1996 did not recommend that compensation be paid to the victim.					
	195/1985, *Delgado Paez* A/45/40	X A/52/40*				X
	**Note*: In accordance with the provisions of article 2 of the Covenant, the State party is under an obligation to take effective measures to remedy the violations suffered by the author, including the granting of appropriate compensation, and to ensure that similar violations do not occur in the future. The State party provided compensation.					
	514/1992, *Fei* A/50/40	X A/51/40*		X		X
	**Note*: The Committee recommended to provide the author with an effective remedy. In the Committee's opinion, this entails guaranteeing the author's regular access to her daughters, and that the State party ensure that the terms of the judgements in the author's favour are complied with. Given the absence of a specific remedy recommended by the Committee, the Ministerial Committee set up pursuant to Act No. 288/1996 did not recommend that compensation be paid to the victim.					
	563/1993, *Bautista de Arellana* A/52/40	X A/52/40, A/57/40, A/58/40, A/59/40	X			
	612/1995, *Arhuacos* A/52/40				X	X
	687/1996, *Rojas García* A/56/40	X A/58/40, A/59/40				X
	778/1997, *Coronel et al.* A/58/40	X A/59/40				X
	848/1999, *Rodríguez Orejuela* A/57/40	X A/58/40, A/59/40		X		X
	859/1999, *Jiménez Vaca* A/57/40	X A/58/40, A/59/40, A/61/40		X		X
	1298/2004, *Becerra* A/61/40	X A/62/40				X A/62/40
	1361/2005, *Casadiego* A/62/40	Not yet due				
Croatia (1)	727/1996, *Paraga* A/56/40	X A/56/40, A/58/40				X
Czech Republic (11)*	**Note*: For all of these property cases, see also follow-up to concluding observations for the State party's reply in A/59/40.					
	516/1992, *Simunek et al.* A/50/40	X A/51/40*, A/57/40, A/58/40, A/61/40, A/62/40				X
	**Note*: One author confirmed that the Views were partially implemented. The others claimed that their property was not restored to them or that they were not compensated.					
	586/1994, *Adam* A/51/40	X A/51/40, A/53/40, A/54/40, A/57/40, A/61/40, A/62/40				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
Czech Republic (*cont'd*)	765/1997, *Fábryová* A/57/40	X A/57/40, A/58/40, A/61/40, A/62/40				X
	774/1997, *Brok* A/57/40	X A/57/40, A/58/40, A/61/40, A/62/40	X A/61/40			
	747/1997, *Des Fours Walderode* A/57/40	X A/57/40, A/58/40, A/61/40 A/62/40				X
	757/1997, *Pezoldova* A/58/40	X A/60/40 (annex V to this report) A/61/40, A/62/40				X
	823/1998, *Czernin* A/60/40	X A/62/40				X
	857/1999, *Blazek et al.* A/56/40	X A/62/40				X
	945/2000, *Marik* A/60/40	X A/62/40				
	946/2000, *Patera* A/57/40	X A/62/40				X
	1054/2002, *Kriz* A/61/40	X A/62/40				
	1445/2006, *Polacek* A/62/40	Not yet due				
Democratic Republic of the Congo (14)*	**Note*: See A/59/40 for details of follow-up consultations.					
	16/1977, *Mbenge* Eighteenth session Selected Decisions, vol. 2				X A/61/40	X
	90/1981, *Luyeye* Nineteenth session Selected Decisions, vol. 2				X A/61/40	X
	124/1982, *Muteba* Twenty-second session Selected Decisions, vol. 2				X A/61/40	X
	138/1983, *Mpandanjila et al.* Twenty-seventh session Selected Decisions, vol. 2				X A/61/40	X
	157/1983, *Mpaka Nsusu* Twenty-seventh session Selected Decisions, vol. 2				X A/61/40	X
	194/1985, *Miango* Thirty-first session Selected Decisions, vol. 2				X A/61/40	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
Democratic Republic of the Congo (*cont'd*)	241/1987, *Birindwa* A/45/40				X A/61/40	X
	242/1987, *Tshisekedi* A/45/40				X A/61/40	X
	366/1989, *Kanana* A/49/40				X A/61/40	X
	542/1993, *Tshishimbi* A/51/40				X A/61/40	X
	641/1995, *Gedumbe* A/57/40				X A/61/40	X
	933/2000, *Adrien Mundyo Bisyo et al.* (68 magistrates) A/58/40				X A/61/40	X
	962/2001, *Marcel Mulezi* A/59/40				X A/61/40	X
	1177/2003, *Wenga and Shandwe* A/61/40				X	
Dominican Republic (3)	188/1984, *Portorreal* Thirty-first session Selected Decisions, vol. 2	X A/45/40	X A/45/40			
	193/1985, *Giry* A/45/40	X A/52/40, A/59/40		X		X
	449/1991, *Mojica* A/49/40	X A/52/40, A/59/40		X		X
Denmark (1)	1222/2003, *Byaruhunga* A/60/40	X* A/61/40	X			
	**Note*: State party requested a reopening of consideration of the case.					
Ecuador (5)	238/1987, *Bolaños* A/44/40	X A/45/40	X A/45/40			
	277/1988, *Terán Jijón* A/47/40	X A/59/40*		X		X
	**Note*: According to this report, information was provided on 11 June 1992, but was not published. It appears from the Follow-up file that in this response, the State party merely forwarded copies of two reports of the National Police on the investigation of the crimes in which Mr. Terán Jijón was involved, including the statements he made on 12 March 1986 concerning his participation in such crimes.					
	319/1988, *Cañón García* A/47/40			X		X
	480/1991, *Fuenzalida* A/51/40	X A/53/40, A/54/40	X			
	481/1991, *Villacrés Ortega* A/52/40	X A/53/40, A/54/40	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
Equatorial Guinea (3)	414/1990, *Primo Essono* A/49/40	A/62/40*			X	X
	468/1991, *Oló Bahamonde* A/49/40	A/62/40*			X	X
	1152 and 1190/2003, *Ndong et al. and Mic Abogo* A/61/40	A/62/40*			X	
* Although the State party has not responded, there have been several meetings between the State party and the Rapporteur.						
Finland (5)	265/1987, *Vuolanne* A/44/40	X A/44/40	X			
	291/1988, *Torres* A/45/40	X A/45/40	X A/45/40			
	387/1989, *Karttunen* A/48/40	X A/54/40	X			
	412/1990, *Kivenmaa* A/49/40	X A/54/40	X			
	779/1997, *Äärelä et al.* A/57/40	X A/57/40, A/59/40				X
France (6)	196/1985, *Gueye et al.* A/44/40	X A/51/40	X			
	549/1993, *Hopu et Bessert* A/52/40	X A/53/40	X			
	666/1995, *Foin* A/55/40	Finding of a violation was considered sufficient	n.a.			
	689/1996, *Maille* A/55/40	Finding of a violation was considered sufficient	n.a.			
	690/1996, *Venier* A/55/40	Finding of a violation was considered sufficient	n.a.			
	691/1996, *Nicolas* A/55/40	Finding of a violation was considered sufficient	n.a.			
Georgia (5)	623/1995, *Domukovsky* A/53/40	X A/54/40	X			
	624/1995, *Tsiklauri* A/53/40	X A/54/40	X			
	626/1995, *Gelbekhiani* A/53/40	X A/54/40		X		X
	627/1995, *Dokvadze* A/53/40	X A/54/40		X		X
	975/2001, *Ratiani* A/60/40	X A/61/40				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
Greece (1)	1070/2002, *Kouldis* A/61/40	X A/61/40				X
Guyana (9)	676/1996, *Yasseen and Thomas* A/53/40	A/60/40* A/62/40			X A/60/40	X
	728/1996, *Sahadeo* A/57/40	A/60/40* A/62/40			X A/60/40	X
	838/1998, *Hendriks* A/58/40	A/60/40* A/62/40			X A/60/40	X
	811/1998, *Mulai* A/59/40	A/60/40* A/62/40			X A/60/40	X
	812/1998, *Persaud* A/61/40	A/60/40* A/62/40			X	X
	862/1999, *Hussain and Hussain* A/61/40	A/60/40* A/62/40			X	X
	867/1999, *Smartt* A/59/40	A/60/40* A/62/40			X A/60/40	X
	912/2000, *Ganga* A/60/40	A/60/40* A/62/40			X A/60/40	X
	913/2000, *Chan* A/61/40	A/60/40* A/62/40			X	
* Although the State party has not responded, there have been several meetings between the State party and the Rapporteur.						
Hungary (3)	410/1990, *Párkányi* A/47/40	X*		X		X
	*Note: Follow-up information referred to in the State party's reply, dated February 1993, (unpublished), indicates that compensation cannot be paid to the author due to lack of specific enabling legislation.					
	521/1992, *Kulomin* A/51/40	X A/52/40				X
	852/1999, *Borisenko* A/58/40	X A/58/40, A/59/40		X		X
Ireland (1)	819/1998, *Kavanagh* A/56/40	X A/57/40, A/58/40	X A/59/40, A/60/40			
Italy (1)	699/1996, *Maleki* A/54/40	X A/55/40		X		X
Jamaica (98)	92 cases*					X
	*Note: See A/59/40. Twenty-five detailed replies were received, of which 19 indicated that the State party would not implement the Committee's recommendations; in two it promises to investigate; in one it announces the author's release (592/1994 - Clive Johnson - see A/54/40). There were 36 general replies indicating that death sentences have been commuted. No follow-up replies in 31 cases.					
	695/1996, *Simpson* A/57/40	X A/57/40, A/58/40, A/59/40				X
	792/1998, *Higginson* 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
Jamaica (*cont'd*)	793/1998, *Pryce* A/59/40				X	X
	796/1998, *Reece* A/58/40				X	X
	797/1998, *Lobban* A/59/40				X	X
	798/1998, *Howell* A/59/40	X A/61/40				
Latvia (1)	884/1999, *Ignatane* A/56/40	X A/57/40	X A/60/40*			
* The Committee decided that this case should be considered no further under the follow-up procedure.						
Lithuania (2)	836/1998, *Gelazauskas* A/58/40	X A/59/40	X			
	875/1999, *Filipovich* A/58/40	X A/59/40	X			
Libyan Arab Jamahiriya (4)	440/1990, *El-Megreisi* A/49/40				X	X
	1107/2002, *El Ghar* A/60/40	X A/61/40				X A/62/40
	1143/2002, *Dernawi* A/62/40	Not yet due				
	1295/2004, *El Awani* A/61/40	Not yet due				
Madagascar (4)	49/1979, *Marais* Eighteenth session Selected Decisions, vol. 2	A/52/40			X*	X
	**Note*: According to the Annual Report (A/52/40), the author indicated that he was released. No further information provided.					
	115/1982, *Wight* Twenty-fourth session Selected Decisions, vol. 2	A/52/40			X*	X
	**Note*: According to the Annual Report (A/52/40), the author indicated that he was released. No further information provided.					
	132/1982, *Jaona* Twenty-fourth session Selected Decisions, vol. 2	A/52/40			X	X
	155/1983, *Hammel* A/42/40 and Selected Decisions, vol. 2	A/52/40			X	X
Mauritius (1)	35/1978, *Aumeeruddy-Cziffa et al.* Twelfth session Selected Decisions, vol. 1	X Selected Decisions, vol. 2, annex 1	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
Namibia (2)	760/1997, *Diergaardt* A/55/40	X A/57/40	X A/57/40			
	919/2000, *Muller and Engelhard* A/57/40	X A/58/40	X A/59/40			
Netherlands (8)	172/1984, *Broeks* A/42/40	X A/59/40*	X			
	**Note*: According to this report, information was provided on 23 February 1995 (unpublished). The State party indicated that it had retroactively amended its legislation thereby granting the author a satisfactory remedy. It referred to two cases subsequently considered by the Committee in which no violations of the Covenant were found, namely Lei-van de Meer (478/1991) and Cavalcanti Araujo-Jongen (418/1990), as the alleged inconsistency and/or deficiency had been corrected by the retrospective amendment embodied in the Act of 6 June 1991. Thus, as the situation was the same in the Broeks case the amendment embodied in the Act of 6 June 1991 afforded the author sufficient satisfaction.					
	182/1984, *Zwaan-de Vries* A/42/40	X A/59/40*	X			
	**Note*: According to this report, information was provided on 28 December 1990, but was unpublished. It appears from the Follow-up file that in this response author's counsel indicated that the author had received her benefits covering the two years she was unemployed.					
	305/1988, *van Alphen* A/45/40	X A/46/40	X			
	453/1991, *Coeriel* A/50/40	X A/59/40*	X			
	**Note*: According to this report, information was provided on 28 March 1995 (unpublished). The State party submitted that although its legislation and policy in the field of the changing of names offered sufficient guarantees to prevent future violations of article 17 of the Covenant, out of respect for the Committee's Views, the Government haddecided to ask the authors whether they still wished to change their names in line with their applications and if so permission would be granted for such a change to be effected without costs.					
	786/1997, *Vos* A/54/40	X A/55/40		X		X
	846/1999, *Jansen-Gielen* A/56/40	X A/57/40	X A/59/40			
	976/2001, *Derksen* A/59/40	X A/60/40				X
	1238/2003, *Jongenburger Veerman* A/61/40				X	X
New Zealand (2)	1090, *Rameka et al.* A/59/40	X A/59/40	X A/59/40			
	1368/2005, *Britton* A/62/40	Not yet due				
Nicaragua (1)	328/1988, *Zelaya Blanco* A/49/40	X (incomplete) A/56/40, A/57/40, A/59/40				X
Norway (2)	631/1995, *Spakmo* A/55/40	X A/55/40	X			
	1155/2003, *Leirvag* A/60/40	X A/61/40	X* A/61/40			
	**Note*: Additional follow-up information expected.					

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
Panama (2)	289/1988, *Wolf* A/47/40	X A/53/40				X
	473/1991, *Barroso* A/50/40	X A/53/40				X
Peru (14)	202/1986, *Ato del Avellanal* A/44/40	X A/52/40, A/59/40				X
	203/1986, *Muñoz Hermosa* A/44/40	X A/52/40, A/59/40				X
	263/1987, *González del Río* A/48/40	X A/52/40, A/59/40				X
	309/1988, *Orihuela Valenzuela* A/48/40	X A/52/40, A/59/40				X
	540/1993, *Celis Laureano* A/51/40				X A/59/40	X
	577/1994, *Polay Campos* A/53/40	X A/53/40, A/59/40				X
	678/1996, *Gutierrez Vivanco* A/57/40				X A/58/40, A/59/40	X
	688/1996, *de Arguedas* A/55/40	X A/58/40, A/59/40	X			
	906/1999, *Vargas-Machuca* A/57/40				X A/58/40, A/59/40	X
	981/2001, *Gomez Casafranca* A/58/40				X A/59/40	X
	1125/2002, *Quispe* A/61/40	X A/61/40				X
	1126/2002, *Carranza* A/61/40	X A/61/40				X
	1153/2003, *Huaman* A/61/40	X A/61/40				X
	1058/2002, *Vargas* A/61/40	X A/61/40				X
Philippines (9)	788/1997, *Cagas* A/57/40	X A/59/40, A/60/40, A/61/40				X
	868/1999, *Wilson* A/59/40	X A/60/40, A/61/40, A/62/40		X A/62/40		X A/62/40
	869/1999, *Piandiong et al.* A/56/40	X N/A				
	1077/2002, *Carpo et al.* A/58/40	X A/59/40, A/60/40, A/61/40	X (A/61/40)			

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
Philippines (*cont'd*)	1110/2002, *Rolando* A/60/40	X A/61/40	X (A/61/40)			
	1167/2003, *Ramil Rayos* A/59/40	X A/61/40	X (A/61/40)			
	1089/2002, *Rouse* A/60/40				X	X
	1320/2004, *Pimentel et al.* A/62/40	Not yet due				
	1421/2005, *Larrañaga* A/61/40				X	
Poland (1)	1061/2002, *Fijalkovska* A/60/40	X A/62/40			X	X
Portugal (1)	1123/2002, *Correia de Matos* A/61/40				X	X A/62/40
Republic of Korea (6)	518/1992, *Sohn* A/50/40	X A/60/40, A/62/40				X
	574/1994, *Kim* A/54/40	X A/60/40, A/62/40				X
	628/1995, *Park* A/54/40	X A/54/40				X
	878/1999, *Kang* A/58/40	X A/59/40				X
	926/2000, *Shin* A/59/40	X A/60/40, A/62/40				X
	1119/2002, *Lee* A/60/40	X A/61/40				X
	1321-1322/2004, *Yoon, Yeo-Bzum and Choi, Myung-Jin*, A/62/40	X A/62/40				X
Romania (1)	1158/2003, *Blaga* A/60/40				X	X
Russian Federation (7)	770/1997, *Gridin* A/55/40	A/57/40, A/60/40		X		X
	763/1997, *Lantsova* A/57/40	A/58/40, A/60/40		X		X
	888/1999, *Telitsin* A/59/40	X A/60/40				X
	712/1996, *Smirnova* A/59/40	X A/60/40				X
	815/1997, *Dugin* A/59/40	X A/60/40				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
Russian Federation (*cont'd*)	889/1999, *Zheikov* A/61/40	X A/62/40				X A/62/40
	1218/2003, *Platonov* A/61/40	X A/61/40				
Saint Vincent and the Grenadines (1)	806/1998, *Thompson* A/56/40				X A/61/40	X
Serbia and Montenegro (1)	1180/2003, *Bodrožic* A/61/40				X	
Senegal (1)	386/1989, *Famara Koné* A/50/40	X A/51/40, summary record of 1619th meeting held on 21 October 1997	X			
Sierra Leone (3)	839/1998, *Mansaraj et al.* A/56/40	X A/57/40, A/59/40				X
	840/1998, *Gborie et al.* A/56/40	X A/57/40, A/59/40				X
	841/1998, *Sesay et al.* A/56/40	X A/57/40, A/59/40				X
Slovakia (1)	923/2000, *Mátyus* A/57/40	X A/58/40	X			
Spain (15)	493/1992, *Griffin* A/50/40	X A/59/40,* A/58/40				X
	**Note*: According to this report, information was provided in 1995, but was unpublished. It appears from the follow-up file that in this response, dated 30 June 1995, the State party challenged the Committee's Views.					
	526/1993, *Hill* A/52/40	X A/53/40, A/56/40, A/58/40, A/59/40, A/60/40, A/61/40	X			
	701/1996, *Gómez Vásquez* A/55/40	X A/56/40, A/57/40, A/58/40, A/60/40, A/61/40				X
	864/1999, *Ruiz Agudo* A/58/40				X A/61/40	X
	986/2001, *Semey* A/58/40	X A/59/40, A/60/40, A/61/40				X
	1006/2001, *Muñoz* A/59/40				X A/61/40	
	1007/2001, *Sineiro Fernando* A/58/40	X A/59/40, A/60/40, A/61/40				X
	1073/2002, *Teron Jesüs* A/60/40				X A/61/40	X
	1095/2002, *Gomariz* A/60/40				X A/61/40	

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
Spain (*cont'd*)	1101/2002, *Alba Cabriada* A/60/40				X A/61/40	X
	1104/2002, *Martínez Fernández* A/60/40				X A/61/40	X
	1211/2003, *Olivero* A/61/40				X	X
	1325/2004, *Conde* A/62/40				X	X
	1332/2004, *Garcia and others* A/62/40				X	X
	1381/2005, *Hachuel* A/62/40	Not yet due				
Sri Lanka (7)	916/2000, *Jayawardena* A/57/40	X A/58/40, A/59/40, A/60/40, A/61/40				X
	950/2000, *Sarma* A/58/40	X A/59/40, A/60/40				X
	909/2000, *Kankanamge* A/59/40	X A/60/40				X
	1033/2001, *Nallaratnam* A/59/40	X A/60/40				X
	1189/2003, *Fernando* A/60/40	X A/61/40		X (A/61/40)		X
	1249/2004, *Immaculate Joseph, et al.* A/61/40	X A/61/40				X
	1250/2004, *Rajapakse* A/61/40				X	
Suriname (8)	146/1983, *Baboeram* Twenty-fourth session Selected Decisions, vol. 2	X A/51/40, A/52/40, A/53/40, A/55/40, A/61/40				X
	148-154/1983 *Kamperveen, Riedewald, Leckie, Demrawsingh, Sohansingh, Rahman, Hoost* Twenty-fourth session Selected Decisions, vol. 2	X A/51/40, A/52/40, A/53/40, A/55/40, A/61/40				X
Sweden (1)	1416/2005, *Al Zery* A/62/40	X A/62/40				X
Tajikistan (12)	964/2001, *Saidov* A/59/40	X A/60/40, A/62/40*				X
	973/2001, *Khalilov* A/60/40	X A/60/40 (annex V to this report) A/62/40*				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
	985/2001, *Aliboeva* A/61/40	A/62/40*			X A/61/40	X
	1096/2002, *Kurbanov* A/59/40	X A/59/40, A/60/40, A/62/40*				X
* Although the State party has not responded, there have been several meetings between the State party and the Rapporteur.						
	1108 and 1121/2002, *Karimov and Nursatov* A/62/40	Not yet due				
	1117/2002, *Khomidov* A/59/40	X A/60/40				X
	1042/2002, *Boymurudov* A/61/40	A/62/40			X A/61/40	X
	1044/2002, *Nazriev* A/61/40	A/62/40			X	
	1208/2003, *Kurbanov* A/61/40	X A/62/40		X A/62/40		X
	1348/2005, *Ashurov* A/62/40	Not yet due				
Togo (4)	422-424/1990, *Aduayom et al.* A/51/40	X A/56/40, A/57/40		X A/59/40		X
	505/1992, *Ackla* A/51/40	X A/56/40, A/57/40		X A/59/40		X
Trinidad and Tobago (24)	232/1987, *Pinto* A/45/40 and 512/1992, *Pinto* A/51/40	X A/51/40, A/52/40, A/53/40		X		X
	362/1989, *Soogrim* A/48/40	X A/51/40, A/52/40, A/53/40, A/58/40			X	X
	434/1990, *Seerattan* A/51/40	X A/51/40, A/52/40, A/53/40		X		X
	447/1991, *Shalto* A/50/40	X A/51/40, A/52/40, A/53/40	X A/53/40			
	523/1992, *Neptune* A/51/40	X A/51/40, A/52/40, A/53/40, A/58/40		X		X
	533/1993, *Elahie* A/52/40				X	X
	554/1993, *La Vende* A/53/40				X	X
	555/1993, *Bickaroo* A/53/40				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
Trinidad and Tobago (*cont'd*)	569/1996, *Mathews* A/43/40				X	X
	580/1994, *Ashby* A/57/40				X	X
	594/1992, *Phillip* A/54/40				X	X
	672/1995, *Smart* A/53/40				X	X
	677/1996, *Teesdale* A/57/40				X	X
	683/1996, *Wanza* A/57/40				X	X
	684/1996, *Sahadath* A/57/40				X	X
	721/1996, *Boodoo* A/57/40				X	X
	752/1997, *Henry* A/54/40				X	X
	818/1998, *Sextus* A/56/40				X	X
	845/1998, *Kennedy* A/57/40				X A/58/40	X
	899/1999, *Francis et al.* A/57/40				X A/58/40	X
	908/2000, *Evans* A/58/40				X	X
	928/2000, *Sooklal* A/57/40				X	X
	938/2000, *Girjadat Siewpers et al.* A/59/40				X A/51/40, A/53/40	X
Ukraine (2)	726/1996, *Zheludkov* A/58/40	X A/58/40	X A/59/40			
	781/1997, *Aliev* A/58/40	X A/60/40		X A/60/40		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
Uruguay (52)	**A**. [5/1977, *Massera* Seventh session 43/1979, *Caldas* Nineteenth session 63/1979, *Antonaccio* Fourteenth session 73/1980, *Izquierdo* Fifteenth session 80/1980, *Vasiliskis* Eighteenth session 83/1981, *Machado* Twentieth session 84/1981, *Dermis* Seventeenth session 85/1981, *Romero* Twenty-first session 88/1981, *Bequio* Eighteenth session 92/1981, *Nieto* Nineteenth session 103/1981, *Scarone* Twentieth session 105/1981, *Cabreira* Nineteenth session 109/1981, *Voituret* Twenty-first session 123/1982, *Lluberas* Twenty-first session] **B**. [103/1981, *Scarone* 73/1980, *Izquierdo* 92/1981, *Nieto* 85/1981, *Romero*] **C**. [63/1979, *Antonaccio* 80/1980, *Vasiliskis* 123/1982, *Lluberas*]	X 43 follow-up replies received in A/59/40*	X (relating to cases D and G)	X (relating to cases A, B, C, E, F)		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
Uruguay (*cont'd*)	**D**. [57/1979, *Martins* Fifteenth session 77/1980, *Lichtensztejn* Eighteenth session 106/1981, *Montero* Eighteenth session 108/1981, *Nuñez* Nineteenth session] **E**. [4/1977, *Ramirez* Fourth session 6/1977, *Sequeiro* Sixth session 8/1977, *Perdomo* Ninth session 9/1977, *Valcada* Eighth session 10/1977, *Gonzalez* Fifteenth session 11/1977, *Motta* Tenth session 25/1978, *Massiotti* Sixteenth session 28/1978, *Weisz* Eleventh session 32/1978, *Touron* Twelfth session 33/1978, *Carballal* Twelfth session 37/1978, *De Boston* Twelfth session 44/1979, *Pietraroia* Twelfth session 52/1979, *Lopez Burgos* Thirteenth session 56/1979, *Celiberti* Thirteenth session					

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
Uruguay (*cont'd*)	66/1980, *Schweizer* Seventeenth session 70/1980, *Simones* Fifteenth session 74/1980, *Estrella* Eighteenth session 110/1981, *Viana* Twenty-first session 139/1983, *Conteris* Twenty-fifth session 147/1983, *Gilboa* Twenty-sixth session 162/1983, *Acosta* Thirty-fourth session] **F**. [30/1978, *Bleier* Fifteenth session 84/1981, *Barbato* Seventeenth session 107/1981, *Quinteros* Nineteenth session] **G**. [34/1978, *Silva* Twelfth session]					
	Note*: Follow-up information was provided on 17 October 1991 (unpublished). The list of cases under **A: the State party submitted that on 1 March 1985, the competence of the civil courts was re-established. The amnesty law of 8 March 1985 benefited all the individuals who had been involved as authors, accomplices or accessory participants of political crimes or crimes committed for political purposes, from 1 January 1962 to 1 March 1985. The law allowed those individuals held responsible of intentional murder to have either their sentence reviewed or their conviction reduced. Pursuant to article 10 of the Law on National Pacification all the individuals imprisoned under "measures of security" were released. In cases subjected to review, appellate courts either acquitted or condemned the individuals. By virtue of Law 15.783 of 20 November 1985 all the individuals who had previously held a public office were entitled to resume their jobs. On cases under **B**: it states that these individuals were pardoned by virtue of Law 15.737 and released on 10 March 1985. On cases under **C**: these individuals were released on 14 March 1985; their cases were included under law 15.737. On cases under **D**: the amnesty law ended, from the date on which it entered into force, the regimes for the surveillance of individuals, pending arrest warrants, the restrictions to enter or exit the country; and every official inquiry into crimes covered by the amnesty. From 8 March 1985, the issuance of travel documents was no longer subjected to any restriction. Samuel Lichtensztejn, after his return to Hungary, resumed his position as the Head of the University of the Republic. On cases under **E**: from 1 March 1985, the possibility to file an action for damages was open to all of the victims of human rights violations which occurred during the de facto government. From 1985 up to date, 36 suits in damages have been filed, 22 of them are related to arbitrary detention and 12 to the restitution of property. The Government settled Mr. Lopez's case on 21 November 1990, by paying him US$ 200,000. The suit filed by Ms. Lilian Celiberti is still pending. Besides the above-mentioned cases, no other victim has filed a law-suit against the State claiming compensation. On cases under **F**: on 22 December 1986, the Congress passed Law 15.848, known as "the expiration of the State powers to prosecute". The law extinguished the power of State authorities to prosecute crimes committed by military or police agents for political purposes or in the execution of orders given to them by their superiors before 1 March 1985. All pending proceedings were discontinued. On 16 April 1989, the law was confirmed by referendum. The law ordered the investigating judges to send reports submitted to the judiciary about victims of disappearances to the Executive, for the latter to initiate inquiries.					

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
Uruguay (*cont'd*)	159/1983, *Cariboni* A/43/40 Selected Decisions vol. 2				X	X
	322/1988, A/51/40 *Rodríguez* A/49/40				X A/51/40	X
Uzbekistan (14)	907/2000, *Sirageva* A/61/40	X A/61/40				
	911/2000, *Nazarov* A/59/40	X A/60/40		X		X
	915/2000, *Ruzmetov* A/61/40				X	X
	917/2000, *Arutyunyan* A/59/40	X A/60/40		X A/60/40		X
	931/2000, *Hudoyberganova* A/60/40	X A/60/40		X A/60/40		
	971/2001, *Arutyuniantz* A/60/40	X A/60/40 (annex V to this report)				X
	959/2000, *Bazarov* A/62/40	X A/62/40				X A/62/40
	1017/2001, *Maxim Strakhov* and 1066/2002, *V. Fayzulaev* A/62/40	Not yet due				
	1041/2002, *Refat Tulayganov* A/62/40	Not yet due				
	1043/2002, *Chikiunov* A/62/40	Not yet due				
	1057/2002, *Korvetov* A/62/40	X A/62/40				X A/62/40
	1071/2002, *Agabekov* A/62/40	Not yet due				
	1140/2002, *Iskandar Khudayberganov* A/62/40	Not yet due				
Venezuela (1)	156/1983, *Solórzano* A/41/40 Selected Decisions vol. 2	X A/59/40*				X
	**Note*: According to this report, information was provided in 1995 (unpublished). In its response, the State party stated that it had failed to contact the author's sister, that the author had not initiated proceedings for compensation from the State party. It made no reference to any investigation carried out by the State, as requested by the Committee.					
Zambia (7)	314/1988, *Bwalya* A/48/40	X A/59/40*	X			
	**Note*: According to this report, information was provided in 1995 (unpublished). The State party stated on 12 July 1995 that compensation had been paid to the author, that he had been released and that the matter was closed.					

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
Zambia (*cont'd*)	326/1988, *Kalenga* A/48/40	X A/59/40*	X			
	**Note*: According to this report, information was provided in 1995 (unpublished). The State party stated that compensation would be paid to the author. In a subsequent letter from the author, dated 4 June 1997, he states that he was unsatisfied with the sum offered and requested the Committee to intervene. The Committee replied that it was not within its remit to challenge, contest or re-evaluate the amount of compensation that was offered and that it would decline to intervene with the State party.					
	390/1990, *Lubuto* A/51/40	X A/62/40			X	X
	768/1997, *Mukunto* A/54/40	X A/56/40, A/57/40, A/59/40 CCPR/C/80/FU1	X A/59/40			
	821/1998, *Chongwe* A/56/40	X A/56/40, A/57/40, A/59/40, A/61/40				X
	856/1999, *Chambala* A/58/40				X	X
	1132/2002, *Chisanga* A/61/40	X A/61/40				X

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.

Seventy-first session (March 2001) (all States parties have been considered)

State party: Venezuela
Report considered: Third periodic
Information requested: Para. 6: Forced disappearance (arts. 6, 7 and 9). Para. 7: Extrajudicial executions (art. 6). Para. 8: Torture (art. 7). Para. 9: Conditions in detention, procedural safeguards (arts. 9, 10 and 14). Para. 10: Duration of pretrial detention (arts. 9 (3) and 14). Para. 11: Prison conditions (arts. 7 and 10). Para. 12: Procedural safeguards (art. 14). Paras. 13 and 14: Independence of the judiciary (arts. 2 (3) and 14).
Date information due: 6 April 2002
Action taken: 3 January 2003 A complete response was requested to supplement the partial reply. 10 December 2003 A complete response was requested to supplement the further partial reply. 5 October 2004 A complete response was requested to supplement the further partial reply. 11 October 2005 A reminder was dispatched. 20 October 2005 The Special Rapporteur met the permanent representative of the State party, who said no date had been set for the submission of the fourth periodic report, which was overdue. 6 July 2006 A reminder was dispatched. 21 July 2006 The Special Rapporteur met the permanent representative of the State party who said that a follow-up reply was in preparation and would be submitted shortly. 20 September 2006 A reminder was sent.
Date reply received: 19 September 2002 (Partial reply with respect to paras. 6, 7, 9, 10, 11, 12-14.) 7 May 2003 (Additional partial reply with respect to paras. 9, 10, 12-14.) 16 April and 24 June 2004 (Further partial reply with respect to paras. 9, 12-14.) 20 July 2004 (Additional partial reply with respect to paras. 12-14.)
Recommended action: At its eighty-eighth session, the Committee decided no further action needed to be taken in relation to the third periodic report of the State party.
Next report due: 1 April 2005

Seventy-second session (July 2001) (all States parties have been considered)
Seventy-third session (October 2001) (all States parties have been considered)
Seventy-fourth session (March 2002) (all States parties have been considered)
Seventy-fifth session (July 2002)

State party: Republic of Moldova
Report considered: Initial (due since 1994) submitted on 17 January 2001.
Information requested: Para. 8: Counter-terrorism measures taken in conformity with the Covenant (art. 2). Para. 9: Prison conditions, medical treatment of inmates (arts. 7 and 10). Para. 11: Reduction in duration of pretrial detention, which was excessive; reconsideration of the administrative detention of "vagrants" (arts. 9 and 14). Para. 13: Guarantees of religious freedom (art. 18).
Date information due: 25 July 2003
Date reply received: NONE RECEIVED
Action taken: 22 September 2003 A reminder was sent. 26 February 2004 A further reminder was sent. March 2004 The Special Rapporteur met a representative of the State party in New York at the eightieth session. The delegation undertook to submit the next periodic report as scheduled by 1 August 2004 and to send the follow-up information to the Committee earlier if available. October 2004 The Special Rapporteur again met a representative of the State party. March 2006 The Special Rapporteur met a representative of the State party, who explained the difficulties it faced in preparing its second periodic report, said that a commission had been established to prepare human rights reports, and requested an extension of the deadline until the end of 2006. The State party might request technical assistance from the secretariat. In a note verbale of 28 March 2006, the State party informed the Special Rapporteur that, pursuant to government decision No. 225 of 1 March 2006, the national committee responsible for drafting reports had been set up and the second periodic report and follow-up replies would be formulated by the end of 2006. The State party requested permission to combine the second and third periodic reports. July 2006 At its eighty-seventh session, the Committee decided to approve the State party's request. 5 February 2007 A fresh reminder was sent. 29 June 2007 A further reminder was sent to the State party.
Recommended action: Consultations should be scheduled for the ninety-second session.
Next report due: 11 August 2004

State party: Gambia*
* Pursuant to article 69A, paragraph 3, of its rules of procedure, the Human Rights Committee decided to publish the provisional concluding observations on Gambia that were adopted and transmitted to the State party at its seventy-fifth session.
Report considered: Consideration of the situation in the absence of a report (15 and 16 July 2002).
Information requested:
Para. 8: Detailed information on the crimes for which capital punishment may be imposed, the number of death sentences handed down since 1995, and the number of prisoners currently detained on death row (art. 6.2).
Para. 12: Detailed information about conditions in detention at Mile Two prison (art. 10).
Para. 14: Explanation of the basis for the establishment and operation of military courts, and whether the operation of these military courts is in any way linked to the existence of a state of emergency (arts. 7 and 10).
Para. 24: Measures taken to implement article 27 of the Covenant.
Date information due: 31 December 2002
Date information received: NONE RECEIVED
Action taken:
17 October 2006 A reminder was sent to the State party.
5 February 2007 A reminder was sent.
29 June 2007 A further reminder was sent to the State party.
Recommended action: Consultations should be scheduled for the ninety-first session.
Next report due: 31 December 2002

Seventy-sixth session (October 2002)

State party: Togo
Report considered: Third periodic (due since 1995), submitted on 19 April 2001.
Information requested:
Para. 9: Action to counter extrajudicial executions (arts. 6 and 9).
Para. 10: Restriction on application of the death penalty; information on individuals sentenced to death (art. 6).
Para. 12: Report on the treatment of inmates at the Landja and Temedla camps (art. 7).
Para. 13: Identity of political prisoners; release of people detained arbitrarily; trials of those responsible (art. 9).

Para. 14: Information on people allegedly detained arbitrarily whose names had been given to the State party; reform of the parts of the Code of Criminal Procedure governing police custody; trial without undue delay (art. 14). Para. 20: Application of the Lomé Framework Agreement; action to guarantee personal safety, of opposition members in particular (art. 25).
Date information due: 4 November 2003
Action taken: October 2004 At the eighty-second session, the Special Rapporteur held consultations with representatives of the State party, who provided additional information and undertook to supplement the partial reply. 4 October 2005 At the eighty-fifth session, the Special Rapporteur requested a meeting with the State party. The State party sent additional information but the reply remained incomplete with respect to paragraph 13. 6 July 2006 The State party was asked to respond to paragraph 13 of the concluding observations. 20 September 2006 A further reminder was sent. 5 February 2007 A further reminder was sent. 29 June 2007 A further reminder was sent to the State party.
Date reply received: 5 March 2003 (Partial reply.) 7 November 2005 Partial reply (no response to paragraph 13).
Recommended action: Consultations should be scheduled for the ninety-second session.
Next report due: 1 November 2004

Seventy-seventh session (March 2003)

State party: Mali
Report considered: Second periodic (due since 1986), submitted on 3 January 2003.
Information requested: Para. 10 (a): Adoption of the new Family Code (arts. 3, 23 and 26). Para. 10 (b): Abolition of the levirate (arts. 3, 16 and 23 of the Covenant). Para. 11: Measures to prohibit and criminalize the practice of female genital mutilation (arts. 3 and 7). Para. 12: Passage of specific laws punishing domestic violence, and protection for victims (arts. 3 and 7).
Date information due: 3 April 2004

Date reply received: NONE RECEIVED
Action taken: 18 October 2004 A reminder was sent. At the eighty-fifth session, the Special Rapporteur met a representative of the State party who informed him that an interministerial commission had been set up to provide replies to the follow-up questions and the replies would be forwarded to the Committee as soon as possible. 6 July 2006 The Special Rapporteur wrote to the Permanent Representative to remind him that the replies had yet to be received and to request a meeting. No reply was received from the State party. 20 September 2006 A further reminder was sent. 12 October 2006 The Special Rapporteur requested a meeting with a representative of the State party. No positive reply was received. 5 February 2007 Another reminder was sent. 29 June 2007 Another reminder was sent and the Special Rapporteur requested a meeting with a representative of the State party.
Recommended action: Consultations should be scheduled for the ninety-first session.
Next report due: 1 April 2005

Seventy-eighth session (July 2003)

State party: Israel
Report considered: Second periodic (due since 2000) submitted on 20 November 2001.
Information requested: Para. 13: Protracted detention without access to a lawyer (arts. 7, 9, 10 and 14.3 (b)). Para. 15: Ending "targeted killings"; establishment of a policy of proportionate response to terrorist attacks; investigation of those responsible for abuse (art. 6). Para. 16: Immediate halt to the demolition of property and homes in the Occupied Territories (arts. 7, 12, 17 and 26). Para. 18: Review of the "necessity defence" argument; ensuring that instances of ill-treatment and torture are investigated and prosecuted by genuinely independent mechanisms; statistics from 2000 onwards on complaints made to the Attorney-General, including (a) how many have been turned down as unsubstantiated, (b) how many have been turned down because the necessity defence has been applied and (c) how many have been upheld, and with what consequences for the perpetrators (art. 7). Para. 21: Repeal of the Nationality and Entry into Israel Law of 2003; reconsideration of policy on family reunification (arts. 17, 23 and 26).
Date information due: 7 August 2004

Action taken: 29 September 2004 A reminder was sent. 11 October 2005 A further reminder was sent. October 2005 At the eighty-fifth session, the Special Rapporteur met a representative of the State party, who stated that the replies would be forwarded in due course. 21 February 2006 A further reminder was sent. 6 July 2006 The Special Rapporteur wrote to the Permanent Representative to remind him that the replies had yet to be received and to request a meeting. No reply was received from the State party. 20 September 2006 A fresh reminder was sent to the State party. 12 October 2006 The Special Rapporteur requested a meeting with a representative of the State party.
Date information received: 14 December 2006, complete response.
Recommended action: No further action.
Next report due: 1 August 2007

Seventy-ninth session (October 2003)

State party: Sri Lanka
Report considered: Fourth and fifth periodic (due since 1996), submitted on 18 September 2002.
Information requested: Para. 8: Bringing article 15 of the Constitution into line with articles 4 and 14 of the Covenant. Para. 9: Action to prevent torture and ill-treatment; bring the National Police Commission complaints procedure into effect as soon as possible; investigation of witness intimidation and introduction of witness protection programmes; boosting capacity of the National Human Rights Commission (arts. 2, 7 and 9). Para. 10: Effect given to relevant recommendations by the United Nations Working Group on Enforced or Involuntary Disappearances and by the Presidential Commissions for Investigation into Enforced or Involuntary Disappearances; allocation of sufficient resources to the National Human Rights Commission (arts. 6, 7, 9 and 10). Para. 18: Action to prevent reporters from being harassed; prompt, impartial investigation and trial of those responsible (arts. 7, 14 and 19).
Date information due: 7 November 2004
Date reply received: NONE RECEIVED

Action taken:

7 March 2005 A reminder was sent.

11 October 2005 A further reminder was sent.

6 July 2006 A further reminder was sent.

20 September 2006 A further reminder was sent.

5 February 2007 A further reminder was sent.

29 June 2007 A further reminder was sent to the State party.

17 March 2005 The State party informed the Committee that it was finalizing the follow-up replies, which would be forwarded shortly.

24 October 2005 (Incomplete reply with regard to paragraphs 8 and 10.)

Recommended action: Consultations should be scheduled for the ninety-first session.

Next report due: 1 November 2007

State party: Equatorial Guinea*

* Pursuant to article 69A, paragraph 3, of its rules of procedure, the Human Rights Committee decided to publish the provisional concluding observations on **Equatorial Guinea** that were adopted and transmitted to the State party at its seventy-ninth session.

Report considered: Consideration of the situation in the absence of a report (27 October 2003).

Information requested:

The Committee asked for the complete initial report rather than any specific information on follow-up.

Date reply received: INITIAL REPORT NOT RECEIVED

Action taken:

October 2005 Two OHCHR officials took part in a seminar in Malabo on human rights issues, including the ICCPR.

30 October 2006 The Special Rapporteur met a representative of the State party, who informed him that consultations were being held at the domestic level.

5 February 2007 A reminder was sent.

29 June 2007 Another reminder was sent, and the Special Rapporteur requested a meeting with a representative of the State party.

Recommended action: Consultations should be scheduled for the ninety-first session.

Next report due: 1 August 2004

Eightieth session (March 2004)

State party: Surinam*   * Pursuant to article 69A, paragraph 3, of its rules of procedure, the Human Rights Committee decided to publish the provisional concluding observations on Surinam that were adopted and transmitted to the State party at its eightieth session.
Report considered: Consideration of the situation in the absence of a report (17 and 18 March 2004).
Information requested: Para. 11: Investigation of ill-treatment by an independent body; prosecution of those responsible; human-rights training for law enforcement personnel (paras. 7 and 10).   Para. 14: Correct the practice of holding people in pretrial detention for excessive periods; amend the related legislation forthwith (para. 9.3).
Date information due: 1 April 2005
Date reply received: NONE RECEIVED
Action taken: 31 May 2005 A reminder was sent.   11 October 2005 A further reminder was sent.   22 February 2006 A further reminder was sent.   March 2006 The Special Rapporteur met with a representative of the State party, who informed him that a team of legal experts had been appointed to work on follow-up issues. They would try to submit their follow-up responses by the end of June 2006.   6 July 2006 A further reminder was sent.   20 September 2006 A further reminder was sent.   5 February 2007 A further reminder was sent.   29 June 2007 A further reminder was sent to the State party.
Recommended action: Consultations should be scheduled for the ninety-second session.
Next report due: 1 April 2008

State party: Uganda
Report considered: Initial
Information requested: Para. 10: Appropriate steps to ban female genital mutilation (arts. 3, 7, 26).   Para. 12: Protection of the right to life of those affected by the conflict in the south; internally displaced persons (arts. 6 and 9)

Para. 17: Situation in the "safe houses" (clandestine detention centres); unlawful deprivation of liberty; clandestine detention centres in the north of Uganda; torture (arts. 7 and 9).
Date information due: 1 April 2005
Action taken: 14 May 2004 A reminder was sent. 11 October 2005 Another reminder was sent, asking for consultations with the Special Rapporteur during the eighty-fifth session. No reply was received. March 2006 At the eighty-sixth session, the Special Rapporteur met representatives of the State party who informed him that a reply on the outstanding issues would be submitted before July 2006. 6 July 2006 A further reminder was sent.
Date reply received: 25 May 2004 Incomplete reply. 20 July 2006 Complete reply.
Recommended action: At its eighty-eighth session the Committee decided no further action needed to be taken with regard to the initial report of the State party.
Next report due: 1 April 2008

Eighty-first session (July 2004)

State party: Namibia
Report considered: Initial (due since 1996), submitted on 15 October 2003.
Information requested: Para. 9: Effective measures to encourage the registration of customary marriages and to grant spouses and children the same rights; bill on Intestate Inheritance and Succession, and bill on Recognition of Customary Law Marriages (arts. 3, 23 and 26). Para. 11: Making torture a specific statutory crime (art. 7).
Date information due: 29 July 2005
Date reply received: NONE RECEIVED
Action taken: 28 October 2005 A reminder was sent to the State party. 22 February 2006 A fresh reminder was sent to the State party. 16 March 2006 A fresh reminder was sent to the State party. 6 July 2006 A fresh reminder was sent to the State party.

5 February 2007 A fresh reminder was sent to the State party. 29 June 2007 A fresh reminder was sent and the Special Rapporteur requested a meeting with a representative of the State party.
Recommended action: Consultations should be scheduled for the ninety-first session.
Next report due: 1 August 2008

Eighty-second session (October 2004)

State party: Albania
Report considered: Initial
Information requested: Para. 11: Little participation by women in public affairs and economic life (arts. 2, 3 and 26). Para. 13: Reports of arbitrary detention, excessive use of force, ill-treatment and torture of detainees; remedies and compensation for victims (art. 7). Para. 16: Conditions in detention for those held on remand and for convicted persons; effective system of bail (arts. 9 and 10).
Date information due: 1 December 2005
Action taken: 6 July 2006 The State party was asked for a complete response to paragraphs 13 and 16.
Date reply received: 2 November 2005 (Partial reply to paragraph 16, no response to paragraph 13.) 17 August 2006 Complete reply.
Recommended action: At its eighty-eighth session the Committee decided no further action needed to be taken with regard to the initial report of the State party.
Next report due: 1 November 2008

Eighty-third session (March 2005)

State party: Greece
Report considered: Initial (due since 1998), submitted on 5 April 2004.
Information requested: Para. 9: (a) Ending police violence; education on human rights issues for law enforcement personnel; sensitization to issues of racial discrimination; (b) investigations of cases of torture and ill-treatment, punishment commensurate with the gravity of the offence; outcome of investigations disaggregated by national and ethnic origin of victims; (c) progress in reviewing the Disciplinary Law for police officers and the status, mandate and achievements of bodies dealing with complaints against the police; (d) investigation, prosecution and punishment of

torture, compensation for victims; detailed statistics on complaints relating to torture, ill-treatment and disproportionate use of force by the police; outcome of the investigations on those cases, disaggregated by the ethnic origin of the victims (arts. 2 and 27). Para. 10: (a) Measures to combat trafficking in human beings; protection for victims; (b) protection of unaccompanied alien children; outcome of judicial investigation concerning the approximately 500 children who went missing from the Aghia Varvara institution between 1998 and 2002 (arts. 3, 8, 24). Para. 11: Conditions in detention for undocumented aliens; whether they are informed of their rights (art. 10).
Date information due: 31 March 2006
Action taken: 6 July 2006 A reminder was sent to the State party. 20 September 2006 A fresh reminder was sent to the State party. 21 December 2006 A further reminder was sent to the State party. 28 July and 4 October 2006 The State party informed the Special Rapporteur that follow-up replies would be forwarded to the Committee in November 2006. 4 October 2006 The State party requested a further extension of the deadline until November. 21 February 2007 The State party informed the Special Rapporteur that the follow-up replies would be finalized in the coming weeks and everything possible would be done to submit them before the eighty-ninth session (March 2007).
Date information received: 2 May 2007, complete response.
Recommended action: No further action.
Next report due: 1 April 2009

State party: Iceland
Report considered: Fourth periodic
Information requested: Measures to ensure rapes did not go unpunished (arts. 3, 7, 26).
Date information due: 1 April 2006
Action taken: 6 July 2006 A reminder was sent. 20 September 2006 A further reminder was sent.
Date information received: 25 July 2006 The State party sent an email indicating that the reply would be sent in early September 2006. 13 October 2006 Complete response.

Recommended action: At its eighty-eighth session the Committee decided no further action needed to be taken with regard to the fourth periodic report of the State party.
Next report due: 1 April 2010

State party: Uzbekistan
Report considered: Second periodic (on time) submitted on 14 April 2004.
Information requested: Para. 7: Operation of the criminal justice system and numbers of prisoners sentenced to death and executed since the beginning of the period covered by the second periodic report (art. 6). Para. 9: Amendment of the parts of the Criminal Code relating to torture (art. 7). Para. 10: Amendment of the law on a fair trial and legal evidence (arts. 7 and 14). Para. 11: Ensuring reports of torture and ill-treatment are investigated by an independent court, and the culprits punished; inspection of detention centres; medical examination of detainees; installation of video equipment in police stations and detention facilities (arts. 7, 9, 10).
Date information due: 31 March 2006
Action taken: 20 September 2006 A reminder was sent to the State party.
Date reply received: 28 September 2006 Partial response. 10 November 2006 Partial response.
Recommended action: Send a reminder and schedule consultations for the ninety-first session.
Next report due: 1 April 2008

Eighty-fourth session (July 2006)

State party: Tajikistan
Report considered: Initial
Information requested: Para. 10: Action required to put an end to torture, investigate complaints promptly and put those responsible swiftly on trial, sentence them and punish them; compensation for victims (arts. 7 and 14.3 (g)). Para. 12: Review of law governing criminal proceedings, introducing a system whereby all detainees are placed immediately at the disposal of the courts (art. 9).

Para. 14: Consideration of alternative forms of punishment; allowing independent visits to prisons and detention facilities by representatives of both national and international organizations (art. 10). Para. 21: Preventing pressure on and harassment of reporters; ensuring domestic legislation is compatible with article 19.
Date information due: 1 August 2004
Date reply received: 12 July 2006 Complete response.
Recommended action: At its eighty-eighth session the Committee decided no further action needed to be taken with regard to the initial report of the State party.
Next report due: 1 August 2008

State party: Slovenia
Report considered: Second periodic (due since 1997), submitted on 23 August 2004.
Information requested: Para. 11: Measures to combat trafficking in women and children and prosecute and punish those responsible; protection of victims (arts. 3, 8, 24, 26). Para. 16: Measures to eradicate discrimination within the Roma minority; improving living conditions for the Roma and encouraging their involvement in public life (arts. 26 and 27).
Date information due: 24 July 2006
Action taken: 20 September 2006 A reminder was sent to the State party. 9 October 2006 The State party informed the Committee that the Interdepartmental Commission on Human Rights was preparing the follow-up replies, which would be forwarded by the end of the year. 9 October 2006 The State party informed the Committee that the concluding observations had been translated into Slovenian and requested an extension in order to submit the replies in the coming months.
Date information received: 10 April 2007, complete response.
Recommended action: No further action.
Next report due: 1 August 2010

State party: Thailand
Report considered: Initial
Information requested: Para. 13: Compatibility of domestic legislation with article 4 of the Covenant.

Para. 15: Guaranteed access for all detainees to a doctor and a lawyer; prompt, effective remedies allowing detainees to challenge the legality of their detention; detainee placed immediately at the disposal of the courts; prosecution of culprits and compensation of victims (arts. 2, 7, 9). Para. 21: Enforcement of current laws and policy on child labour (arts. 8 and 24).
Date information due: 1 August 2006
Action taken: 20 September 2006 A reminder was sent.
Date information received: 28 July 2006 The State party requested an extension of deadline. 29 September 2006 Complete response.
Recommended action: At its eighty-eighth session the Committee decided no further action needed to be taken with regard to the initial report of the State party.
Next report due: 1 August 2009

State party: Syrian Arab Republic
Report considered: Third periodic (due since 2003), submitted on 5 July 2004.
Information requested: Para. 6: Set limits to states of emergency (art. 4). Para. 8: Detailed list of Lebanese and Syrian nationals and other persons taken or transferred into custody in the Syrian Arab Republic; immediate steps to establish an independent and credible commission to investigate disappearances (arts. 2, 6, 7 and 9). Para. 9: Firm measures to stop the use of detention incommunicado and eradicate torture and ill-treatment; independent mechanism to investigate reports of torture and ill-treatment; prosecution and punishment of those responsible; redress for victims (arts. 2, 7, 9 and 10). Para. 12: Immediate release and no further harassment of all human rights defenders; urgent steps to amend all legislation that restricts the activities of human rights organizations, in particular state-of-emergency legislation (arts. 9, 14, 19, 21 and 22).
Date information due: 27 July 2006
Date information received: 12 September 2006, complete response.
Recommended action: No further action.
Next report due: 1 August 2009

State party: Yemen
Report considered: Fourth periodic (on time) submitted on 4 August 2004.

Information requested: Para. 11: Eradication of female genital mutilation and passage of a law banning the practice; detailed information on the subject, including (a) statistics on the number of women and girls concerned; (b) proceedings, if any, brought against perpetrators of female genital mutilation; and (c) effectiveness of programmes and awareness-raising campaigns implemented (arts. 3, 6 and 7). Para. 13: Principle of proportionality vis-à-vis terrorist threats; information on the findings and recommendations of the parliamentary committee established to monitor the situation of persons detained in connection with terrorism (arts. 6, 7, 9 and 14). Para. 14: Full, impartial investigation into the incident of 21 March (use of force by security forces against demonstrators) (art. 6). Para. 16: Measures to end corporal punishment, amendment of the related legislation (art. 7).
Date information due: 20 July 2006
Date information received: NONE RECEIVED
Action taken: 20 September 2006 A reminder was sent to the State party. 21 December 2006 A further reminder was sent. 29 June 2007 A fresh reminder was sent to the State party and the Special Rapporteur requested a meeting with a representative of the State party.
Recommended action: Consultations should be scheduled for the ninety-first session.
Next report due: 1 July 2009

Eighty-fifth session (October 2005)

State party: Brazil
Report considered: Second periodic (due since 1998), submitted on 15 November 2004.
Information requested: Para. 6: Demarcation of indigenous lands; civil and criminal remedies in the event that such lands are deliberately usurped (arts. 1 and 27). Para. 12: (a) Steps to halt extrajudicial executions, torture, ill-treatment and abuse by State officials; (b) Investigations into reported violations of human rights conducted not by the police but by an independent body; (c) Prosecution of the culprits; punishment proportionate to the gravity of the offence; effective remedies and reparation for victims; (d) Utmost consideration to the recommendations of the United Nations Special Rapporteurs on the question of torture, on extrajudicial, summary or arbitrary executions, and on the independence of judges and lawyers (arts. 6 and 7).

Para. 16: Steps to improve the situation of detainees; limiting police custody to one or two days; ending pretrial detention at police stations and the practice of continuing to hold prisoners in captivity when their sentences are over; introducing an effective bail system; prompt trials (arts. 9 and 10). Para. 18: Combating impunity by disqualifying those guilty of serious human rights violations from certain public positions, and by bringing legal action; trials to establish the truth; release to the public of documents on human rights abuses, including those currently withheld pursuant to Presidential Decree 4553 (art. 14).
Date information due: 3 November 2006
Date information received: NONE RECEIVED
Action taken: 6 December 2006 A reminder was sent to the State party. 29 June 2007 A fresh reminder was sent to the State party and the Special Rapporteur requested a meeting with a representative of the State party.
Recommended action: Consultations should be scheduled for the ninety-first session.
Next report due: 31 October 2009

State party: Canada
Report considered: Fifth periodic (on time), submitted on 27 October 2004.
Information requested: Para. 12: Narrower definition of crimes of terrorism. Para. 13: Revision of the Canada Evidence Act (art. 14). Para. 14: Judicial review mechanism for administrative detention under security orders; definition in law of maximum duration of detention; review of practice in terrorism-related matters (arts. 7, 9 and 14). Para. 18: Ending the practice of employing male staff working in direct contact with women in women's institutions; information on the implementation of the recommendations of the Canadian Human Rights Commission, in particular regarding the establishment of an independent external redress body for federally sentenced offenders and independent adjudication of decisions related to involuntary segregation, or alternative models (arts. 2, 3, 10 and 26).
Date information due: 3 November 2006
Action taken: 6 December 2006 A reminder was sent to the State party.
Date information received: 12 December 2006, complete response.
Recommended action: No further action.
Next report due: 31 October 2010

State party: Italy
Report considered: Fifth periodic (due since 2002), submitted on 19 March 2004.
Information requested: Para. 10: Prompt and impartial investigations of ill-treatment; information about the trials of State officials in connection with the events in Naples and Genoa in 2001 (art. 7). Para. 11: Ending abuse of vulnerable groups by members of law enforcement agencies; monitor, investigation and, when appropriate, prosecution of those responsible (arts. 2, 7, 17 and 26). Para. 15: Keep the Committee closely informed about administrative and judicial inquiries into complaints from migrants arriving in Lampedusa; detailed information on the readmission agreements concluded with other countries, in particular with the Libyan Arab Jamahiriya (arts. 7, 10 and 13). Para. 17: Steps to ensure that the judiciary remain independent and that the ongoing reform does not jeopardize its independence (art. 14). Para. 20: Detailed information on the concrete results of implementing the above laws; particular attention to the recommendations of the Special Rapporteur on freedom of opinion and expression, following his mission to Italy in October 2004 (art. 19).
Date information due: 29 October 2006
Date information received: 30 October 2006, complete response.
Recommended action: No further action.
Next report due: 31 October 2009

State party: Paraguay
Report considered: Second periodic (due since 1998), submitted on 9 July 2004.
Information requested: Para. 7: Ensuring that the Truth and Justice Commission has sufficient time and resources to carry out its mandate (art. 2). Para. 12: Prosecution and appropriate punishment of those responsible for torture; compensation for victims (art. 7). Para. 17: Safeguarding the independence of the judiciary (art. 14). Para. 21: Ensuring respect for children's rights, including urgent steps to eradicate child labour (arts. 8 and 24).
Date information due: 1 November 2006
Next report due: 31 October 2008

Eighty-sixth session (March 2006)

State party: Democratic Republic of the Congo
Report considered: Third periodic (due since 1991), submitted on 30 March 2005.
Information requested: Para. 9: Follow-up on the Committee's recommendations on individual communications; acceptance of a mission by the Committee's Special Rapporteur on follow-up (art. 2). Para. 10: Steps to ensure that human rights violations are investigated (art. 2). Para. 15: Inquiries into any forced disappearances or arbitrary executions; prosecution and punishment of the culprits; appropriate reparations for victims; strengthened measures to curb the displacement of civilian population groups (arts. 6, 7 and 9). Para. 24: Expansion of the programme for the care of orphans; punishment of any person guilty of abusing orphans (art. 24).
Date information due: 25 March 2007
Date information received: NONE RECEIVED
Action taken: 29 June 2007 A reminder was sent to the State party.
Recommended action: Consultations should be scheduled for the ninety-first session.
Next report due: 1 April 2009

State party: Hong Kong (China)
Report considered: Second periodic (due since 2003), submitted on 14 January 2005.
Information requested: Para. 9: Whether the investigation of complaints against the police is carried out by an independent body whose decisions are binding on the authorities (art. 2). Para. 13: Vigorous measures to prevent and prosecute harassment of media personnel; whether the media can operate independently and free from government intervention (art. 19). Para. 15: Whether practice regarding the right of abode takes fully into consideration obligations regarding family rights (arts. 23 and 24). Para. 18: Action to enable the Legislative Council to be elected by universal and equal suffrage and ensure that all interpretations of the Basic Law are in compliance with the Covenant (arts. 2, 25 and 26).
Date information due: 1 April 2007
Date information received: NONE RECEIVED
Action taken: 29 June 2007 A reminder was sent to the State party.

Recommended action: Consultations should be scheduled for the ninety-first session**.**
Next report due: 2010

Eighty-seventh session (July 2006)

State party: Central African Republic
Report considered: Second periodic (due since 1989), submitted on 3 July 2005.
Information requested: Para. 11: Efforts to mobilize public opinion against female genital mutilation; measures to criminalize female genital mutilation and ensure that the perpetrators are brought to justice (arts. 3 and 7). Para. 12: Steps to ensure reports of torture and ill-treatment are investigated by an independent authority and the culprits are put on trial and punished; better training for State agents; compensation for victims; precise figures on violations reported, numbers of people put on trial and convicted, including current and former members of the Central Office for the Prevention of Banditry; reparation made to victims over the past three years (arts. 2, 6, 7 and 9). Para. 13: Action to ensure the death penalty is not extended to new crimes; abolition of the death penalty and accession to the Second Optional Protocol to the Covenant (arts. 2 and 6).
Date information due: 24 July 2007
Next report due: 1 August 2010

State party: United States of America
Report considered: Second and third periodic (due since 1998), submitted on 28 November 2005.
Information requested: Para. 12: Immediate cessation of the practice of secret detention, closure of secret detention facilities; access by the International Committee of the Red Cross; guaranteeing all detainees the full protection of the law (arts. 7 and 9). Para. 13: Ensuring that any revision of the Army Field Manual provides only for interrogation techniques compatible with the Covenant; informing the Committee of any revisions of interrogation techniques approved by the Manual; ensuring that interrogation techniques are binding on all government agencies and any other agencies acting on its behalf; ensuring that there are effective means of bringing suit in the event of ill-treatment; sanctions on personnel using techniques now prohibited; reparation for victims (art. 7). Para. 14: Prompt, independent investigation of all reports of suspicious deaths, torture and ill-treatment inflicted by United States personnel in Guantánamo, Afghanistan, Iraq and elsewhere; prosecution and punishment of those responsible in accordance with the gravity of the crime; measures to prevent the recurrence of such behaviour; avoidance during legal proceedings of reliance on evidence possibly obtained by means incompatible with article 7; reparation for victims (arts. 6 and 7).

Para. 16: Review of its position on the nature of the general legal obligation on States parties; measures to ensure that no one is removed to another country if they might be in danger of being subjected to torture or ill-treatment; thorough investigations into allegations of such occurrences; amendment of related legislation and policies; appropriate reparation for victims; exercise of utmost care in the use of diplomatic assurances and adoption of clear and transparent procedures in the matter (art. 7).

Para. 20: Supreme Court's decision in *Hamdan v. Rumsfeld* (art. 14).

Para. 26: Review of practices and policies to ensure the full implementation of its obligation to protect life and no discrimination in the event of disaster; increased efforts to ensure that the rights of the poor, in particular African-Americans, are fully taken into consideration in reconstruction plans, housing, education and health care; results of the inquiries into the alleged failure to evacuate prisoners at the Parish prison, and allegations that New Orleans residents were not permitted by law enforcement officials to cross the Greater New Orleans Bridge to Gretna, Louisiana (arts. 6 and 26).

Date information due: 1 August 2007

Next report due: 1 August 2010

State party: Kosovo (Serbia)

Report considered: Report by **UNMIK**, submitted on 19 and 20 July 2006.

Information requested:

Para. 12: Investigation of outstanding war crimes; prosecution of the culprits; reparation for victims; introduction of effective witness-protection programmes; full cooperation with the International Criminal Tribunal for the former Yugoslavia (arts. 2.3, 6 and 7).

Para. 13: Effective investigation of disappearances and abductions; prosecution of perpetrators; giving relatives access to information about victims' fate and adequate compensation (arts. 2.3, 6 and 7).

Para. 18: Steps to ensure safe conditions for sustainable return of displaced persons, in particular those belonging to minorities; efforts to ensure they recover their property, receive compensation and benefit from rental schemes for property temporarily administered by the Kosovo Property Agency (art. 12).

Date information due: 1 January 2007

Date information received: NONE RECEIVED

Action taken:

19 April 2007 A reminder was sent to UNMIK.

29 June 2007 A further reminder was sent.

Recommended action: Consultations should be scheduled for the ninety-first session.
Next report due: …

Eighty-eighth session (October 2006)

State party: Bosnia and Herzegovina
Report considered: Initial (due since 2003), submitted on 24 November 2005.
Information requested: Para. 8: Reopening of talks on constitutional reform with a view to adopting an electoral system consistent with the Covenant (arts. 2, 25 and 26). Para. 14: Investigation of unresolved cases of missing persons; ensuring that the Institute for Missing Persons becomes fully operational; whether central database of missing persons is finalized and accurate; steps to ensure that the Fund for Support to Families of Missing Persons is sound and payments to families commence as soon as possible (arts. 2.3, 6 and 7). Para. 19: Improvement of material and hygienic conditions in detention facilities, prisons and mental health institutions; appropriate treatment of mental health patients; transfer of all patients from Zenica Prison to Sokolac Psychiatric Hospital (arts. 7 and 10). Para. 23: Review of relocation plan for the Roma settlement at Butmir, to be carried out in a non-discriminatory manner; alternative solutions to prevent pollution of the water supply (arts. 2, 17 and 26).
Date information due: 1 November 2007
Next report due: 1 November 2010

State party: Honduras
Report considered: Initial (due since 1998), submitted on 21 February 2005.
Information requested: Para. 9: Investigations into all extrajudicial executions of children; prosecution of those responsible; compensation for victims; establishment of an independent mechanism, possibly children's ombudsman; training for officials dealing with children; public awareness campaigns (arts. 6 and 24). Para. 10: Monitoring of all weapons issued to the police; human rights training for the army; detailed investigations into excessive use of force; prosecution of those responsible; compensation for victims (arts. 6 and 7). Para. 11: Causes of the growing numbers of street children; programmes to address those causes; identification, compensation of and assistance to victims of sexual abuse; prosecution of those responsible (arts. 7, 8 and 24). Para. 19: Guaranteed exercise by members of indigenous communities of their cultural rights; settlement of problems related to ancestral indigenous lands (art. 27).

Date information due: 1 November 2007
7 January 2007 Information on paragraph 18 (art. 16), which the Committee did not rate as a priority in its concluding observations.
Next report due: 31 October 2010

State party: Republic of Korea
Report considered: Third periodic (due since 2003), submitted on 10 February 2005.
Information requested: Para. 12: Guarantees for migrant workers of their rights without discrimination; equal access to social services and educational facilities; right to form trade unions; adequate forms of redress (arts. 2, 22 and 26). Para. 13: Prevention of ill-treatment in places of detention including mental health hospitals; independent investigative bodies; videotaping of interrogations; prosecution of perpetrators; effective remedies for victims; discontinuation of harsh and cruel measures of disciplinary confinement, in particular, the use of manacles, chains, and face masks, and the "stacking" of 30-day periods of isolation (arts. 7 and 9). Para. 18: Urgently ensuring the compatibility of article 7 of the National Security Law, and sentences imposed thereunder, with the requirements of the Covenant (art. 19).
Date information due: 1 November 2007
Next report due: 2 November 2010

State party: Ukraine
Report considered: Sixth periodic (on time) submitted on 1 November 2005.
Information requested: Para. 7: Steps to ensure the safety and proper treatment of all persons held in custody by the police; guaranteed freedom from torture and ill-treatment; establishment of an independent police complaints mechanism; independent inspection of detention facilities (art. 6). Para. 11: Guarantees of detainees' right to be treated humanely and with respect for their dignity; relieving overcrowding; providing hygienic facilities, and assuring access to health care and adequate food; identifying alternative sanctions (art. 10). Para. 14: Protection of freedom of expression; investigation and prosecution of attacks on journalists (arts. 6 and 19). Para. 16: Protection of all members of ethnic, religious or linguistic minorities against violence and discrimination (arts. 20 and 26).
Date information due: 1 December 2007
Next report due: 2 November 2011

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

State party: Chile
Report considered: Fifth periodic (due since 2002), submitted on 8 February 2006.
Information requested: Para. 9: Steps to ensure that serious human rights violations committed during the dictatorship do not go unpunished; ensuring that those suspected of such acts are in fact prosecuted; review of the suitability to hold public office of persons who have served sentences for such acts; publication of all documentation collected by the Truth and Reconciliation Commission and the National Commission on Political Prisoners and Torture (CNPPT) (arts. 2, 6 and 7). Para. 19: (a) Procedures to recognize such ancestral lands; (b) Amendment of Act No. 18.314 and review of sectoral legislation contravening rights spelled out in the Covenant; (c) Consultation of indigenous communities before granting licences for the economic exploitation of disputed lands, guaranteeing that in no case will exploitation violate rights recognized in the Covenant (arts. 1 and 27).
Date information due: 1 April 2008
Next report due: 27 March 2012

State party: Madagascar
Report considered: Third periodic (due since1992), submitted on 24 May 2005.
Information requested: Para. 7: Resumption of the work of the National Human Rights Commission, in accordance with the Paris Principles; provision of adequate resources for Commission to function effectively (art. 2).

Para. 24: Ensuring proper functioning of the judiciary, with sufficient resources, immediate release of detainees whose case files are missing (arts. 9 and 14). Para. 25: Steps to ensure that cases registered are heard without excessive delay (arts. 9 and 14).
Date information due: 1 April 2008
Next report due: 23 March 2011

Note

[1] The table format was altered at the ninetieth session.

Annex I

STATES PARTIES TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AND TO THE OPTIONAL PROTOCOLS AND STATES WHICH HAVE MADE THE DECLARATION UNDER ARTICLE 41 OF THE COVENANT AS AT 31 JULY 2007

A. States parties to the International Covenant on Civil and Political Rights (160)

State party	Date of receipt of the instrument of ratification	Date of entry into force
Afghanistan	24 January 1983[a]	24 April 1983
Albania	4 October 1991[a]	4 January 1992
Algeria	12 September 1989	12 December 1989
Andorra	22 September 2006	22 December 2006
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986	8 November 1986
Armenia	23 June 1993[a]	[b]
Australia	13 August 1980	13 November 1980
Austria	10 September 1978	10 December 1978
Azerbaijan	13 August 1992[a]	[b]
Bahrain	20 September 2006[a]	20 December 2006
Bangladesh	7 September 2000	7 December 2000
Barbados	5 January 1973[a]	23 March 1976
Belarus	12 November 1973	23 March 1976
Belgium	21 April 1983	21 July 1983
Belize	10 June 1996[a]	10 September 1996
Benin	12 March 1992[a]	12 June 1992
Bolivia	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 September 1993[c]	6 March 1992
Botswana	8 September 2000	8 December 2000
Brazil	24 January 1992[a]	24 April 1992
Bulgaria	21 September 1970	23 March 1976
Burkina Faso	4 January 1999[a]	4 April 1999
Burundi	9 May 1990[a]	9 August 1990
Cambodia	26 May 1992[a]	26 August 1992
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Cape Verde	6 August 1993[a]	6 November 1993
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995[a]	9 September 1995

State party	Date of receipt of the instrument of ratification	Date of entry into force
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	26 March 1992[a]	26 June 1992
Croatia	12 October 1992[c]	8 October 1991
Cyprus	2 April 1969	23 March 1976
Czech Republic	22 February 1993[c]	1 January 1993
Democratic People's Republic of Korea	14 September 1981[a]	14 December 1981
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Djibouti	5 November 2002[a]	5 February 2003
Dominica	17 June 1993[a]	17 September 1993
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
Egypt	14 January 1982	14 April 1982
El Salvador	30 November 1979	29 February 1980
Equatorial Guinea	25 September 1987[a]	25 December 1987
Eritrea	22 January 2002[a]	22 April 2002
Estonia	21 October 1991[a]	21 January 1992
Ethiopia	11 June 1993[a]	11 September 1993
Finland	19 August 1975	23 March 1976
France	4 November 1980[a]	4 February 1981
Gabon	21 January 1983[a]	21 April 1983
Gambia	22 March 1979[a]	22 June 1979
Georgia	3 May 1994[a]	[b]
Germany	17 December 1973	23 March 1976
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997[a]	5 August 1997
Grenada	6 September 1991[a]	6 December 1991
Guatemala	6 May 1992[a]	6 August 1992
Guinea	24 January 1978	24 April 1978
Guyana	15 February 1977	15 May 1977
Haiti	6 February 1991[a]	6 May 1991
Honduras	25 August 1997	25 November 1997

State party	Date of receipt of the instrument of ratification	Date of entry into force
Hungary	17 January 1974	23 March 1976
Iceland	22 August 1979	22 November 1979
India	10 April 1979[a]	10 July 1979
Indonesia	23 February 2006	23 May 2006
Iran (Islamic Republic of)	24 June 1975	23 March 1976
Iraq	25 January 1971	23 March 1976
Ireland	8 December 1989	8 March 1990
Israel	3 October 1991[a]	3 January 1992
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Japan	21 June 1979	21 September 1979
Jordan	28 May 1975	23 March 1976
Kazakhstan[d]	24 January 2006	
Kenya	1 May 1972[a]	23 March 1976
Kuwait	21 May 1996[a]	21 August 1996
Kyrgyzstan	7 October 1994[a]	[b]
Latvia	14 April 1992[a]	14 July 1992
Lebanon	3 November 1972[a]	23 March 1976
Lesotho	9 September 1992[a]	9 December 1992
Liberia	22 September 2004	22 December 2004
Libyan Arab Jamahiriya	15 May 1970[a]	23 March 1976
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	22 December 1993[a]	22 March 1994
Mali	16 July 1974[a]	23 March 1976
Maldives	19 September 2006[a]	19 December 2006
Malta	13 September 1990[a]	13 December 1990
Mauritania	17 November 2004 [a]	17 February 2005
Mauritius	12 December 1973[a]	23 March 1976
Mexico	23 March 1981[a]	23 June 1981
Monaco	28 August 1997	28 November 1997
Mongolia	18 November 1974	23 March 1976
Montenegro[e]		

State party	Date of receipt of the instrument of ratification	Date of entry into force
Morocco	3 May 1979	3 August 1979
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995
Nepal	14 May 1991	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	28 December 1978	28 March 1979
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Nigeria	29 July 1993[a]	29 October 1993
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 June 1992[a]	10 September 1992
Peru	28 April 1978	28 July 1978
Philippines	23 October 1986	23 January 1987
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Republic of Korea	10 April 1990[a]	10 July 1990
Republic of Moldova	26 January 1993[a]	[b]
Romania	9 December 1974	23 March 1976
Russian Federation	16 October 1973	23 March 1976
Rwanda	16 April 1975[a]	23 March 1976
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Serbia[f]	12 March 2001	[a]
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[c]	1 January 1993
Slovenia	6 July 1992[c]	25 June 1991
Somalia	24 January 1990[a]	24 April 1990
South Africa	10 December 1998[a]	10 March 1999
Spain	27 April 1977	27 July 1977
Sri Lanka	11 June 1980[a]	11 September 1980
Sudan	18 March 1986[a]	18 June 1986
Suriname	28 December 1976[a]	28 March 1977

State party	Date of receipt of the instrument of ratification	Date of entry into force
Swaziland	26 March 2004[a]	26 June 2004
Sweden	6 December 1971	23 March 1976
Switzerland	18 June 1992[a]	18 September 1992
Syrian Arab Republic	21 April 1969[a]	23 March 1976
Tajikistan	4 January 1999[a]	[b]
Thailand	29 October 1996[a]	29 January 1997
The former Yugoslav Republic of Macedonia	18 January 1994[c]	17 September 1991
Timor-Leste	18 September 2003[a]	18 December 2003
Togo	24 May 1984[a]	24 August 1984
Trinidad and Tobago	21 December 1978[a]	21 March 1979
Tunisia	18 March 1969	23 March 1976
Turkey	15 September 2003	15 December 2003
Turkmenistan	1 May 1997[a]	[b]
Uganda	21 June 1995[a]	21 September 1995
Ukraine	12 November 1973	23 March 1976
United Kingdom of Great Britain and Northern Ireland	20 May 1976	20 August 1976
United Republic of Tanzania	11 June 1976[a]	11 September 1976
United States of America	8 June 1992	8 September 1992
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995	[b]
Venezuela (Bolivarian Republic of)	10 May 1978	10 August 1978
Viet Nam	24 September 1982[a]	24 December 1982
Yemen	9 February 1987[a]	9 May 1987
Zambia	10 April 1984[a]	10 July 1984
Zimbabwe	13 May 1991[a]	13 August 1991

Note: In addition to the States parties listed above, the Covenant continues to apply in the Hong Kong Special Administrative Region of China and the Macau Special Administrative Region of China.[g]

B. States parties to the First Optional Protocol (105)

State party	Date of receipt of the instrument of ratification	Date of entry into force
Algeria	12 September 1989[a]	12 December 1989
Andorra	22 September 2006	22 December 2006
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986[a]	8 November 1986
Armenia	23 June 1993[a]	23 September 1993
Australia	25 September 1991[a]	25 December 1991
Austria	10 December 1987	10 March 1988
Azerbaijan	27 November 2001	27 February 2002
Barbados	5 January 1973[a]	23 March 1976
Belarus	30 September 1992[a]	30 December 1992
Belgium	17 May 1994[a]	17 August 1994
Benin	12 March 1992[a]	12 June 1992
Bolivia	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 March 1995	1 June 1995
Bulgaria	26 March 1992[a]	26 June 1992
Burkina Faso	4 January 1999[a]	4 April 1999
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Cape Verde	19 May 2000[a]	19 August 2000
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995	9 September 1995
Chile	28 May 1992[a]	28 August 1992
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	5 March 1997	5 June 1997
Croatia	12 October 1995[a]	
Cyprus	15 April 1992	15 July 1992
Czech Republic	22 February 1993[c]	1 January 1993
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Djibouti	5 November 2002[a]	5 February 2003
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
El Salvador	6 June 1995	6 September 1995

State party	Date of receipt of the instrument of ratification	Date of entry into force
Equatorial Guinea	25 September 1987[a]	25 December 1987
Estonia	21 October 1991[a]	21 January 1992
Finland	19 August 1975	23 March 1976
France	17 February 1984[a]	17 May 1984
Gambia	9 June 1988[a]	9 September 1988
Georgia	3 May 1994[a]	3 August 1994
Germany	25 August 1993	25 November 1993
Ghana	7 September 2000	7 December 2000
Greece	5 May 1997[a]	5 August 1997
Guatemala	28 November 2000	28 February 2001
Guinea	17 June 1993	17 September 1993
Guyana[h]	10 May 1993[a]	10 August 1993
Honduras	7 June 2005	7 September 2005
Hungary	7 September 1988[a]	7 December 1988
Iceland	22 August 1979[a]	22 November 1979
Ireland	8 December 1989	8 March 1990
Italy	15 September 1978	15 December 1978
Kyrgyzstan	7 October 1995[a]	7 January 1996
Latvia	22 June 1994[a]	22 September 1994
Lesotho	7 September 2000	7 December 2000
Libyan Arab Jamahiriya	16 May 1989[a]	16 August 1989
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983[a]	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	11 June 1996	11 September 1996
Mali	24 October 2001	24 January 2002
Malta	13 September 1990[a]	13 December 1990
Mauritius	12 December 1973[a]	23 March 1976
Mexico	15 March 2002	15 June 2002
Mongolia	16 April 1991[a]	16 July 1991
Montenegro[e]		23 October 2006
Namibia	28 November 1994[a]	28 February 1995
Nepal	14 May 1991[a]	14 August 1991
Netherlands	11 December 1978	11 March 1979

State party	Date of receipt of the instrument of ratification	Date of entry into force
New Zealand	26 May 1989[a]	26 August 1989
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 January 1995[a]	10 April 1995
Peru	3 October 1980	3 January 1981
Philippines	22 August 1989[a]	22 November 1989
Poland	7 November 1991[a]	7 February 1992
Portugal	3 May 1983	3 August 1983
Republic of Korea	10 April 1990[a]	10 July 1990
Romania	20 July 1993[a]	20 October 1993
Russian Federation	1 October 1991[a]	1 January 1992
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Serbia[f]	6 September 2001	6 December 2001
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[c]	1 January 1993
Slovenia	16 July 1993[a]	16 October 1993
Somalia	24 January 1990[a]	24 April 1990
South Africa	28 August 2002	28 November 2002
Spain	25 January 1985[a]	25 April 1985
Sri Lanka[a]	3 October 1997	3 January 1998
Suriname	28 December 1976[a]	28 March 1977
Sweden	6 December 1971	23 March 1976
Tajikistan	4 January 1999[a]	4 April 1999
The former Yugoslav Republic of Macedonia	12 December 1994[a]	12 March 1995
Togo	30 March 1988[a]	30 June 1988
Turkey	24 November 2006	24 February 2007
Turkmenistan[b]	1 May 1997[a]	1 August 1997
Uganda	14 November 1995	14 February 1996
Ukraine	25 July 1991[a]	25 October 1991
Uruguay	1 April 1970	23 March 1976

State party	Date of receipt of the instrument of ratification	Date of entry into force
Uzbekistan	28 September 1995	28 December 1995
Venezuela (Bolivarian Republic of)	10 May 1978	10 August 1978
Zambia	10 April 1984[a]	10 July 1984

Note: Jamaica denounced the Optional Protocol on 23 October 1997, with effect from 23 January 1998. Trinidad and Tobago denounced the Optional Protocol on 26 May 1998 and re-acceded on the same day, subject to a reservation, with effect from 26 August 1998. Following the Committee's decision in case No. 845/1999 (*Kennedy v. Trinidad and Tobago*) of 2 November 1999, declaring the reservation invalid, Trinidad and Tobago again denounced the Optional Protocol on 27 March 2000, with effect from 27 June 2000.

C. States parties to the Second Optional Protocol, aiming at the abolition of the death penalty (60)

State party	Date of receipt of the instrument of ratification	Date of entry into force
Andorra	22 September 2006	22 December 2006
Australia	2 October 1990[a]	11 July 1991
Austria	2 March 1993	2 June 1993
Azerbaijan	22 January 1999[a]	22 April 1999
Belgium	8 December 1998	8 March 1999
Bosnia and Herzegovina	16 March 2001	16 June 2001
Bulgaria	10 August 1999	10 November 1999
Canada	25 November 2005[a]	25 February 2006
Cape Verde	19 May 2000[a]	19 August 2000
Colombia	5 August 1997	5 November 1997
Costa Rica	5 June 1998	5 September 1998
Croatia	12 October 1995[a]	12 January 1996
Czech Republic	15 June 2004	15 September 2004
Cyprus	10 September 1999	10 December 1999
Denmark	24 February 1994	24 May 1994
Djibouti	5 November 2002[a]	5 February 2003
Ecuador	23 February 1993[a]	23 May 1993
Estonia	30 January 2004	30 April 2004
Finland	4 April 1991	11 July 1991
Georgia	22 March 1999[a]	22 June 1999

State party	Date of receipt of the instrument of ratification	Date of entry into force
Germany	18 August 1992	18 November 1992
Greece	5 May 1997[a]	5 August 1997
Hungary	24 February 1994[a]	24 May 1994
Iceland	2 April 1991	11 July 1991
Ireland	18 June 1993[a]	18 September 1993
Italy	14 February 1995	14 May 1995
Liberia	16 September 2005[a]	16 December 2005
Liechtenstein	10 December 1998	10 March 1999
Lithuania	27 March 2002	26 June 2002
Luxembourg	12 February 1992	12 May 1992
Malta	29 December 1994	29 March 1995
Monaco	28 March 2000[a]	28 June 2000
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995
Nepal	4 March 1998	4 June 1998
Netherlands	26 March 1991	11 July 1991
New Zealand	22 February 1990	11 July 1991
Norway	5 September 1991	5 December 1991
Panama	21 January 1993[a]	21 April 1993
Paraguay	18 August 2003	18 November 2003
Portugal	17 October 1990	11 July 1991
Republic of Moldova	20 September 2006[a]	20 December 2006
Romania	27 February 1991	11 July 1991
San Marino	17 August 2003[a]	17 November 2004
Serbia and Montenegro[e]	6 September 2001[a]	6 December 2001
Seychelles	15 December 1994[a]	15 March 1995
Slovakia	22 June 1999[a]	22 September 1999
Slovenia	10 March 1994	10 June 1994
South Africa	28 August 2002[a]	28 November 2002
Spain	11 April 1991	11 July 1991
Sweden	11 May 1990	11 July 1991
Switzerland	16 June 1994[a]	16 September 1994
The former Yugoslav Republic of Macedonia	26 January 1995[a]	26 April 1995
Timor-Leste	18 September 2003	18 December 2003
Turkey	2 March 2006	2 June 2006

State party	Date of receipt of the instrument of ratification	Date of entry into force
Turkmenistan	11 January 2000[a]	11 April 2000
United Kingdom of Great Britain and Northern Ireland	10 December 1999	10 March 2000
Uruguay	21 January 1993	21 April 1993
Venezuela (Bolivarian Republic of)	22 February 1993	22 May 1993

D. States which have made the declaration under article 41 of the Covenant (48)

State party	Valid from	Valid until
Algeria	12 September 1989	Indefinitely
Argentina	8 August 1986	Indefinitely
Australia	28 January 1993	Indefinitely
Austria	10 September 1978	Indefinitely
Belarus	30 September 1992	Indefinitely
Belgium	5 March 1987	Indefinitely
Bosnia and Herzegovina	6 March 1992	Indefinitely
Bulgaria	12 May 1993	Indefinitely
Canada	29 October 1979	Indefinitely
Chile	11 March 1990	Indefinitely
Congo	7 July 1989	Indefinitely
Croatia	12 October 1995	Indefinitely
Czech Republic	1 January 1993	Indefinitely
Denmark	23 March 1976	Indefinitely
Ecuador	24 August 1984	Indefinitely
Finland	19 August 1975	Indefinitely
Gambia	9 June 1988	Indefinitely
Ghana	7 September 2000	Indefinitely
Germany	28 March 1976	10 May 2006
Guyana	10 May 1993	Indefinitely
Hungary	7 September 1988	Indefinitely
Iceland	22 August 1979	Indefinitely
Ireland	8 December 1989	Indefinitely
Italy	15 September 1978	Indefinitely
Liechtenstein	10 March 1999	Indefinitely
Luxembourg	18 August 1983	Indefinitely
Malta	13 September 1990	Indefinitely
Netherlands	11 December 1978	Indefinitely
New Zealand	28 December 1978	Indefinitely
Norway	23 March 1976	Indefinitely

State party	Valid from	Valid until
Peru	9 April 1984	Indefinitely
Philippines	23 October 1986	Indefinitely
Poland	25 September 1990	Indefinitely
Republic of Korea	10 April 1990	Indefinitely
Russian Federation	1 October 1991	Indefinitely
Senegal	5 January 1981	Indefinitely
Slovakia	1 January 1993	Indefinitely
Slovenia	6 July 1992	Indefinitely
South Africa	10 March 1999	Indefinitely
Spain	30 January 1998	Indefinitely
Sri Lanka	11 June 1980	Indefinitely
Sweden	23 March 1976	Indefinitely
Switzerland	16 June 2005	16 June 2010
Tunisia	24 June 1993	Indefinitely
Ukraine	28 July 1992	Indefinitely
United Kingdom of Great Britain and Northern Ireland	20 May 1976	Indefinitely
United States of America	8 September 1992	Indefinitely
Zimbabwe	20 August 1991	Indefinitely

Notes

[a] Accession.

[b] In the opinion of the Committee, the entry into force goes back to the date when the State became independent.

[c] Succession.

[d] Prior to the receipt of an instrument of ratification by the Secretary-General of the United Nations, the Committee's position has been the following: Although a declaration of succession has not been received, the people within the territory of the State - which constituted part of a former State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see *Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40* (A/49/40), vol. I, paras. 48 and 49).

[e] Montenegro was admitted to membership in the United Nations by General Assembly resolution 60/264 of 28 June 2006. On 23 October 2006 the Secretary-General received from the Government of Montenegro a letter dated 10 October 2006, accompanied by a list of multilateral treaties deposited with the Secretary-General, informing him that:

> The Government of the Republic of Montenegro had decided to succeed to the treaties to which the State Union of Serbia and Montenegro had been a party or signatory.

The Government of the Republic of Montenegro was succeeding to the treaties listed in the attached annex and formally undertook to fulfil the conditions set out therein as from 3 June 2006, the date on which the Republic of Montenegro had assumed responsibility for its international relations and the Parliament of Montenegro had adopted the Declaration of Independence.

The Government of the Republic of Montenegro maintained the reservations, declarations and objections, as set out in the annex to the instrument, that had been made by Serbia and Montenegro before the Republic of Montenegro assumed responsibility for its international relations.

[f] The Socialist Federal Republic of Yugoslavia ratified the Covenant on 2 June 1971, which entered into force for that State on 23 March 1976. The successor State (Federal Republic of Yugoslavia) was admitted to the United Nations by General Assembly resolution 55/12 of 1 November 2000. According to a subsequent declaration, the Federal Republic of Yugoslavia acceded to the Covenant with effect from 12 March 2001. It is the established practice of the Committee that the people within the territory of a State which constituted part of a former State party to the Covenant continue to be entitled to the guarantees recognized in the Covenant. Following the adoption of the Constitutional Charter of Serbia and Montenegro by the Assembly of the Federal Republic of Yugoslavia on 4 February 2003, the name of the State of the Federal Republic of Yugoslavia was changed to "Serbia and Montenegro". The membership of the State Union of Serbia and Montenegro in the United Nations, including all organs and organizations of the United Nations system, is continued by the Republic of Serbia on the basis of article 60 of the Constitutional Charter of Serbia and Montenegro, activated by the Declaration of Independence adopted by the National Assembly of Montenegro on 3 June 2006. On 19 June 2006, the Secretary-General received a communication dated 16 June 2006 from the Minister of Foreign Affairs of the Republic of Serbia informing him that (a) the Republic of Serbia continues to exercise its rights and honour its commitments deriving from international treaties concluded by Serbia and Montenegro; (b) the Ministry for Foreign Affairs requests that the Republic of Serbia be considered a party to all international agreements in force, instead of Serbia and Montenegro; and (c) the Government of the Republic of Serbia will perform the functions formerly performed by the Council of Ministers of Serbia and Montenegro as depository for the corresponding multilateral treaties. The Republic of Montenegro was admitted as a Member of the United Nations by General Assembly resolution 60/264 of 28 June 2006.

[g] For information on the application of the Covenant in the Hong Kong Special Administrative Region of China, see *Official Records of the General Assembly, Fifty-first Session, Supplement No. 40* (A/51/40), chap. V, sect. B, paras. 78-85. For information on the application of the Covenant in Macau Special Administrative Region, see ibid., *Fifty-fifth Session, Supplement No. 40* (A/55/40), chap. IV.

[h] Guyana denounced the Optional Protocol on 5 January 1999 and re-acceded on the same day, subject to reservations, with effect from 5 April 1999. Guyana's reservation elicited objections from six States parties to the Optional Protocol.

Annex II

MEMBERSHIP AND OFFICERS OF THE HUMAN RIGHTS COMMITTEE, 2006-2007

A. Membership of the Human Rights Committee

Eighty-eighth session

Mr. Abdelfattah AMOR*	Tunisia
Mr. Nisuke ANDO*	Japan
Mr. Prafullachandra Natwarlal BHAGWATI*	India
Mr. Alfredo CASTILLERO HOYOS*	Panama
Ms. Christine CHANET*	France
Mr. Maurice GLÈLÈ-AHANHANZO**	Benin
Mr. Edwin JOHNSON LOPEZ**	Ecuador
Mr. Walter KÄLIN*	Switzerland
Mr. Ahmed Tawfik KHALIL**	Egypt
Mr. Rajsoomer LALLAH**	Mauritius
Mr. Michael O'FLAHERTY**	Ireland
Ms. Elisabeth PALM**	Sweden
Mr. Rafael RIVAS-POSADA**	Colombia
Sir Nigel RODLEY**	United Kingdom of Great Britain and Northern Ireland
Mr. Ivan SHEARER**	Australia
Mr. Hipólito SOLARI YRIGOYEN*	Argentina
Ms. Ruth WEDGWOOD*	United States of America
Mr. Roman WIERUSZEWSKI*	Poland

* Term expires on 31 December 2006.

** Term expires on 31 December 2008.

Eighty-ninth and ninetieth sessions

Mr. Abdelfattah AMOR**	Tunisia
Mr. Prafullachandra Natwarlal BHAGWATI**	India
Ms. Christine CHANET**	France
Mr. Maurice GLÈLÈ-AHANHANZO**	Benin
Mr. Yuji IWASAWA**	Japan
Mr. Edwin JOHNSON LOPEZ*	Ecuador
Mr. Walter KÄLIN**	Switzerland
Mr. Ahmed Tawfik KHALIL*	Egypt
Mr. Rajsoomer LALLAH*	Mauritius
Ms. Zonke Zanele MAJODINA**	South Africa
Ms. Iulia Antoanella MOTOC**	Romania
Mr. Michael O'FLAHERTY*	Ireland
Ms. Elisabeth PALM*	Sweden
Mr. Rafael RIVAS POSADA*	Colombia
Sir Nigel RODLEY*	United Kingdom of Great Britain and Northern Ireland
Mr. José Luis SANCHEZ-CERRO**	Peru
Mr. Ivan SHEARER*	Australia
Ms. Ruth WEDGWOOD**	United States of America

* Term expires on 31 December 2008.

** Term expires on 31 December 2010.

B. Officers

Eighty-eighth session

The officers of the Committee, elected for a term of two years at the 2254th meeting, on 14 March 2005 (eighty-third session), are the following:

Chairperson:	Ms. Christine Chanet
Vice-Chairpersons:	Mr. Maurice Glèlè-Ahanhanzo Ms. Elisabeth Palm Mr. Hipólito Solari Yrigoyen
Rapporteur:	Mr. Ivan Shearer

Eighty-ninth and ninetieth sessions

The officers of the Committee, elected for a term of two years at the 2424th meeting, on 12 March 2007 (eighty-ninth session), are the following:

Chairperson:	Mr. Rafael Rivas-Posada
Vice-Chairpersons:	Mr. Ahmed Tawfik Khalil Ms. Elisabeth Palm Mr. Ivan Shearer
Rapporteur:	Mr. Abdelfattah Amor

Annex III

SUBMISSION OF REPORTS AND ADDITIONAL INFORMATION BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (SITUATION AS AT 31 JULY 2007)

State party	Type of report	Date due	Date of submission
Afghanistan	Second periodic	23 April 1989	25 October 1991[a]
Albania	Second periodic	1 November 2008	Not yet due
Algeria	Third periodic	1 June 2000	22 September 2006
Angola	Initial/Special	9 April 1993/ 31 January 1994	Not yet received
Argentina	Fourth periodic	31 October 2005	Not yet received
Armenia	Second periodic	1 October 2001	Not yet received
Australia	Fifth periodic	31 July 2005	Not yet received
Austria	Fourth periodic	1 October 2002	21 July 2006
Azerbaijan	Third periodic	1 November 2005	Not yet received
Bahrain	Initial	20 December 2007	Not yet due
Bangladesh	Initial	6 December 2001	Not yet received
Barbados	Fourth periodic	29 March 2011	Not yet due
Belarus	Fifth periodic	7 November 2001	Not yet received
Belgium	Fifth periodic	1 August 2008	Not yet due
Belize	Initial	9 September 1997	Not yet received
Benin	Second periodic	1 November 2008	Not yet due
Bolivia	Third periodic	31 December 1999	Not yet received
Bosnia and Herzegovina	Second periodic	1 November 2010	Not yet due
Botswana	Initial	8 December 2001	23 November 2006
Brazil	Third periodic	31 October 2009	Not yet due
Bulgaria	Third periodic	31 December 1994	Not yet received
Burkina Faso	Initial	3 April 2000	Not yet received
Burundi	Second periodic	8 August 1996	Not yet received
Cambodia	Second periodic	31 July 2002	Not yet received
Cameroon	Fourth periodic	31 October 2003	Not yet received
Canada	Sixth periodic	31 October 2010	Not yet due
Cape Verde	Initial	5 November 1994	Not yet received
Central African Republic	Third periodic	1 August 2010	Not yet due
Chad	Initial	8 September 1996	Not yet received
Chile	Sixth periodic	27 March 2012	Not yet due

State party	Type of report	Date due	Date of submission
Colombia	Sixth periodic	1 April 2008	Not yet due
Congo	Third periodic	31 March 2003	Not yet received
Costa Rica	Fifth periodic	30 April 2004	30 May 2006
Côte d'Ivoire	Initial	25 June 1993	Not yet received
Croatia	Second periodic	1 April 2005	Not yet received
Cyprus	Fourth periodic	1 June 2002	Not yet received
Czech Republic	Third periodic	1 August 2011	Not yet due
Democratic People's Republic of Korea	Third periodic	1 January 2004	Not yet received
Democratic Republic of the Congo	Fourth periodic	1 April 2009	Not yet due
Denmark	Fifth periodic	31 October 2005	Not yet received
Djibouti	Initial	5 February 2004	Not yet received
Dominica	Initial	16 September 1994	Not yet received
Dominican Republic	Fifth periodic	1 April 2005	Not yet received
Ecuador	Fifth periodic	1 June 2001	Not yet received
Egypt	Fourth periodic	1 November 2004	Not yet received
El Salvador	Fourth periodic	1 August 2007	Not yet due
Equatorial Guinea	Initial	24 December 1988	Not yet received[b]
Eritrea	Initial	22 April 2003	Not yet received
Estonia	Third periodic	1 April 2007	Not yet received
Ethiopia	Initial	10 September 1994	Not yet received
Finland	Sixth periodic	1 November 2009	Not yet due
France	Fourth periodic	31 December 2000	13 February 2007
Gabon	Third periodic	31 October 2003	Not yet received
Gambia	Second periodic	21 June 1985	Not yet received[b]
Georgia	Third periodic	1 April 2006	1 August 2006
Germany	Sixth periodic	1 April 2009	Not yet due
Ghana	Initial	8 February 2001	Not yet received
Greece	Second periodic	1 April 2009	Not yet due
Grenada	Initial	6 September 1991	Not yet received[b]
Guatemala	Third periodic	1 August 2005	Not yet received
Guinea	Third periodic	30 September 1994	Not yet received
Guyana	Third periodic	31 March 2003	Not yet received
Haiti	Initial	30 December 1996	Not yet received
Honduras	Second periodic	31 October 2010	Not yet due
Hong Kong Special Administrative Region (China)[c]	Third periodic (China)	1 January 2010	Not yet due

State party	Type of report	Date due	Date of submission
Hungary	Fifth periodic	1 April 2007	Not yet received
Iceland	Fifth periodic	1 April 2010	Not yet due
India	Fourth periodic	31 December 2001	Not yet received
Indonesia	Initial	23 May 2007	Not yet received
Iran (Islamic Republic of)	Third periodic	31 December 1994	Not yet received
Iraq	Fifth periodic	4 April 2000	Not yet received
Ireland	Third periodic	31 July 2005	Not yet received
Israel	Third periodic	1 August 2007	Not yet due
Italy	Sixth periodic	31 October 2009	Not yet due
Jamaica	Third periodic	7 November 2001	Not yet received
Japan	Fifth periodic	31 October 2002	20 December 2006
Jordan	Fourth periodic	21 January 1997	Not yet received
Kazakhstan	Initial report	24 April 2007	Not yet received
Kenya	Third periodic	1 April 2008	Not yet due
Kuwait	Second periodic	31 July 2004	Not yet received
Kyrgyzstan	Second periodic	31 July 2004	Not yet received
Latvia	Third periodic	1 November 2008	Not yet due
Lebanon	Third periodic	31 December 1999	Not yet received
Lesotho	Second periodic	30 April 2002	Not yet received
Liberia	Initial	22 December 2005	Not yet received
Libyan Arab Jamahiriya	Fourth periodic	1 October 2002	5 December 2006
Liechtenstein	Second periodic	1 September 2009	Not yet due
Lithuania	Third periodic	1 November 2009	Not yet due
Luxembourg	Fourth periodic	1 April 2008	Not yet due
Madagascar	Fourth periodic	23 March 2011	Not yet due
Malawi	Initial	21 March 1995	Not yet received
Maldives	Initial	19 December 2007	Not yet due
Mali	Third periodic	1 April 2005	Not yet received
Macao Special Administrative Region (China)[c]	Initial (China)	31 October 2001	Not yet received
Malta	Second periodic	12 December 1996	Not yet received
Mauritania	Initial	17 February 2006	Not yet received
Mauritius	Fifth periodic	1 April 2010	Not yet due
Mexico	Fifth periodic	30 July 2002	Not yet received
Monaco	Second periodic	1 August 2006	3 April 2007
Mongolia	Fifth periodic	31 March 2003	Not yet received

State party	Type of report	Date due	Date of submission
Montenegro[d]	Initial	23 October 2007	Not yet received
Morocco	Sixth periodic	1 November 2008	Not yet due
Mozambique	Initial	20 October 1994	Not yet received
Namibia	Second periodic	1 August 2008	Not yet due
Nepal	Second periodic	13 August 1997	Not yet received
Netherlands	Fourth periodic	1 August 2006	9 May 2007
Netherlands (Antilles)	Fourth periodic	1 August 2006	Not yet received
Netherlands (Aruba)	Fifth periodic	1 August 2006	5 July 2007
New Zealand	Fifth periodic	1 August 2007	Not yet due
Nicaragua	Third periodic	11 June 1991	20 June 2007
Niger	Second periodic	31 March 1994	Not yet received
Nigeria	Second periodic	28 October 1999	Not yet received
Norway	Sixth periodic	1 October 2009	Not yet due
Panama	Third periodic	31 March 1992	9 February 2007
Paraguay	Third periodic	31 October 2008	Not yet due
Peru	Fifth periodic	31 October 2003	Not yet received
Philippines	Third periodic	1 November 2006	Not yet received
Poland	Sixth periodic	1 November 2008	Not yet due
Portugal	Fourth periodic	1 August 2008	Not yet due
Republic of Korea	Fourth periodic	2 November 2010	Not yet due
Republic of Moldova	Second periodic	1 August 2004	Not yet received
Romania	Fifth periodic	28 April 1999	Not yet received
Russian Federation	Sixth periodic	1 November 2007	Not yet due
Rwanda	Third periodic	10 April 1992	23 July 2007
Saint Vincent and the Grenadines	Second periodic	31 October 1991	Not yet received[b]
San Marino	Second periodic	17 January 1992	26 October 2006
Senegal	Fifth periodic	4 April 2000	Not yet received
Serbia	Second periodic	1 August 2008	Not yet due
Seychelles	Initial	4 August 1993	Not yet received
Sierra Leone	Initial	22 November 1997	Not yet received
Slovakia	Third periodic	1 August 2007	Not yet due
Slovenia	Third periodic	1 August 2010	Not yet due
Somalia	Initial	23 April 1991	Not yet received
South Africa	Initial	9 March 2000	Not yet received
Spain	Fifth periodic	28 April 1999	Not yet received

State party	Type of report	Date due	Date of submission
Sri Lanka	Fifth periodic	1 November 2007	Not yet due
Sudan	Fourth periodic	26 July 2010	Not yet due
Suriname	Third periodic	1 April 2008	Not yet due
Swaziland	Initial	27 June 2005	Not yet received
Sweden	Sixth periodic	1 April 2007	17 July 2007
Switzerland	Third periodic	1 November 2006	Not yet received
Syrian Arab Republic	Fourth periodic	1 August 2009	Not yet due
Tajikistan	Second periodic	31 July 2008	Not yet due
Thailand	Second periodic	1 August 2009	Not yet due
The former Yugoslav Republic of Macedonia	Second periodic	1 June 2000	13 October 2006
Timor-Leste	Initial	19 December 2004	Not yet received
Togo	Fourth periodic	1 November 2004	Not yet received
Trinidad and Tobago	Fifth periodic	31 October 2003	Not yet received
Tunisia	Fifth periodic	4 February 1998	14 December 2006
Turkey	Initial	16 December 2004	Not yet received
Turkmenistan	Initial	31 July 1998	Not yet received
Uganda	Second periodic	1 April 2008	Not yet due
Ukraine	Seventh periodic	2 November 2011	Not yet due
United Kingdom of Great Britain and Northern Ireland	Sixth periodic	1 November 2006	2 November 2006
United Kingdom of Great Britain and Northern Ireland (Overseas Territories)	Sixth periodic	1 November 2006	2 November 2006
United Republic of Tanzania	Fourth periodic	1 June 2002	Not yet received
United States of America	Second and third periodic	1 August 2010	Not yet due
Uruguay	Fifth periodic	21 March 2003	Not yet received
Uzbekistan	Third periodic	1 April 2008	Not yet due
Venezuela (Bolivarian Republic of)	Fourth periodic	1 April 2005	Not yet received
Viet Nam	Third periodic	1 August 2004	Not yet received
Yemen	Fifth periodic	1 July 2009	Not yet due
Zambia	Fourth periodic	20 July 2011	Not yet due
Zimbabwe	Second periodic	1 June 2002	Not yet received

Notes

[a] At its fifty-fifth session, the Committee requested the Government of Afghanistan to submit information updating its report before 15 May 1996 for consideration at the fifty-seventh session. No additional information was received. At its sixty-seventh session, the Committee invited Afghanistan to present its report at the sixty-eighth session. The State party asked for a postponement. At the seventy-third session, the Committee decided to postpone consideration of Afghanistan to a later date, pending consolidation of the new Government.

[b] The Committee considered the situation of civil and political rights in the Gambia during its seventy-fifth session in the absence of a report and a delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session, the Committee decided to convert them into final and public ones.

The situation of civil and political rights in Equatorial Guinea was considered during the seventy-ninth session without a report and delegation. Provisional concluding observations were sent to the State party. At the end of the eighty-first session, the Committee decided to convert them into final and public ones.

The situation of civil and political rights in Saint Vincent and the Grenadines was considered during the eighty-sixth session in the absence of a report but in the presence of a delegation. Provisional concluding observations were sent to the State party, with a request to submit its second periodic report by 1 April 2007. A reminder was sent on 12 April 2007. Saint Vincent and the Grenadines undertook, by letter dated 5 July 2007, to submit a report within one month.

The Committee considered the situation of civil and political rights in Grenada at its ninetieth session in the absence of a report and a delegation. Provisional concluding observations were sent to the State party, which has been asked to submit its initial report by 21 December 2008 at the latest.

[c] Although not itself a party to the Covenant, the Government of China has assumed the reporting obligation under article 40 with respect to the Hong Kong and Macau Special Administrative Regions, which were previously under British and Portuguese administration, respectively.

[d] The Government of the Republic of Montenegro had decided to succeed to the treaties to which the State Union of Serbia and Montenegro had been a party or signatory.

The Government of the Republic of Montenegro was succeeding to the treaties listed in the attached annex and formally undertook to fulfil the conditions set out therein as from 3 June 2006, the date on which the Republic of Montenegro had assumed responsibility for its international relations and the Parliament of Montenegro had adopted the Declaration of Independence.

The Government of the Republic of Montenegro maintained the reservations, declarations and objections, as set out in the annex to the instrument, that had been made by Serbia and Montenegro before the Republic of Montenegro assumed responsibility for its international relations.

Annex IV

STATUS OF REPORTS AND SITUATIONS CONSIDERED DURING THE PERIOD UNDER REVIEW AND OF REPORTS STILL PENDING BEFORE THE COMMITTEE

State party	Date due	Date of submission	Status	Reference documents
		A. Initial reports		
Bosnia and Herzegovina	5 March 1993	30 August 2005	Scheduled for consideration during the eighty-eighth session. List of issues adopted during the eighty-seventh session	CCPR/C/BIH/1 CCPR/C/BIH/Q/1
Honduras	24 November 1998	21 February 2005	Scheduled for consideration during the eighty-eighth session. List of issues adopted during the eighty-sixth session	CCPR/C/HND/2005/1 CCPR/C/HND/Q/1
Botswana	8 December 2001	23 November 2006	Scheduled for consideration during the ninety-second session. List of issues adopted during the ninetieth session.	CCPR/C/BWA/1 CCPR/C/BWA/Q/1
Grenada	5 December 1992	Not received	Considered in the absence of a delegation on 18 July 2007 (ninetieth session)	CCPR/C/GRD/Q/1/CRP.2
		B. Second periodic reports		
Saint Vincent and the Grenadines	31 October 1991	Not yet received	Considered in the absence of a report but in the presence of a delegation on 22 March 2006 (eighty-sixth session)	CCPR/C/VCT/Q/3

State party	Date due	Date of submission	Status	Reference documents
Czech Republic	1 August 2005	24 May 2006	Considered on 16 and 17 July 2007 (ninetieth session)	CCPR/C/CZE/2 CPR/C/CZE/CO/2 CCPR/C/SR.2464-2465 CCPR/C/SR.2480
The former Yugoslav Republic of Macedonia	1 June 2000	13 October 2006	Scheduled for consideration during the ninety-second session. List of issues adopted during the ninetieth session.	CCPR/C/MKD/2 CCPR/C/MKD/Q/2
San Marino	17 January 1992	26 October 2006	In translation. Scheduled for consideration during the ninety-third session.	CCPR/C/SMR/2
Monaco	1 August 2006	3 April 2007	In translation. Scheduled for consideration at a later session	CCPR/C/MCO/2
		C. Third periodic reports		
Madagascar	30 July 1992	24 May 2005	Considered on 12 and 13 March 2007 (eighty-ninth session)	CCPR/C/MDG/2005/3 CCPR/C/MDG/CO/3 CCPR/C/SR.2425-2426 CCPR/C/SR.2442
Barbados	11 April 1991	7 July 2006	Considered on 21 and 22 March 2007 (eighty-ninth session)	CCPR/C/BRB/3 CCPR/C/BRB/CO/3 CCPR/C/SR.2439-2440 CCPR/C/SR. 2451
Republic of Korea	31 October 2003	10 February 2005	Considered on 25 and 26 October 2006 (eighty-eighth session)	CCPR/C/KOR/2005/3 CCPR/C/KOR/CO/3 CCPR/C/SR.2410-2411 CCPR/C/SR.2422
Zambia	30 June 1998	16 December 2005	Considered on 9 and 10 July 2007 (ninetieth session)	CCPR/C/ZMB/3 CCPR/C/ZMB/CO/3 CCPR/C/SR.2454-2455 CCPR/C/SR.2471
Sudan	7 November 2001	28 June 2006	Considered on 11 and 12 July 2007 (ninetieth session)	CCPR/C/SUD/3 CCPR/C/SUD/CO/3 CCPR/C/SR.2458-2460 CCPR/C/SR.2475

State party	Date due	Date of submission	Status	Reference documents
Algeria	1 June 2000	22 September 2006	Scheduled for consideration during the ninety-first session. List of issues adopted during the ninetieth session	CCPR/C/DZA/3 CCPR/C/DZA/Q/3
Georgia	1 April 2006	1 August 2006	Scheduled for consideration during the ninety-first session. List of issues adopted during the ninetieth session	CCPR/C/GEO/3 CCPR/C/GEO/Q/3
Ireland	31 July 2005	23 February 2007	In translation. Scheduled for consideration at a later session	CCPR/C/IRL/3
Panama	31 March 1992	9 February 2007	In translation. Scheduled for consideration at the ninety-second session	CCPR/C/PAN/3
Rwanda	10 April 1992	23 July 2007	In translation. Scheduled for consideration at a later session	CCPR/C/RWA/3
Nicaragua	11 June 1991	20 June 2007	In translation. Scheduled for consideration at a later session	CCPR/C/NIC/3
		D. Fourth periodic reports		
Libyan Arab Jamahiriya	1 October 2002	5 December 2005	Scheduled for consideration during the ninety-first session. List of issues adopted during the ninetieth session	CCPR/C/LIB/4 CCPR/C/LIB/Q/4

State party	Date due	Date of submission	Status	Reference documents
Austria	1 October 2002	21 July 2006	Scheduled for consideration during the ninety-first session. List of issues adopted during the eighty-ninth session	CCPR/C/AUT/4 CCPR/C/AUT/Q/4
France	31 December 2000	13 February 2007	In translation. Scheduled for consideration at a later session	CCPR/C/FRA/4
Netherlands (including Aruba)	1 August 2006	9 May 2007	In translation. Scheduled for consideration at a later session	CCPR/C/NET/4 and Add.1
		E. Fifth periodic reports		
Chile	28 April 2002	9 February 2006	Considered on 14 and 15 March 2007 (eighty-ninth session)	CCPR/C/CHI/5 CCPR/C/CHI/CO/5 CCPR/C/SR.2429-2430 CCPR/C/SR.2445
Costa Rica	30 April 2004	30 May 2006	Scheduled for consideration during the ninety-first session. List of issues adopted during the eighty-ninth session	CCPR/C/CRI/5 CCPR/C/CRI/Q/5
Denmark	31 October 2005	4 April 2007	Awaiting appropriate electronic version for translation. Scheduled for consideration at a later session	CCPR/C/DEN/5
Spain	28 April 1999	9 February 2007	Awaiting appropriate electronic version for translation. Scheduled for consideration at a later session	CCPR/C/ESP/5

State party	Date due	Date of submission	Status	Reference documents
Japan	31 October 2002	20 December 2006	In translation. Scheduled for consideration at a later session	CCPR/C/JPN/5
Tunisia	4 February 1998	14 December 2006	In translation. Scheduled for consideration at the ninety-second session	CCPR/C/TUN/5
		F. Sixth periodic reports		
Ukraine	1 November 2005	3 November 2005	Considered on 23 October 2006 (eighty-ninth session)	CCPR/C/UKR/6 CCPR/C/UKR/CO/4 CCPR/C/SR.2407-2408 CCPR/C/SR.2422
United Kingdom of Great Britain and Northern Ireland	1 November 2006	2 November 2006	In translation. Scheduled for consideration at the ninety-third session	CCPR/C/UK/6
Sweden	1 April 2007	17 July 2007	In translation. Scheduled for consideration at a later session	CCPR/C/SWE/6

Annex V

OPINION OF THE HUMAN RIGHTS COMMITTEE CONCERNING THE IDEA OF CREATING A SINGLE HUMAN RIGHTS TREATY BODY

The Human Rights Committee welcomes with interest the concept paper prepared by the Office of the United Nations High Commissioner for Human Rights concerning the idea of creating a standing unified human rights treaty body, which would replace the seven existing treaty bodies. This document had the great merit of stimulating a serious and constructive debate on the reform of treaty bodies. Having examined all the documents relating to the proposal contained in the concept paper, and bearing in mind the discussions as well as the points of view expressed in various meetings and having considered the matter at its eighty-eighth session, the Human Rights Committee issues the following opinion:

The Committee:

1. Considers that the creation of a standing unified treaty body to replace the seven existing treaty bodies raises legal and political problems that cannot be solved in the short or medium term, and deems that, for the time being, it is more appropriate to ensure, without delay, better coordination of the working methods of the treaty bodies without it being necessary to amend the treaties;

2. Is convinced of the need to strengthen harmonization of the working methods used by the various treaty bodies. It is of the opinion that questions relating to harmonization should be approached in a concrete and pragmatic manner in order to facilitate a practical and effective solution of the problems raised by the separate functioning of the treaty bodies;

3. Proposes, consequently, that the meeting of chairpersons of treaty bodies and the inter-committee meeting be replaced by a single coordinating body composed of representatives of the various treaty bodies, which would be responsible for the effective oversight of all questions relating to the harmonization of working methods, including the procedures for considering State party reports and individual communications;

4. Considers that the coordinating body should promote an exchange of information and points of view between the Human Rights Council and the treaty bodies;

5. Invites the various treaty bodies to amend, where necessary, their rules of procedure with a view to promoting the harmonization of their working methods;

6. Calls for a strengthening of the secretariat's material and professional capacities in order to enable it to provide more effective support for the treaty bodies and to ensure the widest possible dissemination of their work;

7. Is of the opinion that the treaty bodies should conduct an evaluation of the activities of the coordinating body four years after its establishment;

8. Shall remain in contact with the other treaty bodies with a view to continuing consideration of the question of harmonization of working methods, including the establishment, as soon as possible, of the coordinating body.

Annex VI

GENERAL COMMENT No. 32 (81) ON ARTICLE 14 OF THE COVENANT ADOPTED BY THE COMMITTEE UNDER ARTICLE 40 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

Right to equality before courts and tribunals and to a fair trial (adopted at the 2475th meeting on 24 July 2007)

I. GENERAL REMARKS

1. This general comment replaces general comment No. 13 (twenty-first session).

2. The right to equality before the courts and tribunals and to a fair trial is a key element of human rights protection and serves as a procedural means to safeguard the rule of law. Article 14 of the Covenant aims at ensuring the proper administration of justice, and to this end guarantees a series of specific rights.

3. Article 14 is of a particularly complex nature, combining various guarantees with different scopes of application. The first sentence of paragraph 1 sets out a general guarantee of equality before courts and tribunals that applies regardless of the nature of proceedings before such bodies. The second sentence of the same paragraph entitles individuals to a fair and public hearing by a competent, independent and impartial tribunal established by law, if they face any criminal charges or if their rights and obligations are determined in a suit at law. In such proceedings the media and the public may be excluded from the hearing only in the cases specified in the third sentence of paragraph 1. Paragraphs 2-5 of the article contain procedural guarantees available to persons charged with a criminal offence. Paragraph 6 secures a substantive right to compensation in cases of miscarriage of justice in criminal cases. Paragraph 7 prohibits double jeopardy and thus guarantees a substantive freedom, namely the right to remain free from being tried or punished again for an offence for which an individual has already been finally convicted or acquitted. States parties to the Covenant, in their reports, should clearly distinguish between these different aspects of the right to a fair trial.

4. Article 14 contains guarantees that States parties must respect, regardless of their legal traditions and their domestic law. While they should report on how these guarantees are interpreted in relation to their respective legal systems, the Committee notes that it cannot be left to the sole discretion of domestic law to determine the essential content of Covenant guarantees.

5. While reservations to particular clauses of article 14 may be acceptable, a general reservation to the right to a fair trial would be incompatible with the object and purpose of the Covenant.[1]

6. While article 14 is not included in the list of non-derogable rights of article 4, paragraph 2 of the Covenant, States derogating from normal procedures required under article 14 in circumstances of a public emergency should ensure that such derogations

do not exceed those strictly required by the exigencies of the actual situation. The guarantees of fair trial may never be made subject to measures of derogation that would circumvent the protection of non-derogable rights. Thus, for example, as article 6 of the Covenant is non-derogable in its entirety, any trial leading to the imposition of the death penalty during a state of emergency must conform to the provisions of the Covenant, including all the requirements of article 14.[2] Similarly, as article 7 is also non-derogable in its entirety, no statements or confessions or, in principle, other evidence obtained in violation of this provision may be invoked as evidence in any proceedings covered by article 14, including during a state of emergency,[3] except if a statement or confession obtained in violation of article 7 is used as evidence that torture or other treatment prohibited by this provision occurred.[4] Deviating from fundamental principles of fair trial, including the presumption of innocence, is prohibited at all times.[5]

II. EQUALITY BEFORE COURTS AND TRIBUNALS

7. The first sentence of article 14, paragraph 1 guarantees in general terms the right to equality before courts and tribunals. This guarantee not only applies to courts and tribunals addressed in the second sentence of this paragraph of article 14, but must also be respected whenever domestic law entrusts a judicial body with a judicial task.[6]

8. The right to equality before courts and tribunals, in general terms, guarantees, in addition to the principles mentioned in the second sentence of Article 14, paragraph 1, those of equal access and equality of arms, and ensures that the parties to the proceedings in question are treated without any discrimination.

9. Article 14 encompasses the right of access to the courts in cases of determination of criminal charges and rights and obligations in a suit at law. Access to administration of justice must effectively be guaranteed in all such cases to ensure that no individual is deprived, in procedural terms, of his/her right to claim justice. The right of access to courts and tribunals and equality before them is not limited to citizens of States parties, but must also be available to all individuals, regardless of nationality or statelessness, or whatever their status, whether asylum seekers, refugees, migrant workers, unaccompanied children or other persons, who may find themselves in the territory or subject to the jurisdiction of the State party. A situation in which an individual's attempts to access the competent courts or tribunals are systematically frustrated de jure or de facto runs counter to the guarantee of article 14, paragraph 1, first sentence.[7] This guarantee also prohibits any distinctions regarding access to courts and tribunals that are not based on law and cannot be justified on objective and reasonable grounds. The guarantee is violated if certain persons are barred from bringing suit against any other persons such as by reason of their race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.[8]

10. The availability or absence of legal assistance often determines whether or not a person can access the relevant proceedings or participate in them in a meaningful way. While article 14 explicitly addresses the guarantee of legal assistance in criminal proceedings in paragraph 3 (d), States are encouraged to provide free legal aid in other cases, for individuals who do not have sufficient means to pay for it. In some cases, they may even be obliged to do so. For instance, where a person sentenced to death seeks available constitutional review of irregularities in a criminal trial but does not have

sufficient means to meet the costs of legal assistance in order to pursue such remedy, the State is obliged to provide legal assistance in accordance with article 14, paragraph 1, in conjunction with the right to an effective remedy as enshrined in article 2, paragraph 3 of the Covenant.[9]

11. Similarly, the imposition of fees on the parties to proceedings that would de facto prevent their access to justice might give rise to issues under article 14, paragraph 1.[10] In particular, a rigid duty under law to award costs to a winning party without consideration of the implications thereof or without providing legal aid may have a deterrent effect on the ability of persons to pursue the vindication of their rights under the Covenant in proceedings available to them.[11]

12. The right of equal access to a court, embodied in article 14, paragraph 1, concerns access to first instance procedures and does not address the issue of the right to appeal or other remedies.[12]

13. The right to equality before courts and tribunals also ensures equality of arms. This means that the same procedural rights are to be provided to all the parties unless distinctions are based on law and can be justified on objective and reasonable grounds, not entailing actual disadvantage or other unfairness to the defendant.[13] There is no equality of arms if, for instance, only the prosecutor, but not the defendant, is allowed to appeal a certain decision.[14] The principle of equality between parties applies also to civil proceedings, and demands, inter alia, that each side be given the opportunity to contest all the arguments and evidence adduced by the other party.[15] In exceptional cases, it also might require that the free assistance of an interpreter be provided where otherwise an indigent party could not participate in the proceedings on equal terms or witnesses produced by it be examined.

14. Equality before courts and tribunals also requires that similar cases are dealt with in similar proceedings. If, for example, exceptional criminal procedures or specially constituted courts or tribunals apply in the determination of certain categories of cases,[16] objective and reasonable grounds must be provided to justify the distinction.

III. FAIR AND PUBLIC HEARING BY A COMPETENT, INDEPENDENT AND IMPARTIAL TRIBUNAL

15. The right to a fair and public hearing by a competent, independent and impartial tribunal established by law is guaranteed, according to the second sentence of article 14, paragraph 1, in cases regarding the determination of criminal charges against individuals or of their rights and obligations in a suit at law. Criminal charges relate in principle to acts declared to be punishable under domestic criminal law. The notion may also extend to acts that are criminal in nature with sanctions that, regardless of their qualification in domestic law, must be regarded as penal because of their purpose, character or severity.[17]

16. The concept of determination of rights and obligations “in a suit at law” (*de caractère civil/de carácter civil*) is more complex. It is formulated differently in the various languages of the Covenant that, according to article 53 of the Covenant, are equally authentic, and the *travaux préparatoires* do not resolve the discrepancies in the

various language texts. The Committee notes that the concept of a "suit at law" or its equivalents in other language texts is based on the nature of the right in question rather than on the status of one of the parties or the particular forum provided by domestic legal systems for the determination of particular rights.[18] The concept encompasses (a) judicial procedures aimed at determining rights and obligations pertaining to the areas of contract, property and torts in the area of private law, as well as (b) equivalent notions in the area of administrative law such as the termination of employment of civil servants for other than disciplinary reasons,[19] the determination of social security benefits[20] or the pension rights of soldiers,[21] or procedures regarding the use of public land[22] or the taking of private property. In addition, it may (c) cover other procedures which, however, must be assessed on a case by case basis in the light of the nature of the right in question.

17. On the other hand, the right to access a court or tribunal as provided for by article 14, paragraph 1, second sentence, does not apply where domestic law does not grant any entitlement to the person concerned. For this reason, the Committee held this provision to be inapplicable in cases where domestic law did not confer any right to be promoted to a higher position in the civil service,[23] to be appointed as a judge[24] or to have a death sentence commuted by an executive body.[25] Furthermore, there is no determination of rights and obligations in a suit at law where the persons concerned are confronted with measures taken against them in their capacity as persons subordinated to a high degree of administrative control, such as disciplinary measures not amounting to penal sanctions being taken against a civil servant,[26] a member of the armed forces, or a prisoner. This guarantee furthermore does not apply to extradition, expulsion and deportation procedures.[27] Although there is no right of access to a court or tribunal as provided for by article 14, paragraph 1, second sentence, in these and similar cases, other procedural guarantees may still apply.[28]

18. The notion of a "tribunal" in article 14, paragraph 1 designates a body, regardless of its denomination, that is established by law, is independent of the executive and legislative branches of government or enjoys in specific cases judicial independence in deciding legal matters in proceedings that are judicial in nature. Article 14, paragraph 1, second sentence, guarantees access to such tribunals to all who have criminal charges brought against them. This right cannot be limited, and any criminal conviction by a body not constituting a tribunal is incompatible with this provision. Similarly, whenever rights and obligations in a suit at law are determined, this must be done at least at one stage of the proceedings by a tribunal within the meaning of this sentence. The failure of a State party to establish a competent tribunal to determine such rights and obligations or to allow access to such a tribunal in specific cases would amount to a violation of article 14 if such limitations are not based on domestic legislation, are not necessary to pursue legitimate aims such as the proper administration of justice, or are based on exceptions from jurisdiction deriving from international law such, for example, as immunities, or if the access left to an individual would be limited to an extent that would undermine the very essence of the right.

19. The requirement of competence, independence and impartiality of a tribunal in the sense of article 14, paragraph 1, is an absolute right that is not subject to any exception.[29] The requirement of independence refers, in particular, to the procedure and qualifications for the appointment of judges, and guarantees relating to their security of

tenure until a mandatory retirement age or the expiry of their term of office, where such exist, the conditions governing promotion, transfer, suspension and cessation of their functions, and the actual independence of the judiciary from political interference by the executive branch and legislature. States should take specific measures guaranteeing the independence of the judiciary, protecting judges from any form of political influence in their decision-making through the constitution or adoption of laws establishing clear procedures and objective criteria for the appointment, remuneration, tenure, promotion, suspension and dismissal of the members of the judiciary and disciplinary sanctions taken against them.[30] A situation where the functions and competencies of the judiciary and the executive are not clearly distinguishable or where the latter is able to control or direct the former is incompatible with the notion of an independent tribunal.[31] It is necessary to protect judges against conflicts of interest and intimidation. In order to safeguard their independence, the status of judges, including their term of office, their independence, security, adequate remuneration, conditions of service, pensions and the age of retirement shall be adequately secured by law.

20. Judges may be dismissed only on serious grounds of misconduct or incompetence, in accordance with fair procedures ensuring objectivity and impartiality set out in the constitution or the law. The dismissal of judges by the executive, e.g. before the expiry of the term for which they have been appointed, without any specific reasons given to them and without effective judicial protection being available to contest the dismissal is incompatible with the independence of the judiciary.[32] The same is true, for instance, for the dismissal by the executive of judges alleged to be corrupt, without following any of the procedures provided for by the law.[33]

21. The requirement of impartiality has two aspects. First, judges must not allow their judgement to be influenced by personal bias or prejudice, nor harbour preconceptions about the particular case before them, nor act in ways that improperly promote the interests of one of the parties to the detriment of the other.[34] Second, the tribunal must also appear to a reasonable observer to be impartial. For instance, a trial substantially affected by the participation of a judge who, under domestic statutes, should have been disqualified cannot normally be considered to be impartial.[35]

22. The provisions of article 14 apply to all courts and tribunals within the scope of that article whether ordinary or specialized, civilian or military. The Committee notes the existence, in many countries, of military or special courts which try civilians. While the Covenant does not prohibit the trial of civilians in military or special courts, it requires that such trials are in full conformity with the requirements of article 14 and that its guarantees cannot be limited or modified because of the military or special character of the court concerned. The Committee also notes that the trial of civilians in military or special courts may raise serious problems as far as the equitable, impartial and independent administration of justice is concerned. Therefore, it is important to take all necessary measures to ensure that such trials take place under conditions which genuinely afford the full guarantees stipulated in article 14. Trials of civilians by military or special courts should be exceptional,[36] i.e. limited to cases where the State party can show that resorting to such trials is necessary and justified by objective and serious reasons, and where with regard to the specific class of individuals and offences at issue the regular civilian courts are unable to undertake the trials.[37]

23. Some countries have resorted to special tribunals of "faceless judges" composed of anonymous judges, e.g. within measures taken to fight terrorist activities. Such courts, even if the identity and status of such judges has been verified by an independent authority, often suffer not only from the fact that the identity and status of the judges is not made known to the accused persons but also from irregularities such as exclusion of the public or even the accused or their representatives[38] from the proceedings;[39] restrictions of the right to a lawyer of their own choice;[40] severe restrictions or denial of the right to communicate with their lawyers, particularly when held incommunicado;[41] threats to the lawyers;[42] inadequate time for preparation of the case;[43] or severe restrictions or denial of the right to summon and examine or have examined witnesses, including prohibitions on cross-examining certain categories of witnesses, e.g. police officers responsible for the arrest and interrogation of the defendant.[44] Tribunals with or without faceless judges, in circumstances such as these, do not satisfy basic standards of fair trial and, in particular, the requirement that the tribunal must be independent and impartial.[45]

24. Article 14 is also relevant where a State, in its legal order, recognizes courts based on customary law, or religious courts, to carry out or entrusts them with judicial tasks. It must be ensured that such courts cannot hand down binding judgments recognized by the State, unless the following requirements are met: proceedings before such courts are limited to minor civil and criminal matters, meet the basic requirements of fair trial and other relevant guarantees of the Covenant, and their judgments are validated by State courts in light of the guarantees set out in the Covenant and can be challenged by the parties concerned in a procedure meeting the requirements of article 14 of the Covenant. These principles are notwithstanding the general obligation of the State to protect the rights under the Covenant of any persons affected by the operation of customary and religious courts.

25. The notion of fair trial includes the guarantee of a fair and public hearing. Fairness of proceedings entails the absence of any direct or indirect influence, pressure or intimidation or intrusion from whatever side and for whatever motive. A hearing is not fair if, for instance, the defendant in criminal proceedings is faced with the expression of a hostile attitude from the public or support for one party in the courtroom that is tolerated by the court, thereby impinging on the right to defence,[46] or is exposed to other manifestations of hostility with similar effects. Expressions of racist attitudes by a jury[47] that are tolerated by the tribunal, or a racially biased jury selection are other instances which adversely affect the fairness of the procedure.

26. Article 14 guarantees procedural equality and fairness only and cannot be interpreted as ensuring the absence of error on the part of the competent tribunal.[48] It is generally for the courts of States parties to the Covenant to review facts and evidence, or the application of domestic legislation, in a particular case, unless it can be shown that such evaluation or application was clearly arbitrary or amounted to a manifest error or denial of justice, or that the court otherwise violated its obligation of independence and impartiality.[49] The same standard applies to specific instructions to the jury by the judge in a trial by jury.[50]

27. An important aspect of the fairness of a hearing is its expeditiousness. While the issue of undue delays in criminal proceedings is explicitly addressed in paragraph 3 (c)

of article 14, delays in civil proceedings that cannot be justified by the complexity of the case or the behaviour of the parties detract from the principle of a fair hearing enshrined in paragraph 1 of this provision.[51] Where such delays are caused by a lack of resources and chronic under-funding, to the extent possible supplementary budgetary resources should be allocated for the administration of justice.[52]

28. All trials in criminal matters or related to a suit at law must in principle be conducted orally and publicly. The publicity of hearings ensures the transparency of proceedings and thus provides an important safeguard for the interest of the individual and of society at large. Courts must make information regarding the time and venue of the oral hearings available to the public and provide for adequate facilities for the attendance of interested members of the public, within reasonable limits, taking into account, inter alia, the potential interest in the case and the duration of the oral hearing.[53] The requirement of a public hearing does not necessarily apply to all appellate proceedings which may take place on the basis of written presentations,[54] or to pretrial decisions made by prosecutors and other public authorities.[55]

29. Article 14, paragraph 1, acknowledges that courts have the power to exclude all or part of the public for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would be prejudicial to the interests of justice. Apart from such exceptional circumstances, a hearing must be open to the general public, including members of the media, and must not, for instance, be limited to a particular category of persons. Even in cases in which the public is excluded from the trial, the judgment, including the essential findings, evidence and legal reasoning must be made public, except where the interest of juvenile persons otherwise requires, or the proceedings concern matrimonial disputes or the guardianship of children.

IV. PRESUMPTION OF INNOCENCE

30. According to article 14, paragraph 2 everyone charged with a criminal offence shall have the right to be presumed innocent until proven guilty according to law. The presumption of innocence, which is fundamental to the protection of human rights, imposes on the prosecution the burden of proving the charge, guarantees that no guilt can be presumed until the charge has been proved beyond reasonable doubt, ensures that the accused has the benefit of doubt, and requires that persons accused of a criminal act must be treated in accordance with this principle. It is a duty for all public authorities to refrain from prejudging the outcome of a trial, e.g. by abstaining from making public statements affirming the guilt of the accused.[56] Defendants should normally not be shackled or kept in cages during trials or otherwise presented to the court in a manner indicating that they may be dangerous criminals. The media should avoid news coverage undermining the presumption of innocence. Furthermore, the length of pretrial detention should never be taken as an indication of guilt and its degree.[57] The denial of bail[58] or findings of liability in civil proceedings[59] do not affect the presumption of innocence.

V. RIGHTS OF PERSONS CHARGED WITH A CRIMINAL OFFENCE

31. The right of all persons charged with a criminal offence to be informed promptly and in detail in a language which they understand of the nature and cause of criminal charges brought against them, enshrined in paragraph 3 (a), is the first of the minimum guarantees in criminal proceedings of article 14. This guarantee applies to all cases of criminal charges, including those of persons not in detention, but not to criminal investigations preceding the laying of charges.[60] Notice of the reasons for an arrest is separately guaranteed in article 9, paragraph 2 of the Covenant.[61] The right to be informed of the charge "promptly" requires that information be given as soon as the person concerned is formally charged with a criminal offence under domestic law,[62] or the individual is publicly named as such. The specific requirements of subparagraph 3 (a) may be met by stating the charge either orally - if later confirmed in writing - or in writing, provided that the information indicates both the law and the alleged general facts on which the charge is based. In the case of trials in absentia, article 14, paragraph 3 (a) requires that, notwithstanding the absence of the accused, all due steps have been taken to inform accused persons of the charges and to notify them of the proceedings.[63]

32. Subparagraph 3 (b) provides that accused persons must have adequate time and facilities for the preparation of their defence and to communicate with counsel of their own choosing. This provision is an important element of the guarantee of a fair trial and an application of the principle of equality of arms.[64] In cases of an indigent defendant, communication with counsel might only be assured if a free interpreter is provided during the pretrial and trial phase.[65] What counts as "adequate time" depends on the circumstances of each case. If counsel reasonably feel that the time for the preparation of the defence is insufficient, it is incumbent on them to request the adjournment of the trial.[66] A State party is not to be held responsible for the conduct of a defence lawyer, unless it was, or should have been, manifest to the judge that the lawyer's behaviour was incompatible with the interests of justice.[67] There is an obligation to grant reasonable requests for adjournment, in particular, when the accused is charged with a serious criminal offence and additional time for preparation of the defence is needed.[68]

33. "Adequate facilities" must include access to documents and other evidence; this access must include all materials[69] that the prosecution plans to offer in court against the accused or that are exculpatory. Exculpatory material should be understood as including not only material establishing innocence but also other evidence that could assist the defence (e.g. indications that a confession was not voluntary). In cases of a claim that evidence was obtained in violation of article 7 of the Covenant, information about the circumstances in which such evidence was obtained must be made available to allow an assessment of such a claim. If the accused does not speak the language in which the proceedings are held, but is represented by counsel who is familiar with the language, it may be sufficient that the relevant documents in the case file are made available to counsel.[70]

34. The right to communicate with counsel requires that the accused is granted prompt access to counsel. Counsel should be able to meet their clients in private and to communicate with the accused in conditions that fully respect the confidentiality of their communications.[71] Furthermore, lawyers should be able to advise and to represent

persons charged with a criminal offence in accordance with generally recognised professional ethics without restrictions, influence, pressure or undue interference from any quarter.

35. The right of the accused to be tried without undue delay, provided for by article 14, paragraph 3 (c), is not only designed to avoid keeping persons too long in a state of uncertainty about their fate and, if held in detention during the period of the trial, to ensure that such deprivation of liberty does not last longer than necessary in the circumstances of the specific case, but also to serve the interests of justice. What is reasonable has to be assessed in the circumstances of each case,[72] taking into account mainly the complexity of the case, the conduct of the accused, and the manner in which the matter was dealt with by the administrative and judicial authorities. In cases where the accused are denied bail by the court, they must be tried as expeditiously as possible.[73] This guarantee relates not only to the time between the formal charging of the accused and the time by which a trial should commence, but also the time until the final judgement on appeal.[74] All stages, whether in first instance or on appeal must take place "without undue delay".

36. Article 14, paragraph 3 (d) contains three distinct guarantees. First, the provision requires that accused persons are entitled to be present during their trial. Proceedings in the absence of the accused may in some circumstances be permissible in the interest of the proper administration of justice, i.e. when accused persons, although informed of the proceedings sufficiently in advance, decline to exercise their right to be present. Consequently, such trials are only compatible with article 14, paragraph 3 (d) if the necessary steps are taken to summon accused persons in a timely manner and to inform them beforehand about the date and place of their trial and to request their attendance.[75]

37. Second, the right of all accused of a criminal charge to defend themselves in person or through legal counsel of their own choosing and to be informed of this right, as provided for by article 14, paragraph 3 (d), refers to two types of defence which are not mutually exclusive. Persons assisted by a lawyer have the right to instruct their lawyer on the conduct of their case, within the limits of professional responsibility, and to testify on their own behalf. At the same time, the wording of the Covenant is clear in all official languages, in that it provides for a defence to be conducted in person "or" with legal assistance of one's own choosing, thus providing the possibility for the accused to reject being assisted by any counsel. This right to defend oneself without a lawyer is, however not absolute. The interests of justice may, in the case of a specific trial, require the assignment of a lawyer against the wishes of the accused, particularly in cases of persons substantially and persistently obstructing the proper conduct of trial, or facing a grave charge but being unable to act in their own interests, or where this is necessary to protect vulnerable witnesses from further distress or intimidation if they were to be questioned by the accused. However, any restriction of the wish of accused persons to defend themselves must have an objective and sufficiently serious purpose and not go beyond what is necessary to uphold the interests of justice. Therefore, domestic law should avoid any absolute bar against the right to defend oneself in criminal proceedings without the assistance of counsel.[76]

38. Third, article 14, paragraph 3 (d) guarantees the right to have legal assistance assigned to accused persons whenever the interests of justice so require, and without

payment by them in any such case if they do not have sufficient means to pay for it. The gravity of the offence is important in deciding whether counsel should be assigned "in the interest of justice"[77] as is the existence of some objective chance of success at the appeals stage.[78] In cases involving capital punishment, it is axiomatic that the accused must be effectively assisted by a lawyer at all stages of the proceedings.[79] Counsel provided by the competent authorities on the basis of this provision must be effective in the representation of the accused. Unlike in the case of privately retained lawyers,[80] blatant misbehaviour or incompetence, for example the withdrawal of an appeal without consultation in a death penalty case,[81] or absence during the hearing of a witness in such cases[82] may entail the responsibility of the State concerned for a violation of article 14, paragraph 3 (d), provided that it was manifest to the judge that the lawyer's behaviour was incompatible with the interests of justice.[83] There is also a violation of this provision if the court or other relevant authorities hinder appointed lawyers from fulfilling their task effectively.[84]

39. Paragraph 3 (e) of article 14 guarantees the right of accused persons to examine, or have examined, the witnesses against them and to obtain the attendance and examination of witnesses on their behalf under the same conditions as witnesses against them. As an application of the principle of equality of arms, this guarantee is important for ensuring an effective defence by the accused and their counsel and thus guarantees the accused the same legal powers of compelling the attendance of witnesses and of examining or cross-examining any witnesses as are available to the prosecution. It does not, however, provide an unlimited right to obtain the attendance of any witness requested by the accused or their counsel, but only a right to have witnesses admitted that are relevant for the defence, and to be given a proper opportunity to question and challenge witnesses against them at some stage of the proceedings. Within these limits, and subject to the limitations on the use of statements, confessions and other evidence obtained in violation of article 7,[85] it is primarily for the domestic legislatures of States parties to determine the admissibility of evidence and how their courts assess it.

40. The right to have the free assistance of an interpreter if the accused cannot understand or speak the language used in court as provided for by article 14, paragraph 3 (f) enshrines another aspect of the principles of fairness and equality of arms in criminal proceedings.[86] This right arises at all stages of the oral proceedings. It applies to aliens as well as to nationals. However, accused persons whose mother tongue differs from the official court language are, in principle, not entitled to the free assistance of an interpreter if they know the official language sufficiently to defend themselves effectively.[87]

41. Finally, article 14, paragraph 3 (g), guarantees the right not to be compelled to testify against oneself or to confess guilt. This safeguard must be understood in terms of the absence of any direct or indirect physical or undue psychological pressure from the investigating authorities on the accused, with a view to obtaining a confession of guilt. A fortiori, it is unacceptable to treat an accused person in a manner contrary to article 7 of the Covenant in order to extract a confession.[88] Domestic law must ensure that statements or confessions obtained in violation of article 7 of the Covenant are excluded from the evidence, except if such material is used as evidence that torture or other

treatment prohibited by this provision occurred,[89] and that in such cases the burden is on the State to prove that statements made by the accused have been given of their own free will.[90]

VI. JUVENILE PERSONS

42. Article 14, paragraph 4, provides that in the case of juvenile persons, procedures should take account of their age and the desirability of promoting their rehabilitation. Juveniles are to enjoy at least the same guarantees and protection as are accorded to adults under article 14 of the Covenant. In addition, juveniles need special protection. In criminal proceedings they should, in particular, be informed directly of the charges against them and, if appropriate, through their parents or legal guardians, be provided with appropriate assistance in the preparation and presentation of their defence; be tried as soon as possible in a fair hearing in the presence of legal counsel, other appropriate assistance and their parents or legal guardians, unless it is considered not to be in the best interest of the child, in particular taking into account their age or situation. Detention before and during the trial should be avoided to the extent possible.[91]

43. States should take measures to establish an appropriate juvenile criminal justice system, in order to ensure that juveniles are treated in a manner commensurate with their age. It is important to establish a minimum age below which children and juveniles shall not be put on trial for criminal offences; that age should take into account their physical and mental immaturity.

44. Whenever appropriate, in particular where the rehabilitation of juveniles alleged to have committed acts prohibited under penal law would be fostered, measures other than criminal proceedings, such as mediation between the perpetrator and the victim, conferences with the family of the perpetrator, counselling or community service or educational programmes, should be considered, provided they are compatible with the requirements of this Covenant and other relevant human rights standards.

VII. REVIEW BY A HIGHER TRIBUNAL

45. Article 14, paragraph 5 of the Covenant provides that anyone convicted of a crime shall have the right to have their conviction and sentence reviewed by a higher tribunal according to law. As the different language versions (crime, *infraction*, *delito*) show, the guarantee is not confined to the most serious offences. The expression "according to law" in this provision is not intended to leave the very existence of the right of review to the discretion of the States parties, since this right is recognised by the Covenant, and not merely by domestic law. The term according to law rather relates to the determination of the modalities by which the review by a higher tribunal is to be carried out,[92] as well as which court is responsible for carrying out a review in accordance with the Covenant. Article 14, paragraph 5 does not require States parties to provide for several instances of appeal.[93] However, the reference to domestic law in this provision is to be interpreted to mean that if domestic law provides for further instances of appeal, the convicted person must have effective access to each of them.[94]

46. Article 14, paragraph 5 does not apply to procedures determining rights and obligations in a suit at law[95] or any other procedure not being part of a criminal appeal process, such as constitutional motions.[96]

47. Article 14, paragraph 5 is violated not only if the decision by the court of first instance is final, but also where a conviction imposed by an appeal court[97] or a court of final instance,[98] following acquittal by a lower court, according to domestic law, cannot be reviewed by a higher court. Where the highest court of a country acts as first and only instance, the absence of any right to review by a higher tribunal is not offset by the fact of being tried by the supreme tribunal of the State party concerned; rather, such a system is incompatible with the Covenant, unless the State party concerned has made a reservation to this effect.[99]

48. The right to have one's conviction and sentence reviewed by a higher tribunal established under article 14, paragraph 5, imposes on the State party a duty to review substantively, both on the basis of sufficiency of the evidence and of the law, the conviction and sentence, such that the procedure allows for due consideration of the nature of the case.[100] A review that is limited to the formal or legal aspects of the conviction without any consideration whatsoever of the facts is not sufficient under the Covenant.[101] However, article 14, paragraph 5 does not require a full retrial or a "hearing",[102] as long as the tribunal carrying out the review can look at the factual dimensions of the case. Thus, for instance, where a higher instance court looks at the allegations against a convicted person in great detail, considers the evidence submitted at the trial and referred to in the appeal, and finds that there was sufficient incriminating evidence to justify a finding of guilt in the specific case, the Covenant is not violated.[103]

49, The right to have one's conviction reviewed can only be exercised effectively if the convicted person is entitled to have access to a duly reasoned, written judgement of the trial court, and, at least in the court of first appeal where domestic law provides for several instances of appeal,[104] also to other documents, such as trial transcripts, necessary to enjoy the effective exercise of the right to appeal.[105] The effectiveness of this right is also impaired, and article 14, paragraph 5 violated, if the review by the higher instance court is unduly delayed in violation of paragraph 3 (c) of the same provision.[106]

50. A system of supervisory review that only applies to sentences whose execution has commenced does not meet the requirements of article 14, paragraph 5, regardless of whether such review can be requested by the convicted person or is dependent on the discretionary power of a judge or prosecutor.[107]

51. The right of appeal is of particular importance in death penalty cases. A denial of legal aid by the court reviewing the death sentence of an indigent convicted person constitutes not only a violation of article 14, paragraph 3 (d), but at the same time also of article 14, paragraph 5, as in such cases the denial of legal aid for an appeal effectively precludes an effective review of the conviction and sentence by the higher instance court.[108] The right to have one's conviction reviewed is also violated if defendants are not informed of the intention of their counsel not to put any arguments to the court, thereby depriving them of the opportunity to seek alternative representation, in order that their concerns may be ventilated at the appeal level.[109]

VIII. COMPENSATION IN CASES OF MISCARRIAGE OF JUSTICE

52. According to paragraph 6 of article 14 of the Covenant, compensation according to the law shall be paid to persons who have been convicted of a criminal offence by a final decision and have suffered punishment as a consequence of such conviction, if their conviction has been reversed or they have been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice.[110] It is necessary that States parties enact legislation ensuring that compensation as required by this provision can in fact be paid and that the payment is made within a reasonable period of time.

53. This guarantee does not apply if it is proved that the non-disclosure of such a material fact in good time is wholly or partly attributable to the accused; in such cases, the burden of proof rests on the State. Furthermore, no compensation is due if the conviction is set aside upon appeal, i.e. before the judgement becomes final,[111] or by a pardon that is humanitarian or discretionary in nature, or motivated by considerations of equity, not implying that there has been a miscarriage of justice.[112]

IX. *NE BIS IN IDEM*

54. Article 14, paragraph 7 of the Covenant, providing that no one shall be liable to be tried or punished again for an offence of which they have already been finally convicted or acquitted in accordance with the law and penal procedure of each country, embodies the principle of *ne bis in idem*. This provision prohibits bringing a person, once convicted or acquitted of a certain offence, either before the same court again or before another tribunal again for the same offence; thus, for instance, someone acquitted by a civilian court cannot be tried again for the same offence by a military or special tribunal. Article 14, paragraph 7 does not prohibit retrial of a person convicted in absentia who requests it, but applies to the second conviction.

55. Repeated punishment of conscientious objectors for not having obeyed a renewed order to serve in the military may amount to punishment for the same crime if such subsequent refusal is based on the same constant resolve grounded in reasons of conscience.[113]

56. The prohibition of article 14, paragraph 7, is not at issue if a higher court quashes a conviction and orders a retrial.[114] Furthermore, it does not prohibit the resumption of a criminal trial justified by exceptional circumstances, such as the discovery of evidence which was not available or known at the time of the acquittal.

57. This guarantee applies to criminal offences only and not to disciplinary measures that do not amount to a sanction for a criminal offence within the meaning of article 14 of the Covenant.[115] Furthermore, it does not guarantee *ne bis in idem* with respect to the national jurisdictions of two or more States.[116] This understanding should not, however, undermine efforts by States to prevent retrial for the same criminal offence through international conventions.[117]

X. RELATIONSHIP OF ARTICLE 14 WITH OTHER PROVISIONS OF THE COVENANT

58. As a set of procedural guarantees, article 14 of the Covenant often plays an important role in the implementation of the more substantive guarantees of the Covenant that must be taken into account in the context of determining criminal charges and rights and obligations of a person in a suit at law. In procedural terms, the relationship with the right to an effective remedy provided for by article 2, paragraph 3 of the Covenant is relevant. In general, this provision needs to be respected whenever any guarantee of article 14 has been violated.[118] However, as regards the right to have one's conviction and sentence reviewed by a higher tribunal, article 14, paragraph 5 of the Covenant is a *lex specialis* in relation to article 2, paragraph 3 when invoking the right to access a tribunal at the appeals level.[119]

59. In cases of trials leading to the imposition of the death penalty scrupulous respect of the guarantees of fair trial is particularly important. The imposition of a sentence of death upon conclusion of a trial, in which the provisions of article 14 of the Covenant have not been respected, constitutes a violation of the right to life (article 6 of the Covenant).[120]

60. To ill-treat persons against whom criminal charges are brought and to force them to make or sign, under duress, a confession admitting guilt violate**s** both article 7 of the Covenant prohibiting torture and inhuman, cruel or degrading treatment and article 14, paragraph 3 (g) prohibiting compulsion to testify against oneself or confess guilt.[121]

61. If someone suspected of a crime and detained on the basis of article 9 of the Covenant is charged with an offence but not brought to trial, the prohibitions of unduly delaying trials as provided for by articles 9, paragraph 3, and 14, paragraph 3 (c) of the Covenant may be violated at the same time.[122]

62. The procedural guarantees of article 13 of the Covenant incorporate notions of due process also reflected in article 14[123] and thus should be interpreted in the light of this latter provision. Insofar as domestic law entrusts a judicial body with the task of deciding about expulsions or deportations, the guarantee of equality of all persons before the courts and tribunals as enshrined in article 14, paragraph 1, and the principles of impartiality, fairness and equality of arms implicit in this guarantee are applicable.[124] All relevant guarantees of article 14, however, apply where expulsion takes the form of a penal sanction or where violations of expulsion orders are punished under criminal law.

63. The way criminal proceedings are handled may affect the exercise and enjoyment of rights and guarantees of the Covenant unrelated to article 14. Thus, for instance, to keep pending, for several years, indictments for the criminal offence of defamation brought against a journalist for having published certain articles, in violation of article 14, paragraph 3 (c), may leave the accused in a situation of uncertainty and intimidation and thus have a chilling effect which unduly restricts the exercise of his right to freedom of expression (article 19 of the Covenant).[125] Similarly, delays of criminal proceedings for several years in contravention of article 14, paragraph 3 (c),

may violate the right of a person to leave one's own country as guaranteed in article 12, paragraph 2 of the Covenant, if the accused has to remain in that country as long as proceedings are pending.[126]

64. As regards the right to have access to public service on general terms of equality as provided for in article 25 (c) of the Covenant, a dismissal of judges in violation of this provision may amount to a violation of this guarantee, read in conjunction with article 14, paragraph 1 providing for the independence of the judiciary.[127]

65. Procedural laws or their application that make distinctions based on any of the criteria listed in article 2, paragraph 1 or article 26, or disregard the equal right of men and women, in accor with article 3, to the enjoyment of the guarantees set forth in article 14 of the Covenant, not only violate the requirement of paragraph 1 of this provision that "all persons shall be equal before the courts and tribunals," but may also amount to discrimination.[128]

Notes

[1] General comment No. 24 (52) on issues relating to reservations made upon ratification or accession to the Covenant or the Optional Protocols thereto, or in relation to declarations under article 41 of the Covenant, para. 8, adopted on 2 November 1994, reproduced in *Official Records of the General Assembly, fiftieth session, Supplement No. 40* (A/50/40), annex V. para. 8.

[2] General comment No. 29 (72) on article 4: Derogations during a state of emergency, para. 15.

[3] Ibid, paras. 7 and 15.

[4] Cf. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, article 15.

[5] General comment No. 29 (*supra*, note 2), para. 11.

[6] Communication No. 1015/2001, *Perterer v. Austria,* para. 9.2 (disciplinary proceedings against a civil servant); communication No. 961/2000, *Everett v. Spain*, para. 6.4 (extradition).

[7] Communication No. 468/1991, *Oló Bahamonde v. Equatorial Guinea,* para. 9.4.

[8] Communication No. 202/1986, *Ato del Avellanal v. Peru*, para. 10.2 (limitation of the right to represent matrimonial property before courts to the husband, thus excluding married women from suing in court). See also general comment No. 18 (37) on non-discrimination, adopted on 9 November 1989, reproduced in *Official Records of the General Assembly, forty-fifth session, Supplement No. 40* (A/45/40), annex VI, para. 7.

[9] Communications No. 377/1989, *Currie v. Jamaica*, para. 13.4; No. 704/1996, *Shaw v. Jamaica*, para. 7.6; No. 707/1996, *Taylor v. Jamaica*, para. 8.2; No. 752/1997, *Henry v. Trinidad and Tobago*, para. 7.6; No. 845/1998, *Kennedy v. Trinidad and Tobago*, para. 7.10.

[10] Communication No. 646/1995, *Lindon v. Australia*, para. 6.4.

[11] Communication No. 779/1997, *Äärelä and Näkkäläjärvi v. Finland*, para. 7.2.

[12] Communication No. 450/1991, *I.P. v. Finland,* para. 6.2.

[13] Communication No. 1347/2005, *Dudko v. Australia,* para. 7.4.

[14] Communication No. 1086/2002, *Weiss v. Austria,* para. 9.6. For another example of a violation of the principle of equality of arms see Communication No. 223/1987, *Robinson v. Jamaica*, para. 10.4 (adjournment of hearing).

[15] Communication No. 846/1999, *Jansen-Gielen v. The Netherlands*, para. 8.2 and No. 779/1997, *Äärelä and Näkkäläjärvi v. Finland*, para. 7.4.

[16] E.g. if jury trials are excluded for certain categories of offenders (see concluding observations, *United Kingdom of Great Britain and Northern Ireland,* (CCPR/CO/73/UK), para. 18) or offences.

[17] Communication No. 1015/2001*, Perterer v. Austria,* para. 9.2.

[18] Communication No. 112/1981, *Y.L. v. Canada*, paras. 9.1 and 9.2.

[19] Communication No. 441/1990, *Casanovas v. France*, para. 5.2.

[20] Communication No. 454/1991, *Garcia Pons v. Spain*, para. 9.3

[21] Communication No. 112/1981, *Y.L. v. Canada*, para. 9.3.

[22] Communication No. 779/1997, *Äärelä and Näkkäläjätvi v. Finland*, paras. 7.2-7.4.

[23] Communication No. 837/1998, *Kolanowski v. Poland*, para. 6.4.

[24] Communications No. 972/2001, *Kazantzis v. Cyprus*, para. 6.5; No. 943/2000, *Jacobs v. Belgium*, para. 8.7, and No. 1396/2005, *Rivera Fernández v. Spain*, para. 6.3.

[25] Communication No. 845/1998, *Kennedy v. Trinidad and Tobago*, para. 7.4.

[26] Communication No. 1015/2001*, Perterer v. Austria,* para. 9.2 (disciplinary dismissal).

[27] Communications No. 1341/2005, *Zundel v. Canada*, para. 6.8, No. 1359/2005, *Esposito v. Spain*, para. 7.6.

[28] See para. 62 below.

[29] Communication No. 263/1987, *Gonzalez del Rio v. Peru*, para. 5.2.

[30] Concluding observations, Slovakia, CCPR/C/79/Add.79 (1997), para. 18.

[31] Communication No. 468/1991, *Oló Bahamonde v. Equatorial Guinea*, para. 9.4.

[32] Communication No. 814/1998, *Pastukhov v. Belarus*, para. 7.3.

[33] Communication No. 933/2000, *Mundyo Busyo et al v. Democratic Republic of Congo*, para. 5.2.

[34] Communication No. 387/1989, *Karttunen v. Finland*, para. 7.2.

[35] Idem.

[36] Also see Convention relative to the Protection of Civilian Persons in Time of War of 12 August 1949, art. 64, and general comment No. 31 (80) on the nature of the general legal obligation imposed on States parties to the Covenant, adopted on 29 March 2004, reproduced in *Official Records of the General Assembly, fifty-ninth session, Supplement No. 40* (A/59/40), annex III, para. 11.

[37] See communication No. 1172/2003, *Madani v. Algeria,* para. 8.7.

[38] Communication No. 1298/2004, *Becerra Barney v. Colombia*, para. 7.2.

[39] Communications No. 577/1994, *Polay Campos v. Peru*, para. 8.8; No. 678/1996, *Gutiérrez Vivanco v. Peru*, para. 7.1; No. 1126/2002, *Carranza Alegre v. Peru*, para. 7.5.

[40] Communication No. 678/1996, *Gutiérrez Vivanco v. Peru*, para. 7.1.

[41] Communication No. 577/1994, *Polay Campos v. Peru*, para. 8.8; communication No. 1126/2002, *Carranza Alegre v. Peru*, para. 7.5.

[42] Communication No. 1058/2002, *Vargas Mas v. Peru*, para. 6.4.

[43] Communication No. 1125/2002, *Quispe Roque v. Peru*, para. 7.3.

[44] Communication No. 678/1996, *Gutiérrez Vivanco v. Peru*, para. 7.1; communication No. 1126/2002, *Carranza Alegre v. Peru*, para. 7.5; communication No. 1125/2002, *Quispe Roque v. Peru*, para. 7.3; communication No. 1058/2002, *Vargas Mas v. Peru*, para. 6.4.

[45] Communications No. 577/1994, *Polay Campos v. Peru*, para. 8.8 ; No. 678/1996, *Gutiérrez Vivanco v. Peru*, para. 7.1.

[46] Communication No. 770/1997, *Gridin v. Russian Federation*, para. 8.2.

[47] See Committee on the Elimination of Racial Discrimination, communication No. 3/1991, *Narrainen v. Norway,* para. 9.3.

[48] Communications No. 273/1988, *B.d.B. v. The Netherlands*, para. 6.3; No. 1097/2002, *Martínez Mercader et al v. Spain*, para. 6.3.

[49] Communication No. 1188/2003, *Riedl-Riedenstein et al. v. Germany*, para. 7.3; No. 886/1999, *Bondarenko v. Belarus*, para. 9.3; No. 1138/2002, *Arenz et al. v. Germany*, admissibility decision, para. 8.6.

[50] Communication No. 253/1987, *Kelly v. Jamaica,* para. 5.13; No. 349/1989, *Wright v. Jamaica*, para. 8.3.

[51] Communication No. 203/1986, *Mũnoz Hermoza v. Peru*, para. 11.3 ; No. 514/1992, *Fei v. Colombia*, para. 8.4.

[52] See e.g. Concluding observations, *Democratic Republic of Congo* (CCPR/C/COD/CO/3), para. 21, and *Central African Republic* (CCPR//C/CAF/CO/2), para. 16.

[53] Communication No. 215/1986, *Van Meurs v. The Netherlands*, para. 6.2.

[54] Communication No. 301/1988, *R.M. v. Finland*, para. 6.4.

[55] Communication No. 819/1998, *Kavanagh v. Ireland*, para. 10.4.

[56] Communication No. 770/1997, *Gridin v. Russian Federation*, paras. 3.5 and 8.3.

[57] On the relationship between article 14, paragraph 2, and article 9 of the Covenant (pretrial detention) see, e.g. concluding observations, Italy (CCPR/C/ITA/CO/5), para. 14, and Argentina (CCPR/CO/70/ARG), para. 10.

[58] Communication No. 788/1997, *Cagas, Butin and Astillero v. Philippines*, para. 7.3.

[59] Communication No. 207/1986, *Morael v. France*, para. 9.5; No. 408/1990, *W.J.H. v. The Netherlands*, para. 6.2; No. 432/1990, *W.B.E. v. The Netherlands*, para. 6.6.

[60] Communication No. 1056/2002, *Khachatrian v. Armenia*, para. 6.4.

[61] Communication No. 253/1987, *Kelly v. Jamaica*, para. 5.8.

[62] Communications No. 1128/2002, *Márques de Morais v. Angola*, para. 5.4 and 253/1987, *Kelly v. Jamaica*, para. 5.8.

[63] Communication No. 16/1977, *Mbenge v. Zaire*, para. 14.1.

[64] Communications No. 282/1988, *Smith v. Jamaica ,* para. 10.4; Nos. 226/1987 and 256/1987, *Sawyers, Mclean and Mclean v. Jamaica*, para. 13.6.

[65] See communication No. 451/1991, *Harward v. Norway*, para. 9.5.

[66] Communication No. 1128/2002, *Morais v. Angola*, para. 5.6. Similarly Communications No. 349/1989, *Wright v. Jamaica*, para. 8.4; No. 272/1988, *Thomas v. Jamaica,* para. 11.4; No. 230/87, *Henry v. Jamaica,* para. 8.2; Nos. 226/1987 and 256/1987, *Sawyers, Mclean and Mclean v. Jamaica*, para. 13.6.

[67] Communication No. 1128/2002, *Márques de Morais v. Angola*, para. 5.4.

[68] Communications No. 913/2000, *Chan v. Guyana*, para. 6.3; No. 594/1992, *Phillip v. Trinidad and Tobago*, para. 7.2.

[69] See concluding observations, Canada (CCPR/C/CAN/CO/5), para. 13.

[70] Communication No. 451/1991, *Harward v. Norway*, para. 9.5.

[71] Communications No. 1117/2002, *Khomidova v. Tajikistan*, para. 6.4; No. 907/2000, *Siragev v. Uzbekistan*, para. 6.3; No. 770/1997, *Gridin v. Russian Federation*, para. 8.5.

[72] See e.g. communication No. 818/1998, *Sextus v Trinidad and Tobago,* para. 7.2 regarding a delay of 22 months between the charging of the accused with a crime carrying the death penalty and the beginning of the trial without specific circumstances justifying the delay. In communication No. 537/1993, *Kelly v. Jamaica*, para. 5.11, an 18 months delay between charges and beginning of the trial did not violate art. 14, para. 3 (c). See also communication No. 676/1996, *Yasseen and Thomas v. Guyana*, para. 7.11 (delay of two years between a decision by the Court of Appeal and the beginning of a retrial) and communication No. 938/2000, *Siewpersaud, Sukhram, and Persaud v. Trinidad v Tobago*, para. 6.2 (total duration of criminal proceedings of almost five years in the absence of any explanation from the State party justifying the delay).

[73] Communication No. 818/1998, *Sextus v. Trinidad and Tobago,* para. 7.2.

[74] Communications No. 1089/2002, *Rouse v. Philippines,* para. 7.4; No. 1085/2002, *Taright, Touadi, Remli and Yousfi v. Algeria*, para. 8.5.

[75] Communications No. 16/1977, *Mbenge v. Zaire*, para. 14.1; No. 699/1996, *Maleki v. Italy*, para. 9.3.

[76] Communication No. 1123/2002, *Correia de Matos v. Portugal*, paras. 7.4 and 7.5.

[77] Communication No. 646/1995, *Lindon v. Australia*, para. 6.5.

[78] Communication No. 341/1988, *Z.P. v. Canada,* para. 5.4.

[79] Communications No. 985/2001, *Aliboeva v. Tajikistan*, para. 6.4; No. 964/2001, *Saidova v. Tajikistan*, para. 6.8; No. 781/1997, *Aliev v. Ukraine*, para. 7.3; No. 554/1993, *LaVende v. Trinidad and Tobago*, para. 58.

[80] Communication No. 383/1989, *H.C. v. Jamaica*, para. 6.3.

[81] Communication No. 253/1987, *Kelly v. Jamaica,* para. 9.5.

[82] Communication No. 838/1998, *Hendricks v. Guyana,* para. 6.4. For the case of an absence of an author's legal representative during the hearing of a witness in a preliminary hearing see Communication No. 775/1997, *Brown v. Jamaica*, para. 6.6.

[83] Communications No. 705/1996, *Taylor v. Jamaica*, para. 6.2 ; No. 913/2000, *Chan v. Guyana*, para. 6.2; No. 980/2001, *Hussain v. Mauritius*, para. 6.3.

[84] Communication No. 917/2000, *Arutyunyan v. Uzbekistan*, para. 6.3.

[85] See para. 6 above.

[86] Communication No. 219/1986, *Guesdon v. France*, para. 10.2.

[87] Idem.

[88] Communications No. 1208/2003, *Kurbonov v. Tajikistan,* paras. 6.2-6.4; No. 1044/2002, *Shukurova v. Tajikistan*, paras. 8.2-8.3; No. 1033/2001, *Singarasa v. Sri Lanka,* para. 7.4; No. 912/2000, *Deolall v. Guyana*, para. 5.1; No. 253/1987, *Kelly v. Jamaica,* para. 5.5.

[89] Cf. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art. 15. On the use of other evidence obtained in violation of article 7 of the Covenant, see paragraph 6 above.

[90] Communications No. 1033/2001, *Singarasa v. Sri Lanka,* para. 7.4; No. 253/1987, *Kelly v. Jamaica,* para. 7.4.

[91] See general comment No. 17 (35) on article 24 (rights of the child), adopted on 5 April 1989, reproduced in *Official Records of the General Assembly, forty-fourth session, Supplement No. 40* (A/44/40), annex VI, para. 4.

[92] Communications No. 1095/2002, *Gomaríz Valera v. Spain*, para. 7.1; No. 64/1979, *Salgar de Montejo v. Colombia*, para. 10.4.

[93] Communication No. 1089/2002, *Rouse v. Philippines,* para. 7.6.

[94] Communication No. 230/1987, *Henry v. Jamaica*, para. 8.4.

[95] Communication No. 450/1991, *I.P. v. Finland*, para. 6.2.

[96] Communication No. 352/1989, *Douglas, Gentles, Kerr v. Jamaica*, para. 11.2.

[97] Communication No. 1095/2002, *Gomariz Valera v. Spain*, para. 7.1.

[98] Communication No. 1073/2002, *Terrón v Spain*, para. 7.4.

[99] Idem.

[100] Communications No. 1100/2002, *Bandajevsky v. Belarus*, para. 10.13; No. 985/2001, *Aliboeva v. Tajikistan*, para. 6.5; No. 973/2001, *Khalilova v. Tajikistan*, para. 7.5; No. 623-627/1995, *Domukovsky et al. v. Georgia*, para. 18.11; No. 964/2001, *Saidova v. Tajikistan*, para. 6.5; No. 802/1998, *Rogerson v. Australia*, para. 7.5; No. 662/1995, *Lumley v. Jamaica*, para. 7.3.

[101] Communication No. 701/1996, *Gómez Vázquez v. Spain*, para. 11.1.

[102] Communication No. 1110/2002, *Rolando v. Philippines*, para. 4.5; No. 984/2001, *Juma v. Australia*, para. 7.5; No. 536/1993, *Perera v. Australia*, para. 6.4.

[103] E.g. communications No. 1156/2003, *Pérez Escolar v. Spain*, para. 3; No. 1389/2005, *Bertelli Gálvez v. Spain*, para. 4.5.

[104] Communications No. 903/1999, *Van Hulst v. Netherlands*, para. 6.4; No. 709/1996, *Bailey v. Jamaica*, para. 7.2; No. 663/1995, *Morrison v. Jamaica*, para. 8.5.

[105] Communication No. 662/1995, *Lumley v. Jamaica*, para. 7.5.

[106] Communications No. 845/1998, *Kennedy v. Trinidad and Tobago*, para. 7.5; No. 818/1998, *Sextus v. Trinidad and Tobago*, para. 7.3; No. 750/1997, *Daley v. Jamaica*, para. 7.4; No. 665/1995, *Brown and Parish v. Jamaica*, para. 9.5; No. 614/1995, *Thomas v. Jamaica*, para. 9.5; No. 590/1994, *Bennet v. Jamaica*, para. 10.5.

[107] Communications No. 1100/2002, *Bandajevsky v. Belarus*, para. 10.13; No. 836/1998, *Gelazauskas v. Lithuania,* para. 7.2.

[108] Communication No. 554/1993, *LaVende v. Trinidad and Tobago*, para. 5.8.

[109] See communications No. 750/1997, *Daley v Jamaica*, para. 7.5; No. 680/1996, *Gallimore v Jamaica*, para. 7.4; No. 668/1995, *Smith and Stewart v. Jamaica*, para. 7.3. See also Communication No. 928/2000, *Sooklal v. Trinidad and Tobago*, para. 4.10.

[110] Communications No. 963/2001, *Uebergang v. Australia*, para. 4.2; No. 880/1999, *Irving v. Australia*, para. 8.3; No. 408/1990, *W.J.H. v. Netherlands*, para. 6.3.

[111] Communications No. 880/1999; *Irving v. Australia*, para. 8.4; No. 868/1999, *Wilson v. Philippines*, para. 6.6.

[112] Communication No. 89/1981, *Muhonen v. Finland*, para. 11.2.

[113] See Working Group on Arbitrary Detention, Opinion No. 36/1999 (Turkey) (E./CN.4/2001/14/Add. 1), para. 9 and Opinion No. 24/2003 (Israel) (E/CN.4/2005/6/Add. 1), para. 30.

[114] Communication No. 277/1988, *Terán Jijón v. Ecuador*, para. 5.4.

[115] Communication No. 1001/2001, *Gerardus Strik v. The Netherlands*, para. 7.3.

[116] Communications No. 692/1996, *A.R.J. v. Australia*, para. 6.4; No. 204/1986, *A.P. v. Italy*, para. 7.3.

[117] See, e.g. Rome Statute of the International Criminal Court, *Official Records of the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court, Rome, 15 June-17 July 1998*, Vol. I: *Final documents* (United Nations publication, Sales No. E.02.I.5), article 20, para. 3.

[118] E.g. communications No. 1033/2001, *Singarasa v. Sri Lanka*, para. 7.4; No. 823/1998, *Czernin v. Czech Republic,* para. 7.5.

[119] Communication No. 1073/2002, *Terrón v. Spain*, para. 6.6.

[120] E.g. communications No. 1044/2002, *Shakurova v. Tajikistan,* para. 8.5 (violation of art. 14, para. 1 and 3 (b), (d) and (g)); No. 915/2000, *Ruzmetov v. Uzbekistan,* para. 7.6 (violation of art. 14, para. 1, 2 and 3 (b), (d), (e) and (g)); No. 913/2000, *Chan v. Guyana*, para. 5.4 (violation of art. 14, para. 3 (b) and (d)); No. 1167/2003, *Rayos v. Philippines*, para. 7.3 (violation of art. 14, para. 3(b)).

[121] Communications No. 1044/2002, *Shakurova v. Tajikistan,* para. 8.2; No. 915/2000, *Ruzmetov v. Uzbekistan,* paras. 7.2 and 7.3; No. 1042/2001, *Boimurodov v. Tajikistan*, para. 7.2, and many others. On the prohibition to admit evidence in violation of article 7, see paragraphs. 6 and 41 above.

[122] Communications No. 908/2000, *Evans v. Trinidad and Tobago,* para. 6.2; No. 838/1998, *Hendricks v. Guayana*, para. 6.3, and many more.

[123] Communication No. 1051/2002 *Ahani v. Canada*, para. 10.9. See also communication No. 961/2000, *Everett v. Spain,* para. 6.4 (extradition), 1438/2005, *Taghi Khadje v. Netherlands*, para. 6.3.

[124] See communication No. 961/2000, *Everett v. Spain*, para. 6.4.

[125] Communication No. 909/2000, *Mujuwana Kankanamge v. Sri Lanka*, para. 9.4.

[126] Communication No. 263/1987, *Gonzales del Rio v. Peru,* paras. 5.2 and 5.3.

[127] Communications No. 933/2000, *Mundyo Busyo et al. v. Democratic Republic of Congo,* para. 5.2; No. 814/1998, *Pastukhov v. Belarus,* para. 7.3.

[128] Communication No. 202/1986, *Ato del Avellanal v. Peru,* paras. 10.1 and 10.2.
