



## International Covenant on Civil and Political Rights

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### Human Rights Committee

### Communication No. 1882/2009

#### Views adopted by the Committee at its 111th session (7–25 July 2014)

<i>Submitted by:</i>	Al Jilani Mohamed M'hamed Al Daquel (represented by Alkarama for Human Rights)
<i>Alleged victims:</i>	Abdelhamid Al Jilani Mohamed Al Daquel (the author's son); Rabiia Mhamed Fredj (the victim's mother); Hamza Jilani Mohamed Al Daquel (the victim's brother); Abdelmoutaleb Jilani Mohamed Al Daquel (the victim's brother); Saghira Jilani Mohamed Al Daquel (the victim's sister); Ousama Jilani Mohamed Al Daquel (the victim's brother); Khaoula Jilani Mohamed Al Daquel (the victim's sister); Mohamed Jilani Mohamed Al Daquel (the victim's brother); and himself (as father of the victim)
<i>State party:</i>	Libya
<i>Date of communication:</i>	5 May 2009 (initial submission)
<i>Document reference:</i>	Special Rapporteur's rule 97 decision, transmitted to the State party on 25 June 2009 (not issued in document form)
<i>Date of decision:</i>	21 July 2014
<i>Subject matter:</i>	Enforced disappearance; death in incommunicado detention
<i>Substantive issues:</i>	Right to life; prohibition of torture and cruel and inhuman treatment; right to liberty and security of person; right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person; recognition as a person before the law and right to an



	effective remedy
<i>Procedural issues:</i>	Lack of cooperation from the State party; examination of the same matter before another procedure of international settlement
<i>Articles of the Covenant:</i>	2 (para. 3), 6 (para. 1), 7, 9 (paras. 1–4), 10 (para. 1) and 16
<i>Article of the Optional Protocol:</i>	5 (para. 2 (a))

## Annex

### Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights (111th session)

concerning

#### Communication No. 1882/2009\*

*Submitted by:* Al Jilani Mohamed M'hamed Al Daquel  
(represented by Alkarama for Human Rights)

*Alleged victims:* Abdelhamid Al Jilani Mohamed Al Daquel (the author's son); Rabiia Mhamed Fredj (the victim's mother); Hamza Jilani Mohamed Al Daquel (the victim's brother); Abdelmoutaleb Jilani Mohamed Al Daquel (the victim's brother); Saghira Jilani Mohamed Al Daquel (the victim's sister); Ousama Jilani Mohamed Al Daquel (the victim's brother); Khaoula Jilani Mohamed Al Daquel (the victim's sister); Mohamed Jilani Mohamed Al Daquel (the victim's brother); and himself (as father of the victim)

*State party:* Libya

*Date of communication:* 5 May 2009 (initial submission)

*The Human Rights Committee*, established under article 28 of the International Covenant on Civil and Political Rights,

*Meeting on 21 July 2014,*

*Having concluded* its consideration of communication No. 1882/2009, submitted on behalf of Mr. Abdelhamid Al Jilani Mohamed Al Daquel under the Optional Protocol to the International Covenant on Civil and Political Rights,

*Having taken into account* all written information made available to it by the author of the communication,

*Adopts* the following:

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\* The following members of the Committee participated in the examination of the present communication: Yadh Ben Achour, Lazhari Bouzid, Christine Chanet, Ahmad Amin Fathalla, Cornelis Flinterman, Yuji Iwasawa, Walter Kälin, Zonke Zanele Majodina, Gerald L. Neuman, Sir Nigel Rodley, Víctor Manuel Rodríguez-Rescia, Fabián Omar Salvioli, Dheerujlall Seetulsingh, Anja Seibert-Fohr, Yuval Shany, Konstantine Vardzelashvili, Margo Waterval and Andrei Paul Zlătescu.

## Views under article 5, paragraph 4, of the Optional Protocol

1. The author of the communication, dated 5 May 2009, is Al Jilani Mohamed M'hamed Al Daquel, born in Beni Walid (Libya) in 1940. He alleges that his son, Abdelhamid Al Jilani Mohamed Al Daquel (Abdelhamid Al Daquel), born on 22 March 1963, was the victim of a violation of articles 2 (para. 3), 6 (para. 1), 7, 9 (paras. 1–4), 10 (para. 1) and 16 of the Covenant by Libya. He further maintains that his wife, Rabiia Mhamed Fredj, born in 1947, his other six children<sup>1</sup> and he himself are victims of violations of articles 2 (para. 3) and 7 of the Covenant.

### The facts as presented by the author

2.1 Abdelhamid Al Daquel is a former Libyan Air Force pilot, born on 22 March 1963 in Beni Walid. On 26 January 1989 he was arrested at Fom Molghat, near Tarhouna, by several officials of the State Internal Security Agency (*al amn al-dakhili*). At the time of his arrest he was in a vehicle with three other persons: the driver, a schoolteacher from Beni Walid and an Air Force lieutenant, a pilot in the same unit as himself. The other three were arrested at the same time as the victim. The first two were held incommunicado for 2 weeks at the Security Agency premises in Tripoli and eventually released. The third person, the Air Force lieutenant, was held incommunicado for several years before being released from Abou Salim prison, near Tripoli, in March 1995.

2.2 Despite the author's numerous approaches to various prison, political and judicial authorities, they never acknowledged his son's detention. As soon as Abdelhamid Al Daquel was arrested, the author went to the barracks where his son was based to try to get some information from his colleagues. None of them were willing to give him any information or help, from which he deduced that his son had been arrested for political reasons.<sup>2</sup>

2.3 Not until 1995, after the pilot who had been arrested at the same time as Abdelhamid Al Daquel was released, did the victim's family, who had had no news of him since his arrest 6 years before, first learn that he was alive and was being held incommunicado in Abou Salim prison. They also learned that no judicial proceedings had been brought against him, and the author later had indirect confirmation that his son was still in Abou Salim prison; however he never received official confirmation of that, or permission to visit him.

2.4 On 8 November 2008, i.e., nearly 20 years after his arrest, officials from the Internal Security Agency in Beni Walid came to see the family and told them the victim had died. They refused to give the family any details of the date or circumstances of the death, merely asking them to make an announcement of the death and telling them that they would soon receive an official death certificate.

2.5 Some days later the same officials did indeed return to the family home and gave them a certificate dated 6 November 2008 stating that Abdelhamid Al Daquel had died in Tripoli on 23 June 1996 and that the death had been recorded in the civil registry for 2008 as entry No. 200/2008.<sup>3</sup> The officials again refused to give the author any details of the circumstances of his son's death or even to say where he was buried. The author accordingly informed the authorities that he would not announce his son's death until they

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<sup>1</sup> Hamza Jilani Mohamed Al Daquel (the victim's brother), born 28 April 1967; Abdelmoutaleb Jilani Mohamed Al Daquel (the victim's brother), born 14 June 1969; Saghira Jilani Mohamed Al Daquel (the victim's sister), born 5 May 1977; Ousama Jilani Mohamed Al Daquel (the victim's brother), born 7 April 1980; Khaoula Jilani Mohamed Al Daquel (the victim's sister), born 23 November 1983; and Mohamed Jilani Mohamed Al Daquel (the victim's brother), born 20 December 1990.

<sup>2</sup> The author does not elaborate further.

<sup>3</sup> The death certificate is in the file.

returned the victim's remains to the family and gave the exact causes of death after an autopsy.

2.6 The author notes that the alleged date of death, 23 June 1996, is the same date as the Abou Salim massacre, one of the biggest prison massacres in modern times, during which at least 1,000 prisoners were killed in the prison by the Libyan security services. Afterwards the authorities never published lists of the victims, leaving their families in distress and uncertainty over the fate of their loved ones.

2.7 The author claims that he has used every means possible to find out from the competent authorities what happened to his son. After the release, two weeks later, of the first two individuals arrested at the same time as Abdelhamid Al Daquel — which is what had led him to believe that his son was probably being held by Internal Security — he went to Tripoli to try to obtain information from the security services, but to no avail. They did not admit to having detained the victim. The author subsequently asked the local People's Committees several times to intercede with the higher authorities, always without success. When he learned in 1995 that Abdelhamid Al Daquel was still alive and was being held in Abou Salim prison (see para. 2.3), the author went to Abou Salim to try to visit his son but the authorities turned him away, denying that he was being held there.

2.8 The author also tried to obtain legal assistance from a lawyer to bring a complaint before the courts for the disappearance of his son, but none of the lawyers he approached would undertake such proceedings against the State. For many years the author tirelessly pursued his approaches to the various authorities but never received a reply.

2.9 The author further claims that it was materially impossible for him to apply to the domestic courts to obtain an investigation into his son's disappearance, since all the lawyers he approached refused to help in proceedings that were in any case, he claims, doomed to failure. The author maintains that domestic remedies in the State party were in this case neither available nor effective and that he should not therefore be obliged to continue his efforts or pursue domestic remedies any further for his communication to be admissible by the Committee.

2.10 The author has submitted his son's case to the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture. However, the Libyan Government has never provided any information that might shed light on the victim's fate.

### **The complaint**

3.1 The author claims that Abdelhamid Al Daquel was subjected to enforced disappearance after his arrest on 26 January 1989 by officials of the Libyan State Internal Security Agency, since his arrest was followed by a refusal to acknowledge his deprivation of liberty or to reveal what had happened to him. As a victim of enforced disappearance, Abdelhamid Al Daquel was de facto prevented from exercising his right of recourse to challenge the lawfulness of his detention, in violation of article 2, paragraph 3, of the Covenant. His relatives used all legal means to find out what had happened to him, but the State party took no action, despite its obligation to provide an effective remedy, including that of conducting a thorough and effective investigation.

3.2 The author contends that the enforced disappearance and incommunicado detention of Abdelhamid Al Daquel constituted a serious threat to his right to life, in violation of article 6, paragraph 1, inasmuch as the State party failed in its duty to protect the

fundamental right to life,<sup>4</sup> all the more so since the State party made no effort to find out what had actually happened to him. The author further argues that the notification of death given to the family by the authorities on 8 November 2008 amounted to explicit recognition that the victim disappeared as a result of the action of State officials, and confirmed that his right to life was not protected by the State party authorities. His death, which occurred in unknown circumstances that continue to be concealed by the State party, constitutes a violation by the State party of article 6, paragraph 1, of the Covenant in respect of Abdelhamid Al Daquel.

3.3 Under article 7 of the Covenant, the author argues that the mere fact of being subjected to enforced disappearance constitutes inhuman or degrading treatment.<sup>5</sup> The author also says he has his doubts as to the real date of his son's death, which was recorded at the Tripoli registry office in 2008, whereas the certificate states that death occurred on 23 June 1996. The author fears that the death occurred more recently than the date given on the death certificate for Abdelhamid Al Daquel, and that the authorities are using the events at Abou Salim prison (see para. 2.6) as a pretext to make it seem as though the son died then, whereas he probably died as a result of torture or ill-treatment during his incommunicado detention. The fact that the authorities refuse to act on his request for an investigation only reinforces his conviction. The author therefore believes that the victim was probably subjected to physical torture from the time of his arrest, as this is known to be a particularly widespread practice in the State party.

3.4 From the perspective of the victim's family, his disappearance was, and still is, a paralysing, painful and distressing ordeal, since they have had no news of him for 19 years and are still being kept in the dark as to the circumstances surrounding his death.<sup>6</sup> Accordingly, the author alleges that the treatment of Abdelhamid Al Daquel is a violation under article 7 of his own rights and of those of all the members of his family.

3.5 Under article 9, the author recalls that Abdelhamid Al Daquel was arrested by the State security services without a warrant and without being told of the reasons for his arrest, in violation of article 9, paragraph 1, of the Covenant. He was then detained arbitrarily and incommunicado from the time of his arrest till the day of his death.<sup>7</sup> In violation of article 9, paragraph 2, he was never informed of the grounds for his arrest or of any criminal charge against him. Abdelhamid Al Daquel was never brought before a judge or other officer authorized by law to exercise judicial power, in violation of article 9, paragraph 3. In addition, the author recalls that, according to the Committee's case law, incommunicado detention may in and of itself entail a violation of article 9.<sup>8</sup> Moreover, as a victim of enforced disappearance, he was physically unable to challenge the legality of his detention or to apply to a judge to request his release. Consequently, the author claims a violation of article 9, paragraph 4, in respect of Abdelhamid Al Daquel.

3.6 Under article 10 of the Covenant, the author contends that, if it is shown that Abdelhamid Al Daquel was the victim of a violation of article 7, it cannot be argued that he

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<sup>4</sup> The author refers to communication No. 84/1981, *Dermitt Barbato v. Uruguay*, Views adopted on 21 October 1982, para. 10.

<sup>5</sup> The author refers, inter alia, to communications No. 449/1991, *Mojica v. Dominican Republic*, Views adopted on 15 July 1994, para. 5.7; and No. 540/1993, *Laureano Atachahua v. Peru*, Views adopted on 25 March 1996, para. 8.5.

<sup>6</sup> The author refers, inter alia, to communication No. 107/1981, *Quinteros v. Uruguay*, Views adopted on 21 July 1983, para. 14.

<sup>7</sup> The author refers, inter alia, to communication No. 1297/2004, *Medjnoune v. Algeria*, Views adopted on 14 July 2006, para. 8.7.

<sup>8</sup> The author refers, inter alia, to communications No. 992/2001, *Bousroual v. Algeria*, Views adopted on 30 March 2006, para. 9.6; and No. 1196/2003, *Boucherf v. Algeria*, Views adopted on 30 March 2006, para. 9.5.

was ever treated in a humane manner or with respect for the inherent dignity of the human person. Consequently, the author maintains that the State party has also violated article 10, paragraph 1, of the Covenant in respect of Abdelhamid Al Daquel.

3.7 In the author's view, as a victim of an unacknowledged detention, by virtue of which he was removed from the protection of the law, Abdelhamid Al Daquel was also reduced to the status of non-person,<sup>9</sup> and thereby deprived of the ability to exercise his rights under the Covenant, in violation of article 16 of the Covenant.

#### **State party's failure to cooperate**

4. On 25 June 2009, 6 May 2010, 24 January 2011 and 7 March 2011, the State party was invited to submit its comments on the admissibility and merits of the communication. The Committee notes that this information has not been received. It finds it regrettable that the State party has failed to provide any information with regard to the admissibility or substance of the author's claims. It recalls that, under article 4, paragraph 2, of the Optional Protocol, the State party concerned is required to submit to the Committee written explanations or statements clarifying the matter and describing any measures it may have taken to remedy the situation. In the absence of a reply from the State party, due weight must be given to the author's allegations, to the extent that these have been properly substantiated.<sup>10</sup>

#### **Issues and proceedings before the Committee**

##### *Consideration of admissibility*

5.1 Before considering any claim contained in a communication, the Human Rights Committee must decide, in accordance with rule 93 of its rules of procedure, whether the communication is admissible under the Optional Protocol to the Covenant.

5.2 As required under article 5, paragraph 2 (a), of the Optional Protocol, the Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement. The Committee notes that the case of Abdelhamid Al Daquel was reported to the Working Group on Enforced or Involuntary Disappearances, the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on the question of torture. However, it recalls that extra-conventional procedures or mechanisms established by the Commission on Human Rights or the Human Rights Council, and whose mandates are to examine and report publicly on human rights situations in specific countries or territories, or cases of widespread human rights violations worldwide, do not generally constitute an international procedure of investigation or settlement within the meaning of article 5, paragraph 2 (a), of the Optional Protocol.<sup>11</sup> Accordingly, the Committee considers that it is not precluded from examining the case under this provision.

5.3 With regard to the exhaustion of domestic remedies, the Committee reiterates its concern that, in spite of three reminders having been addressed to the State party, no

<sup>9</sup> The author refers to communication No. 1327/2004, *Atamna v. Algeria*, Views adopted on 10 July 2007.

<sup>10</sup> See, for example, communications No. 1422/2005, *El Hassy v. Libyan Arab Jamahiriya*, Views adopted on 24 October 2007, para. 4; No. 1295/2004, *El Alwani v. Libyan Arab Jamahiriya*, Views adopted on 11 July 2007, para. 4; No. 1208/2003, *Kurbonov v. Tajikistan*, Views adopted on 16 March 2006, para. 4; and No. 760/1997, *Diergaardt et al. v. Namibia*, Views adopted on 25 July 2000, para. 10.2.

<sup>11</sup> See, for example, communication No. 1874/2009, *Mihoubi v. Algeria*, Views adopted on 18 October 2013, para. 6.2.

information or observations on the admissibility or merits of the communication have been received. The Committee finds that it is not precluded from considering the communication under article 5, paragraph 2 (b), of the Optional Protocol.

5.4 The Committee considers that the author's allegations have been sufficiently substantiated for purposes of admissibility, and proceeds to its consideration on the merits in respect of the claims made on behalf of Abdelhamid Al Daquel under articles 2 (para. 3), 6 (para. 1), 7, 9 (paras. 1–4), 10 (para. 1) and 16 of the Covenant, and on behalf of the author himself, his wife, Rabiia Mhamed Fredj (the victim's mother), and their other six children<sup>12</sup> under articles 2 (para. 3) and 7 of the Covenant.

*Consideration on the merits*

6.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it, as required under article 5, paragraph 1, of the Optional Protocol. As the State party has not replied to the author's allegations, due weight must be given to those allegations to the extent that they have been sufficiently substantiated.

6.2 The Committee takes note of the statement by the author, which has not been contested, to the effect that Abdelhamid Al Daquel was arrested in Foum Molghat on 26 January 1989 by officials of the internal security forces and taken to an unknown destination together with three other individuals who were apprehended at the same time. Although the family learned in 1995, from an unofficial source, that Abdelhamid Al Daquel was still alive and was being held in Abou Salim prison, it was not until November 2008, that is to say nearly 20 years after his disappearance, that the State party authorities told the family of Abdelhamid Al Daquel's death, allegedly on 23 June 1996 in Tripoli.

6.3 The Committee notes that the State party has not responded to the author's allegations regarding the enforced disappearance of his son and recalls that, in accordance with its jurisprudence, the burden of proof cannot rest solely with the authors of a communication, especially when the authors and the State party do not have equal access to the evidence and when the State party is often in sole possession of the relevant information, such as information related to Abdelhamid Al Daquel's detention and the circumstances surrounding his death.<sup>13</sup>

6.4 The Committee further recalls that, in cases of enforced disappearance, the act of deprivation of liberty, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate of the disappeared person, denies the person the protection of the law and places his or her life at serious and constant risk, for which the State is accountable.<sup>14</sup> Moreover, given that Abdelhamid Al Daquel died during his prolonged incommunicado detention, when he was at all times in the hands of the State party, and in circumstances that have yet to be explained, the Committee can only find that the State party has violated Abdelhamid Al Daquel's right to life under article 6, paragraph 1, of the Covenant.

6.5 As regards article 7, the Committee recognizes the degree of suffering caused by being held indefinitely without contact with the outside world. It recalls its general comment No. 20 (1992) on the prohibition of torture or other cruel, inhuman or degrading

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<sup>12</sup> See note 1 above.

<sup>13</sup> See, for example, communications No. 888/1999, *Telitsina v. Russian Federation*, Views adopted on 29 March 2004, paras. 7.5 and 7.6; and No. 1832/2008, *Al Khazmi v. Libya*, Views adopted on 18 July 2013, para. 8.2.

<sup>14</sup> See, for example, communication No. 1884/2009, *Aouali et al. v. Algeria*, Views adopted on 18 October 2013, para. 7.4.



treatment or punishment, in which it recommends that States parties should make provision against incommunicado detention. It notes in the instant case that Abdelhamid Al Daquel was arrested on 26 January 1989 and was taken to an undisclosed location by State security officers, after which he was denied any communication with his family; that despite numerous attempts, his family was unable to obtain any information as to his whereabouts; that his family was told of his death nearly 20 years after his arrest and his remains were not returned to them; and that the family was not informed of the circumstances of his death or where he was buried. In the absence of any satisfactory explanation by the State party, the Committee finds a violation of article 7 of the Covenant in respect of Abdelhamid Al Daquel.<sup>15</sup>

6.6 Having reached that conclusion, the Committee decides not to address the author's allegations under article 10 of the Covenant.

6.7 The Committee also takes note of the anguish and distress caused to the author and his family by Abdelhamid Al Daquel's disappearance, followed by the confirmation of his death, which they only received some 20 years later without even being given their son's remains or any explanation of the circumstances surrounding his death, even though he had for the entire time been in the hands of the State party's authorities with no contact with the outside world. Instead of immediately informing the author and his family of Abdelhamid Al Daquel's death, which allegedly occurred on 23 June 1996, and launching a thorough investigation with a view to prosecuting the perpetrators, the State party's authorities left the family without any information about the fate of their relative for 12 more years even though they must have known that he had died in detention, in circumstances as yet unexplained. The Committee considers that the facts before it disclose a violation of article 7 of the Covenant with regard to the author, his wife Rabiia Mhamed Fredj (the victim's mother), and their other six children.<sup>16</sup>

6.8 With regard to the alleged violation of article 9, the Committee notes the author's statement that Abdelhamid Al Daquel was arrested without a warrant by members of the internal security forces; that he was not informed of the reasons for his arrest; that he was kept in incommunicado detention from the time of his arrest until his alleged death. Abdelhamid Al Daquel was not brought before a judicial authority, which would have enabled him to challenge the lawfulness of his detention, and no official information was given to his family regarding his place of detention or his fate. In light of the foregoing and in the absence of any explanation from the State party, the Committee finds that there has been a violation of article 9 with regard to Abdelhamid Al Daquel.<sup>17</sup>

6.9 With regard to the alleged violation of article 16, the Committee recalls its established jurisprudence, according to which the intentional removal of a person from the protection of the law for a prolonged period of time may constitute a refusal to recognize that person as a person before the law, if the victim was in the hands of the State authorities when last seen, and if the efforts of their relatives to obtain access to potentially effective remedies, including judicial remedies, have been systematically impeded.<sup>18</sup> The Committee recalls that, after his arrest, Abdelhamid Al Daquel was detained in circumstances the Committee has found to be arbitrary. He was then subjected to enforced disappearance, which continued until his death, which allegedly occurred on 23 June 1996. No official investigation was carried out into the circumstances of his disappearance or death, and no

<sup>15</sup> See, inter alia, communication No. 1791/2008, *Boudjemai v. Algeria*, Views adopted on 7 March 2013, para. 8.5.

<sup>16</sup> See, for example, *Aouali et al. v. Algeria*, para. 7.6.

<sup>17</sup> See, for example, communications No. 1913/2009, *Abushaala v. Libya*, Views adopted on 18 March 2013, para. 6.5; and No. 1884/2009, *Aouali et al. v. Algeria*, para. 7.9.

<sup>18</sup> See, for example, *Boudjemai v. Algeria*, para. 8.9.

prosecution was initiated. The Committee is of the view that, in the circumstances, Abdelhamid Al Daquel's right to recognition as a person before the law was violated as a result of his intentional removal from the protection of the law, in breach of article 16 of the Covenant.

6.10 The author invokes article 2, paragraph 3, of the Covenant, under which States parties have an obligation to ensure an effective remedy for all persons whose Covenant rights have been violated. The Committee attaches importance to the establishment by States parties of appropriate judicial and administrative mechanisms for addressing claims of rights violations. It refers to its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, according to which the 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 instant case, the author contacted the authorities at Abou Salim prison, where his son might be being held, several local People's Committees, and some lawyers, with a view to starting legal proceedings, but all his efforts were to no avail. Although the death in custody of Abdelhamid Al Daquel was formally recorded in the civil registry, the State party made no investigation and has not prosecuted the perpetrators. The Committee concludes that the facts before it reveal a violation of article 2 (para. 3), read in conjunction with articles 6 (para. 1), 7, 9 and 16 of the Covenant with regard to Abdelhamid Al Daquel, and of article 2 (para. 3), read in conjunction with article 7 of the Covenant, with respect to the author, his wife Rabiia Mhamed Fredj (the victim's mother), and their other six children.

7. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the information before it discloses violations by the State party of articles 6 (para. 1), 7, 9, 16 and 2 (para. 3) read in conjunction with articles 6 (para. 1), 7, 9 and 16 of the Covenant, with regard to Abdelhamid Al Daquel; and of article 7, read alone and in conjunction with article 2 (para. 3) of the Covenant, with respect to the author, his wife Rabiia Mhamed Fredj (the victim's mother) and their other six children.

8. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the authors with an effective remedy by, inter alia: (a) conducting a thorough, prompt and impartial investigation into the disappearance and death of Abdelhamid Al Daquel; (b) providing his family with detailed information on the results of its investigation; (c) handing over Abdelhamid Al Daquel's remains to his family; (d) prosecuting, trying and punishing those responsible for the violations committed; and (e) providing compensation to the authors commensurate with the gravity of the offences committed. The State party is also under an obligation to take steps to prevent similar violations in the future.

9. 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 or not there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy when a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to these Views. The State party is also requested to publish the present Views and to have them widely disseminated in the official languages of the State party.