

REPUBLIC OF KOREA

Follow-up - Jurisprudence Action by Treaty Bodies

CCPR A/51/40, vol. I (1996)

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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Republic of Korea: One decision finding violations; no follow-up reply from the State party as of 30 June 1996. During follow-up consultations with the Permanent Mission of the Republic of Korea during the fifty-sixth session, the State party representative indicated that the Committee's recommendations were under active consideration and that a formal follow-up reply would be sent by the autumn of 1996 (see para. 449).

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Overview of the Special Rapporteur's follow up consultations

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449. During the fifty-sixth session, the Special Rapporteur met with a representative of the Republic of Korea to discuss the follow-up to the Committee's views on communication No. 518/1992 (Jong-kyu Sohn v. Republic of Korea). The State party representative indicated that an inter-ministerial committee had been set up to formulate concrete recommendations to the Government on the review of labour disputes legislation, in the light of the Committee's findings.

He further observed that the author had recently filed a judicial action before a Seoul tribunal, basing his claims on the Committee's recommendations. The Government was reviewing the outcome of the procedure before the Seoul tribunal.

450. The Special Rapporteur inquired whether the author would be compensated, as recommended by the Committee. The State party representative indicated that compensation of the author would take some time and in all likelihood would not occur before amendments of the Labour Disputes Act had been adopted by the State party's parliament. He suggested that the recommendations of the inter-ministerial committee should be available by the start of the Committee's fifty-eighth session, in October 1996.

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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Republic of Korea: One decision finding violations: 518/1992 - Sohn (1995 Report);^{16/} State party's follow-up reply remains outstanding (see also 1996 Report,^{10/} paras. 449 and 450). Follow-up consultations were held during the sixtieth session (see paras. 547 and 548 below).

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

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547. Republic of Korea: On 24 July 1997, the Special Rapporteur met with the Permanent Representative of the Republic of Korea to the United Nations Office at Geneva to discuss the State party's follow-up to the Committee's Views on communication No. 519/1992 (Sohn). The Permanent Representative explained that Mr. Sohn had been pardoned in 1993 and that no record of any conviction existed. After the adoption of the Views, the author had, in 1995, filed an action for compensation with the domestic courts. That petition had been rejected in the first and second instance and was currently pending before the Supreme Court of the Republic of Korea, which was expected to hand down its judgement soon. The Permanent Representative further noted that the Committee's interpretation of article 19, paragraph 2, of the Covenant differed from the Government's interpretation and that, accordingly, the domestic law in force at the time of the adoption of the Views and the Committee's interpretation were in conflict. The Korean courts had rejected the author's request for compensation on the ground that his arrest and conviction had been lawful under Korean law. However, a new Trade Union and Labour Relations Adjustment Act that had come into force in March 1997 no longer prohibits third party interference in labour disputes; that legislative change had been effected in response to the Committee's recommendations.

548. The Special Rapporteur welcomed the changes in the law but observed that the State party

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

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

should consider paying some compensation to the author, in line with the Committee's Representative replied that the Government was awaiting the judgement of the Supreme Court on the matter and would abide by it.

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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Republic of Korea: One decision finding violations: 518/1992 - Sohn (1995 Report (A/50/40); State party's follow-up reply remains outstanding (see 1996 Report (A/51/40), paras. 449 and 450; 1997 Report (A/52/40), paras. 547 and 548).

VII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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Republic of Korea: Three Views finding violations: 518/1992 - Sohn (A/50/40); State party's follow-up reply remains outstanding (see A/51/40, paras. 449 and 450; A/52/40, paras. 547 and 548); 574/1994 - Kim (annex XI, sect. A); 628/1995 - Park (annex XI, sect. K); for follow-up reply, dated 15 March 1999, with respect to Park, see below.

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

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471. Republic of Korea. By submission, dated 15 March 1999, in respect of case No. 628/1995 - Park, the Government of the Republic of Korea informed the Committee that the author's request for compensation was being reviewed by the Supreme Court. It further informed the Committee that it was considering amending the National Security Law or replacing it with a new act in order to take into account the Committee's Views. The Ministry of Justice had translated the Committee's Views and they had been made public through the mass media. The judiciary had also been informed.

VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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Republic of Korea: Three Views finding violations: 518/1992 - Sohn (A/50/40); the State party's follow-up reply remains outstanding (see A/51/40, paras. 449 and 450; A/52/40, paras. 547 and 548); 574/1994 - Kim (A/54/40); no follow-up reply received; 628/1995 - Park (A/54/40); for the follow-up reply see A/54/40, para. 471.

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

Chapter IV. Follow-up Activities under the Optional Protocol

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

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Republic of Korea: Three Views finding violations: 518/1992 - Sohn (A/50/40); follow-up reply remains outstanding (see A/51/40, paras. 449 and 450; A/52/40, paras. 547 and 548); 574/1994 - Kim (A/54/40); no follow-up reply received; 628/1995 - Park (A/54/40); for follow-up reply, see A/54/40, paragraph 471.

Chapter VI. Follow-up activities under the optional protocol

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

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Republic of Korea: Views in three cases with findings of violations:

518/1992 - Sohn (A/50/40); follow-up reply remains outstanding (see A/51/40, paragraphs. 449 and 450; A/52/40, paragraphs. 547 and 548);

574/1994 - Kim (A/54/40); no follow-up reply received;

628/1995 - Park (A/54/40); for follow-up reply, see A/54/40, paragraph 471.

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

CHAPTER VI. Follow-up activities under the Optional Protocol

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

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Republic of Korea: Views in three cases with findings of violations:

518/1992 - *Sohn* (A/50/40); follow-up reply remains outstanding (see A/51/40, paragraphs 449 and 450; A/52/40, paragraphs 547 and 548);

574/1994 - *Kim* (A/54/40); no follow-up reply received;

628/1995 - *Park* (A/54/40); for follow-up reply, see A/54/40, paragraph 471.

Notes

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

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

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

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

Follow-up progress report

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

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KOREA:

Kang v. Korea, Case no. 878/1999, Views adopted on 15 July 2003

Violations found: Articles 10, paragraphs 1 and 3, 18, paragraph 1, and 19, paragraph 1, read together with 26

Issues of case: Restriction of freedom of expression and manifestation of belief on the basis of political opinion.

Remedy recommended: To compensate the author commensurate with the seriousness of the breaches in question.

Deadline for State party follow-up information: 6 October 2003

Follow-up information received from State party: By note verbale of 14 October 2003, the State party informed the Committee that the author may submit an application for compensation to the state Compensation Deliberation Committee or file a lawsuit, in accordance with provisions of the State Compensation Act. The "law-abidance oath system" was abolished for fear that it infringed the freedom of conscience and expression as enshrined in the Constitution as well as the Covenant rights. Detainees are generally accommodated in cells on their own rather than in groups. Such "single confinement", according to the State party, is misinterpreted in the Views as "solitary confinement". Detainees in single cells are given the same treatment as those in group cells. The Committee's Views have been published.

Follow-up information received from author: None

Special Rapporteur's recommendation: The author is requested to comment on the State party's submission.

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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Republic of
Korea:

Views in five cases with findings of violations:

518/1992 - *Sohn* (A/50/40); follow-up reply remains outstanding (see A/51/40, paras. 449 and 450; A/52/40, paras. 547 and 548);

574/1994 - *Kim* (A/54/40); no follow-up reply received;

628/1995 - *Park* (A/54/40); for follow-up reply, see A/54/40, paragraph 471;

878/1999 - *Kang* (A/58/40); for follow-up see paragraph 247 below; in the follow-up report (CCPR/C/80/FU1), adopted by the Committee during its eightieth session, the Special Rapporteur recommended that the author be requested to comment on the State party's submission;

926/2000 - *Shin* (annex IX); follow-up not yet due.

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OVERVIEW OF FOLLOW-UP REPLIES RECEIVED DURING THE REPORTING PERIOD,
SPECIAL RAPPORTEUR'S FOLLOW-UP CONSULTATIONS AND OTHER
DEVELOPMENTS

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

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250. Republic of Korea: as to case No. 878/1999 - *Kang* (A/58/40): on 14 October 2003, the State party informed the Committee that the author may submit an application for compensation to the State Compensation Deliberation Committee or file a lawsuit, in accordance with provisions of the State Compensation Act. The “law-abidance oath system” was abolished for fear that it infringed the freedom of conscience and expression as enshrined in the Constitution as well as the Covenant rights. Detainees are generally accommodated in cells on their own rather than in groups. Such “single confinement”, according to the State party, is misinterpreted in the Views as “solitary confinement”. Detainees in single cells are given the same treatment as those in group cells. It also confirmed that the Committee’s Views had been published.

Notes

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

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

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CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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

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

229. The present annual report adopts a different format for the presentation of follow-up information compared to previous annual reports. The table below displays a complete picture of follow-up replies from States parties received as of 28 July 2005, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of complying with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up on Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

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

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

State party and number of cases with violation	Communication number, author and location ^a	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
...						
Republic of Korea (5)	518/1992, <i>Sohn</i> A/50/40	X A/60/40 (annex VII)				X
	574/1994, <i>Kim</i> A/54/40	X A/60/40 (annex VII)				X
	628/1995, <i>Park</i> A/54/40	X A/54/40				X
	878/1999, <i>Kang</i> A/58/40	X A/59/40				X
	926/2000, <i>Shin</i> A/59/40	X A/60/40 (annex VII)				X

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

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Annex VII

FOLLOW-UP OF THE HUMAN RIGHTS COMMITTEE ON INDIVIDUAL COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

This report sets out all information provided by States parties and authors or their counsel since the last Annual Report (A/59/40).

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State party	KOREA
Case	Shin, 926/2000
Views adopted on	16 March 2004
Issues and violations found	Conviction for “subversive” art, destruction of painting - article 19, paragraph 2.
Remedy recommended	An effective remedy, including compensation for his conviction, annulment of his conviction, and legal costs. In addition, as the State party has not shown that any infringement on the author’s freedom of expression, as expressed through the painting, is justified, it should return the painting to him in its original condition, bearing any necessary expenses incurred thereby.
Due date for State party response	21 June 2004
Date of reply	19 November 2004
State party response	The State party submits that the author was granted a special amnesty by the Government of the State party on 15 August 2000. Since he was convicted as guilty through legal proceedings, he is not eligible for compensation under the State Compensation Act. The author’s painting is not returnable as it was lawfully confiscated through the Supreme Court’s ruling. Even though he has been granted an amnesty, it has not changed the effect of the confiscation of his painting, according to article 5, paragraph 2, of the Amnesty Act “the effect of a punishment already made shall not be changed by

amnesty, that is, the reduction of punishment or rehabilitation.” Taking into account these legal limitations on the implementation of the Committee’s Views, the Ministry of Justice is now considering the practices and procedures of other countries to give effect to the Views, with a view to introducing an effective implementation mechanism in the future.

The Ministry of Justice sent the original text of the Views and its translated version in Korean to the Supreme Public Prosecutor’s Office and requested that the law enforcement officials bear in mind these Views during their official activities. To prevent the recurrence of similar violations, the Government is now actively pursuing the abolition or revision of the National Security Law. In the meanwhile, the Government will continue to make the utmost efforts to minimize the possibility of arbitrary interpretation and application of the Law by law-enforcement officials. The Ministry has published the Views in Korean in the official Electronic Gazette.

State party	KOREA
Case	Keun-Tae Kim, 574/1999
Views adopted on	3 November 1998
Issues and violations found	Freedom of expression - article 19.
Remedy recommended	Under article 2 (3) (a) of the Covenant, the State party is under an obligation to provide the author with an effective remedy.
Due date for State party response	30 March 1999
Date of reply	16 February 2005
State party response	The State party submits that since the author was found guilty of violating the National Security Act, he is not eligible for criminal compensation from the State under the terms of the Criminal Compensation Act unless he is acquitted of his criminal charges through a retrial. In addition, it states that since the investigation and trial were done in accordance with law, and there is no evidence demonstrating that public officials inflicted damage on the author intentionally or negligently, he may not claim damages under the State Compensation Act. The author has not applied for compensation under the Act on Restoration of Honor and Compensation for the People Involved in the Democratization

Movement, which provides compensation for persons killed or injured in the course of forwarding the democratization movement. However, the State party submits that his honour was duly restored and he has been recognized as a person involved in the democratization movement. It states that he was granted amnesty on 15 August 1995 and thus is eligible for public elections.

To prevent recurrence of similar violations, discussions are being held within the government and the National Assembly to amend or repeal some provisions of the National Security Act that require changes in order to reflect the recent reconciliation process in the inter-Korean relationship, and to prevent any possible violations of human rights. The investigation agencies and the judiciary have strictly limited the application of the National Security Act to situations which are absolutely necessary for maintaining the security of the State and protecting the survival and freedom of nationals. The Government published a translated version of the Views in Korean via the media, and also sent a copy to the Court.

Further action taken/required	Special Rapporteur's recommendation: The State party should be requested to provide an update on the amendments to or repeal of the National Security Act.
State party	KOREA
Case	Jong-Kyu Sohn, 518/1992
Views adopted on	19 July 1995
Issues and violations found	Conviction of trade union leader for union-related statements - freedom of expression - 19, paragraph 2.
Remedy recommended	An effective remedy, including appropriate compensation, for having been convicted for exercising his right to freedom of expression. The Committee further invites the State party to review article 13 (2) of the Labour Dispute Adjustment Act.
Due date for State party response	15 November 1995
Date of reply	16 February 2005
State party response	The State party submits that since the author was found guilty of violating the Labour Dispute Adjustment Act, he is not eligible for criminal compensation from the State under the terms of the Criminal Compensation Act unless he is acquitted of his criminal

charges through a retrial. In addition, it states that the Supreme Court, found on 26 March 1999 that the State had no obligation to provide compensation to the author, under the State Compensation Act, with regard to the lawsuit which he had filed against the government based on the Committee's Views, as the Views are not legally binding and there is no evidence that public officials inflicted damage on the author intentionally or negligently in the course of the investigation or trial. The Act on Restoration of Honour and Compensation for the People Involved in the Democratization Movement, which provides compensation for persons killed or injured in the course of forwarding the democratization movement, is not applicable in the author's case as he was not injured. However, his honour was restored and he has been involved in the democratization movement. The State party submits that he was granted a special pardon on 6 March 1993. To prevent recurrence of similar violations, the Trade Union and Labour Relations Adjustment Act, enacted in March 1997, has repealed the provisions of the previous Labour Dispute Adjustment Act prohibiting third party intervention in labour disputes. Now under article 40 of the new Act, during collective bargaining or industrial action, a trade union may be supported by third parties such as a confederation of association organizations of which the trade union is a member or a person nominated by the trade union.

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CHAPTER VI FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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

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

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

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

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

case entries convey an idea of the difficulties in categorizing follow-up replies.

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

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

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
...						
Republic of Korea (6)	518/1992, <i>Sohn</i> A/50/40	X A/60/40				X
	574/1994, <i>Kim</i> A/54/40	X A/60/40				X
	628/1995, <i>Park</i> A/54/40	X A/54/40				X
	878/1999, <i>Kang</i> A/58/40	X A/59/40				X
	926/2000, <i>Shin</i> A/59/40	X A/60/40				X
	1119/2002, <i>Lee</i> A/60/40	X A/61/40				X
...						

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Annex VII

FOLLOW-UP OF THE HUMAN RIGHTS COMMITTEE ON INDIVIDUAL COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

This report sets out all information provided by States parties and authors or their counsel since the last Annual Report (A/60/40).

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State party	KOREA
Case	Mr. Jeong-Eun Lee, 1119/2002
Views adopted on	20 July 2005
Issues and violations found	Criminal prosecution for having joined student council – article 22, paragraph 1.
Remedy recommended	An effective remedy, including appropriate compensation. The Committee recommends that the State party amend article 7 of the National Security Law, with a view to making it compatible with the Covenant. The State party is under an obligation to ensure that similar violations do not occur in the future.
Due date for State party response	10 November 2005
Date of State party's response	29 November 2005
State party response	<p>The State party submits that the author's "civil and political rights", which were temporarily suspended pursuant to his conviction, have been restored. In addition, the Committee's Views were published in "the official gazette" and were then forwarded to national judicial institutions for information. As to the revision of the National Security Law, several bills to revise or annul the law have been presented before the National Assembly and are currently under consideration.</p> <p>The Government regrets the Committee's decision to consider this case despite the State party's reservation to article 22. The Committee</p>

members will recall its finding on this issue in the Views as follows: “As regards the alleged violation of article 22 of the Covenant, the Committee notes that the State party has referred to the fact that relevant provisions of the National Security Law are in conformity with its Constitution. However, it has not invoked its reservation *ratione materiae* to Article 22 that this guarantee only applies subject “to the provisions of the local laws including the Constitution of the Republic of Korea.” Thus, the Committee does not need to examine the compatibility of this reservation with the object and purpose of the Covenant and can consider whether or not article 22 has been violated in this case.”

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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
...						
Republic of Korea (6)	518/1992, <i>Sohn</i> A/50/40	X A/60/40, A/62/40				X
	574/1994, <i>Kim</i> A/54/40	X A/60/40, A/62/40				X
	628/1995, <i>Park</i> A/54/40	X A/54/40				X
	878/1999, <i>Kang</i> A/58/40	X A/59/40				X
	926/2000, <i>Shin</i> A/59/40	X A/60/40, A/62/40				X
	1119/2002, <i>Lee</i> A/60/40	X A/61/40				X
	1321-1322/2004, <i>Yoon, Yeo-Bzum and Choi, Myung-Jin,</i> A/62/40	X A/62/40				X
...						

CCPR, CCPR/C/SR.2480 (2007)

HUMAN RIGHTS COMMITTEE

Ninetieth session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 2480th MEETING

Held at the Palais Wilson, Geneva,
on Thursday, 26 July 2007, at 3 p.m.

...

FOLLOW-UP TO CONCLUDING OBSERVATIONS ON STATE REPORTS AND TO
VIEWS UNDER THE OPTIONAL PROTOCOL (agenda item 7)

Report of the Special Rapporteur for follow-up on Views (CCPR/C/90/R.4, distributed in the meeting room in English only)

6. The CHAIRPERSON invited the Special Rapporteur to present his report.

7. Mr. SHEARER (Special Rapporteur for follow-up on Views) said that the report covered communications for which the Committee had received information between its eighty ninth session (12-30 March 2007) and its ninetieth session (9-27 July 2007)...

...

14. In the case of Yeo Bum Yoon and Myung Jin Choi v. the Republic of Korea (communications Nos. 1321/2004 and 1322/2004), concerning conscientious objectors, the State party had pointed out that a law on an alternative service system was being considered. It would be useful to wait for a response from the authors before taking further action, even if the deadline that had been set had already passed. In the Alzery v. Sweden case (communication No. 1416/2005), the author had provided new information, and had insisted that it should remain confidential. The Swedish Government still had time to provide an update on the procedure under way concerning the author's request for a residence permit.

...

19. The CHAIRPERSON thanked the Special Rapporteur for his report on a very important aspect of the Committee's work. If he heard no objection, he would take it that the Committee wished to adopt the report.

20. It was so decided.

...

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

Annex IX

FOLLOW-UP OF THE HUMAN RIGHTS COMMITTEE ON INDIVIDUAL COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

This report sets out all information provided by States parties and authors or their counsel since the last Annual Report (A/61/40).

...

State party	REPUBLIC OF KOREA
Case	Hak-Cheol Shin, 926/2000
Views adopted on	16 March 2004
Issues and violations found	Freedom of expression - 19, paragraph 2.
Remedy recommended	In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy, including compensation for his conviction, annulment of his conviction, and legal costs. In addition, as the State party has not shown that any infringement of the author's freedom of expression, as expressed through the painting, is justified, it should return the painting to him in its original condition, bearing any necessary expenses incurred thereby. The State party is under an obligation to avoid similar violations in the future.
Due date for State party response	21 June 2004
Date of reply	16 August 2006 (The State party had previously responded on 19 November 2004)
State party response	The Committee will recall that on 19 November 2004, the State party had stated that the author was granted a special amnesty by the Government of the State party on 15 August 2000 (See Annual Report A/60/40 (Vol. II)). Since he was convicted through legal proceedings, he was not eligible for compensation under the State Compensation Act. His painting could not be returned as it was lawfully confiscated through the Supreme Court's ruling. Taking

into account legal limitations on the implementation of the Committee's Views, the Ministry of Justice is now considering the practices and procedures of other countries to give effect to the Views, with a view to introducing an effective implementation mechanism in the future.

The Ministry of Justice sent the original text of the Views and its translated version in Korean to the Supreme Public Prosecutor's Office and requested that the law enforcement officials bear in mind these Views during their official activities. To prevent the recurrence of similar violations, the Government was actively pursuing the abolition or revision of the National Security Law. In the meanwhile, it ensured the Committee that it would continue to make the utmost efforts to minimize the possibility of arbitrary interpretation and application of the Law by law-enforcement officials. The Ministry has published the Views in Korean in the official Electronic Gazette.

On 16 August 2006, the State party stated that in March 2005, the Ministry of Justice, having reviewed the implementation of the Views by other countries, published a reference book following a study and review of possible solutions to the problems. It concluded that the problem involves the enforcement of the Justice Ministry's ruling over the case and cannot be resolved by the decision of the Administration alone such as the Ministry of Justice. It is a matter requiring institutional reform at the advice of the judiciary, the National Human Rights Commission civil experts, etc.

Author's response	Request for response sent to author on 6 September 2006 with a deadline of 6 November 2006 for comments.
Case	Keun-Tae Kim, 574/1999
Views adopted on	3 November 1998
Issues and violations found	Freedom of expression - Article 19.
Remedy recommended	Under article 2 (3) (a) of the Covenant, the State party is under an obligation to provide the author with an effective remedy.
Due date for State party response	30 March 1999
Date of reply	16 August 2006 (The State party had previously responded on 16 February 2005)

State party response

The Committee will recall that on 16 February 2005, the State party submitted that since the author was found guilty of violating the National Security Act, he is not eligible for criminal compensation from the State under the terms of the Criminal Compensation Act unless he is acquitted of his criminal charges through a retrial. In addition, it stated that since the investigation and trial were done in accordance with law, and there is no evidence demonstrating that public officials inflicted damage on the author intentionally or negligently, he may not claim damages under the State Compensation Act. The author has not applied for compensation under the Act on Restoration of Honor and Compensation for the People Involved in the Democratization Movement, which provides compensation for persons killed or injured in the course of forwarding the democratization movement. However, the State party submitted that his honour was duly restored and he has been recognized as a person involved in the democratization movement. It states that he was granted amnesty on 15 August 1995 and thus is eligible for public elections.

To prevent recurrence of similar violations, discussions are being held within the government and the National Assembly to amend or repeal some provisions of the National Security Act that require changes in order to reflect the recent reconciliation process in the inter-Korean relationship, and to prevent any possible violations of human rights. The investigation agencies and the judiciary have strictly limited the application of the National Security Act to situations which are absolutely necessary for maintaining the security of the State and protecting the survival and freedom of nationals. The Government published a translated version of the Views in Korean via the media, and also sent a copy to the Court.

On 16 August 2006, the State party submitted that both proposals for amendments to or repeal of the National Security Act are under consideration at the National Assembly. Two draft bills supporting the repeal of the National Security Act were each submitted on 20 and 21 October 2004, and the one backing the Act's amendment was submitted on 14 April 2005, and is currently under consideration by the National Assembly's Legislation and Judiciary Committee.

Author's response

Request for response sent to author on 6 September 2006 with a deadline until 6 November 2006 for comments.

Case

Jong-Kyu Dohn, 518/1992

Views adopted on	19 July 1995
Issues and violations found	Freedom of expression - 19, paragraph 2.
Remedy recommended	The Committee is of the view that Mr. Sohn is entitled, under article 2, paragraph 3 (a), of the Covenant, to an effective remedy, including appropriate compensation, for having been convicted for exercising his right to freedom of expression. The Committee further invites the State party to review article 13 (2) of the Labour Dispute Adjustment Act. The State party is under an obligation to ensure that similar violations do not occur in the future.
Due date for State party response	15 November 1995
Date of reply	16 August 2006 (16 February 2005)
State party response	The Committee will recall that on 16 February 2005, the State party submitted that since the author was found guilty of violating the Labour Dispute Adjustment Act, he was not eligible for criminal compensation from the State under the terms of the Criminal Compensation Act unless he was acquitted of criminal charges through a retrial. In addition, it states that the Supreme Court, found on 26 March 1999 that the State had no obligation to provide compensation to the author, under the State Compensation Act, with regard to the lawsuit which he had filed against the government based on the Committee's Views, as the Views are not legally binding and there is no evidence that public officials inflicted damage on the author intentionally or negligently in the course of the investigation or trial. The Act on Restoration of Honour and Compensation for the People Involved in the Democratization Movement, which provides compensation for persons killed or injured in the course of forwarding the democratization movement, is not applicable in the author's case as he was not injured. However, his honour was restored and he has been involved in the democratization movement. The State
Author's response	Sent to author on 6 September 2006 with a deadline until 6 November 2006 for comments.
Case	Yeo-Bum Yoon and Myung-Jin Choi, 1321/2004 and 1322/2004
Views adopted on	3 November 2006

Issues and violations found Conscientious objection to enlistment in compulsory military service - Articles 18, paragraph 1.

Remedy recommended An effective remedy, including compensation.

Due date for State party response 16 April 2007

Date of reply March 2007 (no date)

State party response The State party informs the Committee that on 8 January 2007 an outline of the Views was reported in the major Korean newspapers and on the principal broadcasting networks. The full text was translated and published in the Korean government's Official Gazette. In April 2006 (prior to consideration by the Committee) a joint committee called the "Alternative Service System Research Committee" was set up as a policy advisory body under the Ministry of National Defense. It is made up of members selected from the legal, religious, sporting, and artistic circles and from amongst concerned public authorities. Its mandate is to review the issues involving conscientious objection to military service and an alternative service system and between April 2006 and December 2006 meetings took place. By the end of March 2007 this Committee will release its results on the basis of which the State party will proceed with the follow-up of this case.

As to the consideration of remedial measures for the authors in question, the State party informs the Committee that a task force relating to the implementation of individual communications was set up. It found that new legislation will have to be enacted by the National Assembly, for the purposes of reversing the final judgements against the authors. The enactment of such legislation is currently being discussed but will be difficult. The State party submits that it will strive to find a remedy to appropriately implement the Views through a comparative analysis of the merits of each remedial measure and studies of overseas cases.

...

VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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

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

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

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

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

193. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/62/40) is set out in annex VII to volume II of the present annual report.

...						
Republic of Korea (8)	518/1992, <i>Sohn</i> A/50/40	X A/60/40, A/62/40				X
	574/1994, <i>Kim</i> A/54/40	X A/60/40, A/62/40				X
	628/1995, <i>Park</i> A/54/40	X A/54/40				X
	878/1999, <i>Kang</i> A/58/40	X A/59/40				X
	926/2000, <i>Shin</i> A/59/40	X A/60/40, A/62/40				X
	1119/2002, <i>Lee</i> A/60/40	X A/61/40				X
	1321-1322/2004, <i>Yoon,</i> <i>Yeo-Bzum and Choi,</i> <i>Myung-Jin</i> A/62/40	X A/62/40 and A/63/40				X
...						

Annex VII

FOLLOW UP OF THE HUMAN RIGHTS COMMITTEE ON INDIVIDUAL COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

This report sets out all information provided by States parties and authors or their counsel since the last Annual Report (A/62/40).

...

State party	REPUBLIC OF KOREA
Case	Yeo-Bum Yoon and Myung-Jin Choi, 1321/2004 and 1322/2004
Views adopted on	3 November 2006
Issues and violations found	Conscientious objection to enlistment in compulsory military service - article 18, paragraph 1.
Remedy recommended	An effective remedy, including compensation.
Due date for State party response	16 April 2007
Date of reply	March 2007 (no date)
State party response	In March 2007, the State party informed the Committee that on 8 January 2007 an outline of the Views was reported in the major Korean newspapers and on the principal broadcasting networks. The full text was translated and published in the Korean Government's Official Gazette. In April 2006 (prior to consideration by the Committee) a joint committee called the "Alternative Service System Research Committee" was set up as a policy advisory body under the Ministry of National Defence. It was made up of members selected from legal, religious, sporting, and artistic circles and from amongst concerned public authorities. Its mandate was to review the issues involving conscientious objection to military service and an alternative service system and between April 2006 and December 2006 meetings took place. By the end of March 2007 this Committee was suppose to release its results on the basis of which the State

party would proceed with the follow-up of this case. As to the consideration of remedial measures for the authors in question, the State party informed the Committee that a task force relating to the implementation of individual communications was set up. New legislation will have to be enacted by the National Assembly, for the purposes of reversing the final judgements against the authors. The enactment of such legislation is currently being discussed.

Authors response

On 12 November 2007, the authors submitted that they have been provided with no effective remedy to date and their criminal record still stands. They report that there are around 700 conscience objectors serving prison sentences in the State party, and that even since the Views the State party has continued to charge, prosecute and imprison such objectors. On 18 September 2007, the Ministry of Defence issued a press release stating that “it will propose allowing conscience objectors to engage in social service instead of mandatory military terms.” However, before doing so “the Ministry plans to hold public hearings and opinion polls before revising laws governing the military service by the end of next year. The revision is subject to the legislature’s approval.” Thus, according to the authors this is only a political proposition that may or may not happen. Furthermore, the Ministry of Defence has indicated that if such a law is ever adopted alternative service would be nearly twice as long as military service. In their view, this would appear to be a punitive alternative at best.

Committee’s Decision

The Committee considers the dialogue ongoing.

...

VI. FOLLOW UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

230. In July 1990, the Committee established a procedure for the monitoring of follow-up to its Views under article 5, paragraph 4, of the Optional Protocol, and created the mandate of the Special Rapporteur for follow-up on Views to this effect. Ms. Ruth Wedgwood has been the Special Rapporteur since July 2009 (ninety-sixth session).

231. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information had been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 543 Views out of the 681 Views adopted since 1979 concluded that there had been a violation of the Covenant.

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

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

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

235. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to the ninety-sixth session (13-31 July 2009), in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up on Views continues. The notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

236. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/63/40) is set out in annex IX to volume II of the present annual report.

...						
Republic of Korea (8)	518/1992, <i>Sohn</i> A/50/40	X A/60/40, A/62/40				X
	574/1994, <i>Kim</i> A/54/40	X A/60/40, A/62/40, A/64/40				X
	628/1995, <i>Park</i> A/54/40	X A/54/40, A/64/40				X
	878/1999, <i>Kang</i> A/58/40	X A/59/40, A/64/40				X
	926/2000, <i>Shin</i> A/59/40	X A/60/40, A/62/40, A/64/40				X
	1119/2002, <i>Lee</i> A/60/40	X A/61/40, A/64/40				X

Republic of Korea (<i>cont'd</i>)	1321-1322/2004, <i>Yoon,</i> <i>Yeo-Bzum</i> and <i>Choi,</i> <i>Myung-Jin</i> A/62/40	X A/62/40, A/63/40 A/64/40				X



A/64/40 vol. II (2009)

...

Annex IX

Follow-up of the Human Rights Committee on individual communications under the Optional Protocol to the International Covenant on Civil and Political Rights

This report sets out all information provided by States parties and authors or their counsel since the last annual report (A/63/40).

...

State party	Republic of Korea
Case	<i>Yeo-Bum Yoon, 1321/2004; Myung-Jin Choi, 1322/2004; Hak-Cheol Shin, 926/2000; Keun-Tae Kim, 574/1999; Jong-Kyu Dohn, 518/1992; Jeong-Eun Lee, 1119/2002; Kang, 878/1999; and Park, 628/1995.</i>
Views adopted on	1321/2004 and 1322/2004 - 3 November 2006 926/2000 - 16 March 2004 574/1999 - 3 November 1998 518/1992 - 19 July 1995 1119/2002 - 20 July 2005 878/1999 - 15 July 2003 628/1995 - 20 October 1998
Issues and violations found	Conscientious objection - article 18, paragraphs 1 and 3 (1321 and 1322/2004); Freedom of expression - article 19, paragraph 2 (926/2000, 574/1999 and 518/1992); Freedom of expression, thought conscience and religion - 19, paragraph 2 and 18 (1119/2002); Freedom of expression and belief, solitary confinement, discrimination - article 10, paragraphs 1 and 3, and articles 18, paragraph 1, and 19, paragraph 1, in conjunction with 26, of the Covenant (878/1999); Freedom of expression - article 19 (628/1995).
Remedy recommended	1321/2004 and 1322/2004 - An effective remedy, including compensation.

Date of State party response

The State party provided responses to each of these cases previously, see volume II of annual reports A/62/40, A/59/40, A/63/40.

On 9 September 2008, the authors in case Nos. 1321/2004 and 1322/2004 reiterated that their cases had not been implemented.

State party response

Following a request for a meeting by the Rapporteur on follow-up to Views, the State party provided follow-up information on the cases under review in particular relating to specific questions posed by the Rapporteur in an aide-memoire sent to the State party.

Regarding case Nos. 1321/2004 and 1322/2004 on conscientious objection, the State party informed the Committee that the "Alternative Service System Research Committee" (see A/63/40, vol. II, annex VII, p. 539), which was set up to review the issues involving conscientious objection to military service and an alternative service system had met on eight occasions but had not completed its work. In addition, the Ministry of National Defence was undertaking the process of collecting public opinion on the possibility of introducing an alternative service system.

Regarding case Nos. 926/2000 and 574/1999, the State party reiterated that in the latter case the author had been rehabilitated and had recovered his citizenship and that in relation to the former case the Views had been published - it did not respond to the question raised by the Rapporteur on the process of abolition or amendment of the National Security Law which the State party had referred to in its correspondence of 2004 and 2006.

Regarding case No. 628/1995, the State party submitted that the author had been rehabilitated and the Views published. The Views were also published in case No. 878/1999. No further information was provided in these cases.

Regarding case No. 1119/2002, the State party maintains its reservation to article 22 and submits that as the National Assembly has not reached any conclusions regarding the amendment or abolition of the National Security Act, the Government is continuing its efforts to minimize the possibility of arbitrary interpretation and abuse in the application of the Act in question. On 30 July 2003, the State party abolished the law-abidance oath system.

As to the implementation of individual communications generally,

the State party submits that the final decisions of domestic courts cannot be invalidated by the Committee's Views and that the task of developing specific remedies in the context of the domestic judicial system remains challenging unless additional legislative resources by the National Assembly are in place. The Government intends to carry out a comparative analysis on the merits of the means used by other countries to implement the Views.

Author's comments

See volume II of annual reports A/62/40, A/59/40, A/63/40.

Committee's Decision

The follow-up dialogue is ongoing.

...