



**United Nations**

# **Report of the Human Rights Committee**

## **Volume I**

**Ninety-fourth session  
(13-31 October 2008)**

**Ninety-fifth session  
(16 March-3 April 2009)**

**Ninety-sixth session  
(13-31 July 2009)**

**General Assembly  
Official Records  
Sixty-fourth session  
Supplement No. 40 (A/64/40)**

# CONTENTS

## Volume I

<i>Chapter</i>	<i>Paragraphs</i>	<i>Page</i>
I. JURISDICTION AND ACTIVITIES .....	1 - 52	1
A. States parties to the International Covenant on Civil and Political Rights and to the First and Second Optional Protocols .....	1 - 6	1
B. Sessions of the Committee .....	7	1
C. Election of officers .....	8 - 9	1
D. Special rapporteurs .....	10 - 11	2
E. Working group and country report task forces .....	12 - 16	2
F. Secretary-General's recommendations for reform of treaty bodies .....	17 - 18	3
G. Harmonization of working methods of the treaty bodies .....	19 - 20	4
H. Related United Nations human rights activities .....	21 - 24	4
I. Derogations pursuant to article 4 of the Covenant .....	25 - 31	5
J. Meetings with States parties .....	32 - 39	6
K. General comments under article 40, paragraph 4, of the Covenant .....	40 - 41	7
L. Staff resources .....	42	7
M. Emoluments of the Committee .....	43	7
N. Publicity for the work of the Committee .....	44 - 48	7
O. Publications relating to the work of the Committee .....	49 - 50	8
P. Future meetings of the Committee .....	51	8
Q. Adoption of the report .....	52	9

## CONTENTS *(continued)*

<i>Chapter</i>	<i>Paragraphs</i>	<i>Page</i>
II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT AND COOPERATION WITH OTHER UNITED NATIONS BODIES .....	53 - 74	10
A. Recent developments and decisions on procedures .....	54 - 68	10
B. Follow-up to concluding observations .....	69 - 71	14
C. Links to other human rights treaties and treaty bodies .....	72 - 73	14
D. Cooperation with other United Nations bodies .....	74	15
III. SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT .....	75 - 81	16
A. Reports submitted to the Secretary-General from August 2008 to July 2009 .....	76	16
B. Overdue reports and non-compliance by States parties with their obligations under article 40 .....	77 - 81	16
IV. CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT AND OF COUNTRY SITUATIONS IN THE ABSENCE OF A REPORT RESULTING IN PUBLIC CONCLUDING OBSERVATIONS .....	82 - 95	20
A. Concluding observations on the States parties' reports examined during the reporting period .....	83 - 95	20
Denmark .....	83	20
Monaco .....	84	23
Japan .....	85	26
Nicaragua .....	86	35
Spain .....	87	40
Rwanda .....	88	45
Australia .....	89	49
Sweden .....	90	55

## CONTENTS *(continued)*

<i>Chapter</i>	<i>Paragraphs</i>	<i>Page</i>
IV. <i>(cont'd)</i>		
United Republic of Tanzania .....	91	61
The Netherlands .....	92	68
Chad .....	93	74
Azerbaijan .....	94	82
B. Provisional concluding observations adopted by the Committee on the situation in a country in the absence of a report, and made public as concluding observations in accordance with rule 70, paragraph 3, of the rules of procedure .....	95	88
Grenada .....	95	88
V. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL .....	96 - 229	94
A. Progress of work .....	99 - 105	94
B. Increase in the Committee's caseload under the Optional Protocol .....	106	95
C. Approaches to considering communications under the Optional Protocol .....	107 - 109	96
D. Individual opinions .....	110 - 111	97
E. Issues considered by the Committee .....	112 - 204	97
F. Remedies called for under the Committee's Views .....	205 - 229	121
VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL .....	230 - 236	125
VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS .....	237 - 241	169

## CONTENTS *(continued)*

<i>Annex</i>	<i>Page</i>
I. STATES PARTIES TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AND TO THE OPTIONAL PROTOCOLS, AND STATES WHICH HAVE MADE THE DECLARATION UNDER ARTICLE 41 OF THE COVENANT AS AT 31 JULY 2009 .....	199
A. States parties to the International Covenant on Civil and Political Rights .....	199
B. States parties to the Optional Protocol .....	204
C. States parties to the Second Optional Protocol, aiming at the abolition of the death penalty .....	207
D. States which have made the declaration under article 41 of the Covenant .....	209
II. MEMBERSHIP AND OFFICERS OF THE HUMAN RIGHTS COMMITTEE, 2008-2009 .....	213
A. Membership of the Human Rights Committee .....	213
B. Officers .....	216
III. SUBMISSION OF REPORTS AND ADDITIONAL INFORMATION BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (AS AT 31 JULY 2009) .....	217
IV. STATUS OF REPORTS AND SITUATIONS CONSIDERED DURING THE PERIOD UNDER REVIEW, AND OF REPORTS STILL PENDING BEFORE THE COMMITTEE .....	224
A. Initial reports .....	224
B. Second periodic reports .....	224
C. Third periodic reports .....	225
D. Fourth periodic reports .....	226
E. Fifth periodic reports .....	226
F. Sixth periodic reports .....	227

## CONTENTS (*continued*)

<i>Annex</i>	<i>Page</i>
V. GENERAL COMMENT No. 33 ON OBLIGATIONS OF STATES PARTIES UNDER THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS .....	228
VI. DECISION ADOPTED AT THE NINETY-FIFTH SESSION ON WAYS TO STRENGTHEN THE PROCEDURE FOR FOLLOW-UP ON CONCLUDING OBSERVATIONS .....	232

### Volume II

VII. VIEWS OF THE HUMAN RIGHTS COMMITTEE UNDER ARTICLE 5, PARAGRAPH 4, OF THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS	
A. Communication No. 1122/2002, <i>Lagunas Castedo v. Spain</i> (Views adopted on 20 October 2008, ninety-fourth session)	
Appendix	
B. Communication No. 1163/2003, <i>Isaev and Karimov v. Uzbekistan</i> (Views adopted on 20 March 2009, ninety-fifth session)	
C. Communication No. 1178/2003, <i>Smantser v. Belarus</i> (Views adopted on 23 October 2008, ninety-fourth session)	
D. Communication No. 1195/2003, <i>Dunaev v. Tajikistan</i> (Views adopted on 30 March 2009, ninety-fifth session)	
E. Communication No. 1200/2003, <i>Sattorov v. Tajikistan</i> (Views adopted on 30 March 2009, ninety-fifth session)	
F. Communication No. 1233/2003, <i>A.K. and A.R. v. Uzbekistan</i> (Views adopted on 31 March 2009, ninety-fifth session)	
G. Communication No. 1263/2004, <i>Khuseynov v. Tajikistan</i> Communication No. 1264/2004, <i>Butaev v. Tajikistan</i> (Views adopted on 20 October 2008, ninety-fourth session)	
H. Communication No. 1275/2004, <i>Umetaliyev et al. v. Kyrgyzstan</i> (Views adopted on 30 October 2008, ninety-fourth session)	
I. Communication No. 1276/2004, <i>Idiev v. Tajikistan</i> (Views adopted on 31 March 2009, ninety-fifth session)	
J. Communication No. 1278/2004, <i>Reshetnikov v. Russian Federation</i> (Views adopted on 23 March 2009, ninety-fifth session)	

main responsibility for the conduct of debates on a State party report. The Committee notes that the establishment of these task forces has enhanced the quality of the dialogue with delegations during the consideration of State party reports. The first task forces were convened during the seventy-fifth session.

### **B. Follow-up to concluding observations**

69. Since its forty-fourth session in March 1992,<sup>14</sup> the Committee has adopted concluding observations. It takes the concluding observations as a starting point in the preparation of the list of issues for the consideration of the subsequent State party report. In some cases, the Committee has received, in accordance with rule 71, paragraph 5, of its revised rules of procedure, comments on its concluding observations and replies to the concerns identified by it from the States parties concerned, which are issued in document form.

70. At its ninety-fourth session, the Committee requested the Special Rapporteur for follow-up on concluding observations, Sir Nigel Rodley, to present proposals to the Committee on ways to strengthen its follow-up procedure. On the basis of a paper submitted by the Special rapporteur for follow-up on concluding observations (CCPR/C/95/5), the Committee discussed and adopted several proposals to strengthen its follow-up procedure at its ninety-fifth decision (see annex VI).

71. During the period under review, such comments were received from Austria, Barbados, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, France, Georgia, Honduras, Hong Kong Special Administrative Region (China), Ireland, Libyan Arab Jamahiriya, Madagascar, Tunisia, Ukraine and United States of America, as well as the United Nations Interim Administration Mission in Kosovo (UNMIK). This information has been published and can be consulted on the Office of the United Nations High Commissioner for Human Rights website (<http://www2.ohchr.org/english/bodies/hrc/followup-procedure.htm>). Chapter VII of the present report summarizes activities relating to follow-up to concluding observations and States parties' replies.

### **C. Links to other human rights treaties and treaty bodies**

72. The Committee views the annual meeting of chairpersons of the human rights treaty bodies as a forum for exchanging ideas and information on procedures and logistical problems, streamlining working methods, improving cooperation among treaty bodies, and stressing the need to obtain adequate secretariat services to enable all treaty bodies to fulfil their mandates effectively. In its opinion on the idea of creating a single human rights treaty body,<sup>15</sup> the Committee proposed that the meeting of chairpersons of treaty bodies and the inter-committee meeting should be replaced by a single coordinating body composed of representatives of the various treaty bodies, which would be responsible for the effective oversight of all questions relating to the harmonization of working methods.

---

<sup>14</sup> *Ibid.*, *Forty-seventh Session, Supplement No. 40 (A/47/40)*, chap. I, sect. E, para. 18.

<sup>15</sup> *Ibid.*, *Sixty-second Session, Supplement No. 40 (A/62/40)*, vol. I, annex V.

### Communications dealt with 2001-2008

Year	New cases registered	Cases concluded <sup>a</sup>	Pending cases at 31 December
2008	87	88	439
2007	206	47	455
2006	96	109	296
2005	106	96	309
2004	100	78	299
2003	88	89	277
2002	107	51	278
2001	81	41	222

<sup>a</sup> Total number of cases decided (by the adoption of Views, inadmissibility decisions and decisions to discontinue consideration).

### C. Approaches to considering communications under the Optional Protocol

#### 1. Special Rapporteur on new communications

107. At its thirty-fifth session, in March 1989, the Committee decided to designate a special rapporteur authorized to process new communications as they were received, i.e. between sessions of the Committee. At the Committee's ninety-third session, in July 2008, Ms. Christine Chanet was designated Special Rapporteur. In the period covered by the present report, the Special Rapporteur transmitted 82 new communications to the States parties concerned under rule 97 of the Committee's rules of procedure, requesting information or observations relevant to the questions of admissibility and merits. In 13 cases, the Special Rapporteur issued requests for interim measures of protection pursuant to rule 92 of the Committee's rules of procedure. The competence of the Special Rapporteur to issue and, if necessary, to withdraw requests for interim measures under rule 92 of the rules of procedure is described in the annual report for 1997.<sup>18</sup>

#### 2. Competence of the Working Group on Communications

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

109. The Working Group also makes recommendations to the Committee concerning the inadmissibility of certain communications. At its eighty-third session the Committee authorized the Working Group to adopt decisions declaring communications inadmissible if all members so agreed. At its eighty-fourth session, the Committee introduced the following new rule 93 (3) in

---

<sup>18</sup> *Official Records of the General Assembly, Fifty-second Session, Supplement No. 40 (A/52/40)*, vol. I, para. 467.



## CHAPTER VII. FOLLOW-UP TO CONCLUDING OBSERVATIONS

237. In chapter VII of its annual report for 2003,<sup>20</sup> the Committee described the framework that it has set out for providing for more effective follow-up, subsequent to the adoption of the concluding observations in respect of States parties' reports submitted under article 40 of the Covenant. In chapter VII of its last annual report (A/63/40, vol. I), an updated account of the Committee's experience in this regard over the last year was provided. The current chapter again updates the Committee's experience to 1 August 2009.

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

239. For all reports of States parties examined by the Committee under article 40 of the Covenant over the last year, the Committee has identified, according to its developing practice, a limited number of priority concerns, with respect to which it seeks the State party's response, within a period of a year, on the measures taken to give effect to its recommendations. The Committee welcomes the extent and depth of cooperation under this procedure by States parties, as may be observed from the following comprehensive table.<sup>21</sup> Over the reporting period, since 1 August 2008, 16 States parties (Austria, Barbados, Bosnia and Herzegovina, Chile, Costa Rica, Czech Republic, France, Georgia, Honduras, Hong Kong Special Administrative Region (China), Ireland, Libyan Arab Jamahiriya, Madagascar, Tunisia, Ukraine and United States of America), as well as the United Nations Interim Administration Mission in Kosovo (UNMIK), have submitted information to the Committee under the follow-up procedure. Since the follow-up procedure was instituted in March 2001, 11 States parties (Botswana, Central African Republic, Democratic Republic of the Congo, Equatorial Guinea, Gambia, Namibia, Panama, Sudan, the former Yugoslav Republic of Macedonia, Yemen and Zambia) have failed to supply follow-up information that has fallen due. The Committee reiterates that it views this procedure as a constructive mechanism by which the dialogue initiated with the examination of a report can be continued, and which serves to simplify the process of the next periodic report on the part of the State party.<sup>22</sup>

240. The table below takes account of some of the Working Group's recommendations and details the experience of the Committee over the last year. Accordingly, it contains no reference

---

<sup>20</sup> *Official Records of the General Assembly, Fifty-eighth Session, Supplement No. 40 (A/58/40)*, vol. I.

<sup>21</sup> The table format was altered at the ninetieth session.

<sup>22</sup> As the next periodic report has become due with respect to the following States parties, the Committee has terminated the follow-up procedure despite deficient information or the absence of a follow-up report: Mali, Sri Lanka, Suriname, Namibia, Paraguay, and the Democratic Republic of the Congo.

to those States parties with respect to which the Committee, upon assessment of the follow-up responses provided to it, decided before 1 August 2008 to take no further action prior to the period covered by this report.

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

**Seventy-fifth session (July 2002)**

<p><b>State party: Gambia*</b></p> <p>* Pursuant to rule 69A, paragraph 3, of its rules of procedure, the Human Rights Committee decided to publish the provisional concluding observations on the Gambia that were adopted and transmitted to the State party at its seventy-fifth session.</p>
<p><b>Report considered:</b> Consideration of the situation in the absence of a report (15 and 16 July 2002).</p>
<p><b>Information requested:</b></p> <p>Para. 8: Detailed information on the crimes for which capital punishment may be imposed, the number of death sentences handed down since 1995, and the number of prisoners currently detained on death row (art. 6).</p> <p>Para. 12: Detailed information on the conditions of detention at Mile Two prison (art. 10).</p> <p>Para. 14: Guarantee security of tenure of judges; clarify the basis for the establishment and operation of military courts, and whether the operation of these military courts is linked to the existence of a state of emergency (arts. 7 and 10).</p> <p>Para. 24: Measures to implement article 27 of the Covenant.</p>
<p><b>Date information due:</b> 31 December 2002</p>
<p><b>Date information received: NONE RECEIVED</b></p>
<p><b>Action taken:</b></p> <p>Between October 2006 and September 2007, four reminders were sent.</p> <p><u>17 January 2008</u> The Special Rapporteur requested a meeting with a representative of the State party.</p> <p><u>14 March 2008</u> The Special Rapporteur requested a meeting with a representative of the State party.</p> <p><u>11 June 2008</u> A further reminder was sent and the State party was informed that, in the absence of a response by the ninety-third session, it will be declared to be in breach of its obligation to cooperate with the Committee in the performance of its functions under Part IV of the Covenant.</p> <p><u>22 September 2008</u> The Special Rapporteur informed the State party that, at its ninety-third session, the Committee had declared the State party to be in breach of its obligation to cooperate with the Committee in the performance of its functions under Part IV of the Covenant.</p> <p><u>February 2009</u> The matter has been referred to the High Commissioner for Human Rights.</p>

## Annex VI

### **DECISION ADOPTED AT THE NINETY-FIFTH SESSION ON WAYS TO STRENGTHEN THE PROCEDURE FOR FOLLOW-UP ON CONCLUDING OBSERVATIONS**

At its ninety-fourth session, the Committee requested the Special Rapporteur for follow-up on concluding observations, Sir Nigel Rodley, to present proposals to the Committee on ways to strengthen its follow-up procedure. At the ninety-fifth session, the Committee discussed and took the following decisions to strengthen its follow-up procedure:

1. The Special Rapporteur will consider ways to engage with field presences of the Office of the United Nations High Commissioner for Human Rights on issues regarding follow-up to the concluding observations of the Human Rights Committee (“the Committee”).
2. The Special Rapporteur will consider the linkages between the follow-up procedure of the Committee and the universal periodic review.
3. If the State party fails to submit follow-up information, the Special Rapporteur should send a reminder to the State party concerned two months after the deadline for sending the information has elapsed. If no reply is received, another reminder should be sent after two months. In cases where a reply is overdue by more than six months, the Special Rapporteur will request and hold consultations with delegates from the State party to obtain the information sought or to arrange for a date by which the information will be sent by the State party delegation.
4. The task of the Special Rapporteur for follow-up on concluding observations ends as soon as the next periodic report is due, including in cases where the State party concerned has not yet sent any information on follow-up. A note verbale should be sent to the States parties concerned reminding them that their periodic report is due.
5. In order to facilitate and enhance the assessment of the follow-up reports received, information provided by States parties on each recommendation mentioned in the concluding observations and regarding which the State has been requested to provide follow-up information within one year could be classified according to the following categories:
  - (a) “Largely satisfactory” would denote follow-up information indicating that the State party has been responsive to the specific recommendations considered and that it has substantially implemented the recommendations made by the Committee;
  - (b) “Cooperative but incomplete” would denote follow-up information that provides some indication that the recommendations of the Committee have been partly implemented by the State party but also reveals that the State party has failed to address some issues raised by the Committee in its recommendations and expressions of concern;
  - (c) “Recommendation(s) not implemented” would denote the provision of follow-up information in which the State party has clearly stated that it is not prepared to implement the recommendation(s);

(d) “Receipt acknowledged” would denote that a follow-up report was sent by the State party but that it did not provide any substantive information on the status of implementation of the relevant recommendations;

(e) “No response”.

6. Progress made by States parties in the implementation of the recommendations included in the previous concluding observations of the Committee as well as the level of cooperation with the Committee under its follow-up procedure should be noted in the next concluding observations adopted by the Committee.

**Publication of letters to individual States parties on the website of the Office of the High Commissioner for Human Rights**

7. The Committee decided to request the publication on the website of the Office of the High Commissioner for Human Rights of the individual reminders and letters sent to States parties.

**Follow-up visits**

8. The Committee encourages the further development of the practice of follow-up visits, which would enable it to assess more thoroughly the implementation of its recommendations at the national level.

-----