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Report of the Human Rights Committee

Volume I

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***** See Official Records of the General Assembly, Fifty-fifth Session, Supplement No. 40 (A/55/40), vol. II.

I. JURISDICTION AND ACTIVITIES

A. States parties to the International Covenant on Civil and Political Rights

1. As at 28 July 2000, the closing date of the sixty-ninth session of the Human Rights Committee, there were 145 States parties[a] to the International Covenant on Civil and Political Rights, and 95 States parties to the (first) Optional Protocol to the Covenant.[b] Both instruments have been in force since 23 March 1976.

2. Since the last report no further State has become a party to the Covenant. However, China, which is a signatory of but not yet a party to the Covenant, has notified the Secretary-General that it will apply the Covenant in the Hong Kong Special Administrative Region and the Macau Special Administrative Region, two regions which returned to Chinese sovereignty in 1997 and 1999, and which were formerly under the administration of two States parties to the Covenant, the United Kingdom and Portugal, respectively.

3. Since the last report one State has become party to the Optional Protocol: Cape Verde. Because of the denunciation, on 27 March 2000, of one State party to the Optional Protocol, Trinidad and Tobago, pursuant to article 12 of the Optional Protocol, the number of States parties remains at 95.

4. Also as at 28 July 2000, there is no change in the number of States (47) which have made the declaration envisaged under article 41, paragraph 1, of the Covenant.

5. The Second Optional Protocol, aiming at the abolition of the death penalty, entered into force on 11 July 1991. As at 28 July 2000, there were 44 States parties to the Second Optional Protocol, an increase since the Committee's last report of six: Bulgaria, Cape Verde, Cyprus, Monaco, Turkmenistan and the United Kingdom of Great Britain and Northern Ireland.

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

7. Reservations and other declarations made by a number of States parties in respect of the Covenant and/or the Optional Protocols are set out in the notifications deposited with the Secretary-General. During the period under review several reservations were withdrawn.

B. Sessions of the Committee

8. The Human Rights Committee held three sessions since the adoption of its previous annual report. The sixty-seventh session (1783rd to 1811th meetings) was held at the United Nations Office at Geneva from 18 October to 5 November 1999, the sixty-eighth session (1812th to 1838th meetings) was held at United Nations Headquarters from 13 to 31 March 2000, and the sixty-ninth session (1839th to 1867th meetings) was held at the United Nations Office at Geneva from 10 to 28 July 2000.

C. Elections, membership and attendance

9. At the Nineteenth Meeting of States Parties to the Covenant, held at United Nations Headquarters on 13 September 1999, Mr. Louis Henkin (United States of America) was elected to the seat left vacant following the resignation of Mr. Thomas Buergenthal, for a term to end on 31 December 2002.

10. Seventeen members of the Committee participated at the sixty-seventh and sixty-ninth sessions. All the members of the Committee participated at the sixty-eighth session. Mr. Fausto Pocar was elected Judge at the International Criminal Tribunal for the Former Yugoslavia in February 2000. He attended part of the sixty-eighth session.

D. Solemn declaration

11. At the 1783rd meeting (sixty-seventh session), on 18 October 1999, Mr. Henkin made a solemn declaration in accordance with article 38 of the Covenant before assuming his functions.

E. Election of officers

12. The officers of the Bureau, elected at the Committee's 1729th meeting (sixty-fifth session), for a term of two years, in accordance with article 39, paragraph 1, of the Covenant, remained unchanged:

Chairperson:	Ms. Cecilia Medina Quiroga
Vice-Chairpersons:	Mr. Abdelfattah Amor Mr. Prafullachandra Natwarlal Bhagwati Ms. Elizabeth Evatt
Rapporteur:	Lord Colville

13. During its sixty-seventh through sixty-ninth sessions the Committee held nine Bureau meetings (three per session) with interpretation.

F. Special rapporteurs

14. The Special Rapporteur on Follow-Up of Views, Mr. Fausto Pocar, met with representatives of Colombia during the sixty-seventh session and presented a report to the Committee during the sixty-eighth session. Also at the sixty-eighth session Mr. Pocar gave up his mandate and the Committee designated Ms. Christine Chanet as the new Special Rapporteur on Follow-Up of Views for the remainder of Mr. Pocar's mandate as Rapporteur, which was to end in March 2001. During the sixty-eighth session Ms. Chanet met with representatives of Australia and Suriname. During the sixty-ninth session Ms. Chanet met with representatives of Australia, Austria and Canada. The Special Rapporteur on New Communications, Mr. David Kretzmer, continued his functions during the reporting period, registered 66 communications, transmitted these communications to the States parties concerned, and issued 11 decisions on interim measures of protection pursuant to rule 86 of the Committee's rules of procedure.

G. Revised guidelines for States parties' reports

15. After the Committee, at its 1779th meeting (sixty-sixth session), adopted the English original version of the revised consolidated guidelines for States parties' reports, the Committee approved the French and Spanish language versions with minor adjustments (CCPR/C/66/GUI/Rev.1) at its 1783rd meeting (sixty-seventh session) (see chap.II below). The text of the consolidated guidelines is annexed to the present report (annex III).

H. Working groups

16. In accordance with rule 62 and rule 89 of its rules of procedure, the Committee established working groups which met before each of its three sessions. Working groups were entrusted with the task of making recommendations (a) regarding communications received under the Optional Protocol; and (b) for the purposes of article 40, including the preparation of concise lists of issues concerning the initial or periodic reports scheduled for consideration by the Committee. Other ad hoc working groups were mandated to study the Committee's working methods and to prepare the Committee's contributions to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, to be held in South Africa in September 2001, and the two sessions of the Preparatory Committees in May 2000 and May 2001.

17. Representatives of United Nations bodies and the specialized agencies, particularly the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Children's Fund (UNICEF), the United Nations Development Programme (UNDP), the Office of United Nations High Commissioner for Refugees (UNHCR), the International Labour Organization (ILO), and the World Health Organization (WHO), provided advance information on the reports to be considered by the Committee. To that end, the Working Groups also considered the oral and written presentations by representatives of non-governmental organizations, including Amnesty International, Equality Now, Human Rights Watch, the International Federation of Human Rights Leagues, the International Service for Human Rights, the Lawyers Committee for Human Rights, and several local organizations. The Inter-Parliamentary Union also provided information for Committee members. The Committee welcomed the increasing interest shown and participation by these agencies and organizations and thanked them for the information provided.

18. Sixty-seventh session (11-15 October 1999): a combined Working Group on Communications and Article 40 was composed of Mr. Amor, Mr. Bhagwati, Lord Colville, Ms. Evatt and Mr. Hipólito Solari Yrigoyen; Lord Colville was elected Chairperson-Rapporteur.

19. Sixty-eighth session (6-10 March 2000): a combined Working Group on Communications and Article 40 was composed of Mr. Amor, Mr. Nisuke Ando, Mr. Bhagwati, Ms. Evatt, Mr. Eckart Klein, Mr. Kretzmer, Mr. Rajsoomer Lallah, Mr. Solari Yrigoyen, Mr. Roman Wieruszewski and Mr. Maxwell Yalden; Mr. Klein was elected Chairperson-Rapporteur. After its fourth meeting and through its tenth meeting, the combined Working Group divided its tasks. Mr. Klein remained Chairperson-Rapporteur of the Working Group on Article 40 and Mr. Kretzmer was elected Chairperson-Rapporteur of the Working Group on Communications, which was open-ended and welcomed the participation of all members.

20. Sixty-ninth session (3-7 July 2000): a combined Working Group on Communications and Article 40 was composed of Mr. Bhagwati, Ms. Chanet, Lord Colville, Mr. Henkin, Mr. Kretzmer, Mr. Solari Yrigoyen, Mr. Wieruszewski and Mr. Yalden; Mr. Wieruszewski was elected Chairperson-Rapporteur. After its fourth meeting and through its tenth meeting, the combined Working Group divided its tasks. Mr. Wieruszewski remained Chairperson-Rapporteur of the Working Group on Article 40 and Mr. Yalden was elected Chairperson-Rapporteur of the Working Group on Communications, which was open-ended and welcomed the participation of all members. At the ninth meeting Ms. Evatt joined the Working Group on Communications.

I. Other United Nations human rights activities

21. At all of the Committee's sessions, the Committee was informed about activities carried on by United Nations bodies dealing with human rights issues; in particular, the relevant general comments and concluding observations of the Committee on the Rights of the Child, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee on Economic, Social and Cultural Rights, and the Committee against Torture were made available to the members of the Human Rights Committee. Relevant resolutions and decisions of the General Assembly and the Commission on Human Rights were also discussed. The United Nations High Commissioner for Human Rights, Mrs. Mary Robinson, addressed the combined Working Group of the sixty-ninth session; she reported on the decision to set up a Petitions Team for the Treaty Bodies; a summary of her announcement is at annex XII. The Deputy High Commissioner for Human Rights, Mr. Bertrand Ramcharan, addressed the sixty-seventh and sixty-ninth sessions of the Committee.

22. At the 1832nd meeting (sixty-eighth session), on 28 March 2000, the Special Adviser to the Secretary-General on Gender Issues and the Advancement of Women, Ms. Angela King, addressed the Committee on the adoption by the Commission on the Status of Women of an Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women on the submission of individual communications and inquiry procedures for the Convention, which at that time had 33 signatories. Ten ratifications are needed for the Optional Protocol to enter into force. Ms. King also spoke on the importance of the "Beijing plus five" follow-up conference and welcomed the adoption of the Human Rights Committee's General Comment No. 28 on gender equality.

23. At its 1822nd meeting (sixty-eighth session), on 21 March 2000, Mr. Bacre Ndiaye, head of the New York Office of the Office of the High Commissioner for Human Rights, addressed the Committee on the occasion of the International Day against Racism and invited the Committee to make a contribution to the preparatory process for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The Committee established a working group to prepare a submission to the Preparatory Committee and designated Mr. Solari Yrigoyen as its representative. Mr. Solari Yrigoyen participated at the first session of the Preparatory Committee, which was held in Geneva from 1 to 5 May 2000.

24. The Committee has been mandated to cooperate with UNDP in the development of human rights indicators for common country assessments.

J. Derogations pursuant to article 4 of the Covenant

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

26. In cases of derogation the Committee considers whether the State party has satisfied the conditions of article 4 and, in particular, insists that the derogation be terminated as soon as possible. When faced with situations of armed conflict, both external and internal, which affect States parties to the Covenant, the Committee will necessarily examine whether these States parties are complying with all of their obligations under the Covenant. The Committee's practice under the Covenant and its Optional Protocol, as well as its general comments, provide indications as to the interpretation of article 4 of the Covenant.

27. For States parties to the Covenant, the continued practice of derogations has been the subject of dialogue in the context of the consideration of States parties' reports under article 40 of the Covenant. While not questioning the right of States parties to derogate from certain obligations in states of emergency, in conformity with article 4 of the Covenant, the Committee always urges States parties to withdraw the derogations as soon as possible.

28. For States parties to the Optional Protocol, the Committee has considered derogations in the context of the consideration of individual communications. The Committee has consistently given a strict interpretation to derogations, and in some cases has determined that notwithstanding the derogation the State was responsible for violations of the Covenant.

29. During the period under review the Government of Namibia notified the Secretary-General, on 5 August 1999, pursuant to article 4, paragraph 3, of the Covenant, of a state of emergency in the Caprivi region for an initial period of 30 days, indicating that the measure was prompted by circumstances that had arisen in this region causing a public emergency threatening the life of the nation and the constitutional order. On 10 September 1999 the Government of Namibia specified that the derogation applied with respect to articles 9, paragraph 2, and 9, paragraph 3, of the Covenant. On 10 September 1999 the declaration of state of emergency was revoked.

30. On 27 August 1999 the Government of Ecuador notified the Secretary-General of a decree of 5 July 1999 proclaiming a state of emergency in Ecuador in respect of public and private transport systems throughout the country during the month of July 1999, a further decree of 13 July 1999 declaring the entire territory of Ecuador as a security zone, and a further decree of 17 July 1999 lifting the state of national emergency. Subsequently, the Government of Ecuador specified that the provisions from which it had derogated were articles 12, paragraph 1, 17, paragraph 1, 21 and 22 of the Covenant. On 6 January 2000 the Government of Ecuador notified the Secretary-General of a state of emergency in Ecuador, establishing the entire territory of the Republic as a security zone. It was explained that the measure was motivated by the serious internal unrest caused by the economic crisis.

31. On 22 December 1999 the Government of Peru notified the Secretary-General of a state of emergency in various districts and provinces of the country and its derogation from articles 12, 17, 21 and 29 of the Covenant. On 2 March 2000, the Government of Peru notified that it had extended the state of emergency in several provinces of Peru during the months of January and February 2000, indicating that the measures were prompted by the persistence of civil unrest and by the need to complete the process of pacification in those areas of the country, and also in order to ensure the rational use of natural resources, particularly timber in the area of Tahuamanú Province of the Department of Madre de Dios. The Government of Peru specified that the provisions from which it had derogated were articles 9, 12, 17 and 21 of the Covenant.

32. On 30 May 2000 the Government of Sri Lanka notified the Secretary-General of a state of emergency and derogated from articles 9, paragraphs 2 and 3; 12, paragraphs 1 and 2; 14, paragraph 3; 17, paragraph 1; 19, paragraph 2; 21 and 22, paragraph 1. As of the date of this report the state of emergency remained in force.

K. General Comments under article 40, paragraph 4, of the Covenant

33. At its sixty-second session, Mr. Klein submitted to the Committee a draft general comment on article 12, which was discussed during the sixty-third through sixty-sixth sessions. At its 1783rd meeting, on 18 October 1999 (sixty-seventh session), the Committee adopted General Comment No. 27 (CCPR/C/21/Rev.1/Add.9), which is reproduced at annex VI, section A.

34. At its sixty-second session, Ms. Medina Quiroga submitted to the Committee a draft general comment on article 3 of the Covenant, revising and replacing General Comment No. 4 (adopted at the Committee's third session). The Committee discussed the draft during the sixty-third through sixty-eighth sessions. At its 1834th meeting, on 29 March 2000 (sixty-eighth session), the Committee adopted General Comment No. 28 concerning gender equality (CCPR/C/21/Rev.1/Add.10), which is reproduced at annex VI, section B.

35. At its sixty-sixth session, Mr. Martin Scheinin submitted a draft general comment on article 4, which was discussed during the sixty-seventh, sixty-eighth and sixty-ninth sessions. A working group of the Committee is also currently working on a draft general comment on racism and xenophobia.

L. Staff resources

36. The Committee, during its sixty-seventh session, welcomed the commitment expressed by the United Nations High Commissioner for Human Rights to improve the staff situation referred to in the last annual report. In particular, the Committee welcomed the recruitment of a temporary staff member to help reduce the backlog in communications, as well as the approval of a new post for communications, which should be filled in the very near future. Moreover, a plan of action to strengthen three Geneva-based committees is expected to alleviate the serious situation of understaffing. The Committee reiterated its emphasis on the need for sufficient Professional and other staff to be allocated with experience in all aspects of the Committee's work and specific responsibilities for that work. The Committee now looks forward to improvements following the High Commissioner's announcement.

M. Publicity for the work of the Committee

37. The Chairperson, accompanied by members of the Bureau, met with the press at all of the Committee's three sessions.

N. Documents and publications relating to the work of the Committee

38. The Committee continued to be seriously concerned about the difficulties it faced in regard to the late issuance of Committee documents, particularly reports by States parties, as a consequence of delays in editing and translation. In this connection the Committee noted that pursuant to its recommendation, made during its sixty-sixth session, reports of States parties, whenever possible, are now being submitted for translation without editing, and that this new practice has significantly reduced the delay in issuing reports.

39. The Committee noted further that the summary records of the Committee meetings were issued only after considerable delay; summary records from the New York meetings were sometimes issued after a lapse of more than one year.

40. The Committee urged that the publication of volumes 3 and 4 of the Selected Decisions under the Optional Protocol be undertaken as a matter of priority. This has been requested as part of the plan of action.

41. The Committee reiterated its concern over the discontinuation of the publication of its Official Records after 1991/92, and noted with regret that resources had not been made available for the publication of further volumes. This matter is also in the plan of action.

42. The Committee welcomed the opening and further development of the web site of the Office of the High Commissioner for Human Rights (http://www.unhchr.ch), at which Internet users have access to the treaty bodies database, including all Views under the Optional Protocol since the forty-sixth session (October-November 1992). The Committee noted that the input of material was incomplete, especially in regard to the Committee's jurisprudence, and that there was no adequate search function.

43. The Committee had ascertained that the documentary records which had not yet appeared in the Official Records of the Committee were not all available on the web site. The Committee asked that urgent efforts be made to ensure that all material not yet published in the Official Records be put on the database. It asked that the summary records include the lists of issues in relation to the discussion of States parties' reports.

44. The Committee welcomed the publication of its decisions under the Optional Protocol in the database of various universities, including the university of Minnesota, United States of America (http://www1.umn.edu/humanrts/undocs/undocs.htm) and the launching of a case-law digest on the Committee's jurisprudence under the Optional Protocol by the University of Utrecht, the Netherlands (SIM Documentation Site, http://sim.law.uu.nl/SIM/Dochome.ns). Moreover, the Committee noted with satisfaction that its work was becoming better known thanks to initiatives taken by UNDP and the Department of Public Information (DPI).

Moreover, the Committee appreciated the growing interest shown by universities and other institutions of higher learning and the publication of several pertinent dissertations and other scholarly works on the Committee.

O. Future meetings of the Committee

45. At its sixty-ninth session, the Committee confirmed the following schedule of future meetings in 2000/200l: the seventieth session, to be held at the United Nations Office at Geneva from 16 October to 3 November 2000; the seventy-first session, to be held at United Nations Headquarters from 19 March to 6 April 2001; the seventy-second session at the United Nations Office at Geneva from 9 to 27 July 2001; and the seventy-third session at the United Nations Office at Geneva from 15 October to 2 November 2001.

P. Adoption of the report

46. At its 1859th and 1860th meetings, held on 24 July 2000, the Committee considered the draft of its twenty-fourth annual report, covering its activities at its sixty-seventh, sixty-eighth and sixty-ninth sessions, held in 1999 and 2000. The report, as amended in the course of the discussion, was adopted unanimously. By virtue of Economic and Social Council decision 1985/105 of 8 February 1985, the Council authorized the Secretary-General to transmit the Committee's annual report directly to the General Assembly.

II. METHODS OF WORK OF THE COMMITTEE UNDER ARTICLE 40 OF THE COVENANT: NEW DEVELOPMENTS

47. The present chapter summarizes and explains the modifications recently introduced by the Committee to its working methods under article 40 of the Covenant.

A. Recent decisions on procedures

48. At its sixty-fifth session in March 1999, the Committee decided that the lists of issues for the examination of States parties reports should henceforth be adopted at the session prior to the examination of a report, thereby allowing a period of at least two months for States parties to prepare for the discussion with the Committee. Central to the consideration of States parties' reports is the oral hearing, where the delegations of States parties have the opportunity to answer specific questions from members of the Committee. Thus, States parties are encouraged to use the list of issues in order better to prepare for a constructive discussion, but are not expected to submit written answers. If they do, these written answers must be received well in advance of the examination of the report so as to allow for translation into the languages of the Committee members. This new practice was put into effect at the sixty-sixth session, at which the lists of issues for the sixty-seventh session were adopted. Experience at the sixty-seventh, sixty-eighth and sixty-ninth sessions has demonstrated that the change has been fully justified in practice.

49. At the sixty-sixth session, the Committee adopted new consolidated guidelines on States parties' reports, which replace all prior guidelines and are intended to facilitate the preparation of initial and periodic reports by States parties (see para. 15 above). These guidelines provide for comprehensive initial reports, written on an article-by-article basis, and targeted periodic reports primarily addressing the Committee's concluding observations and following, to the extent necessary, the article-by-article approach. In their periodic reports States parties need not report on every article, but only on those articles identified by the Committee in its concluding observations and those articles concerning which there have been important developments since the submission of the previous report. As was stated in the 1999 annual report, all earlier documents and guidelines on this subject are now superseded. The new guidelines were not published in the Committee's 1999 report (A/54/40), in view of the fact that the text in all languages had to be carefully checked. Minor drafting amendments were made at the Committee's 1784th meeting on 18 October 1999 and the guidelines were published under the symbol CCPR/C/66/GUI/Rev.1.

B. Concluding observations

50. By virtue of a decision taken at its 1123rd meeting, held on 24 March 1992, the Committee has been adopting concluding observations. Until a follow-up procedure has been devised to monitor compliance with the Committee's recommendations, the Committee takes the concluding observations as a starting point in the preparation of the list of issues for the examination of the subsequent State party report. In some cases the Committee has received comments from the States parties, which are issued in document form. During the period under review such comments were received from Mexico and the Republic of Korea.

C. Links to other human rights treaties and treaty bodies

51. The Committee continues to find value in the meeting of persons chairing the human rights treaty bodies as a forum for the exchange of ideas and information on procedures and logistical problems, particularly the need for sufficient services to enable the various treaty bodies to carry out their respective mandates.

52. Ms. Cecilia Medina Quiroga, the Chairperson of the Committee, participated in the twelfth meeting of chairpersons, held in Geneva in June 2000. The outcome of the twelfth meeting was discussed at the sixty-ninth session. Among the matters discussed were:

(a) The question of the backlog of communications under the Optional Protocol;

(b) The question of staff resources;

(c) The plan of action for the Human Rights Committee, the Committee on the Elimination of Racial Discrimination and the Committee against Torture;

(d) The question of follow-up to views and to concluding observations on States parties' reports;

(e) the question of human rights indicators (see para. 54 below).

53. With regard to the plan of action, which is becoming operational in 2000, members of the Committee stressed that the work of the Committee was of a permanent, ongoing nature and that its funding should be solidly based in the budget of the United Nations. Thus, in the allocation of resources the Secretary-General should give priority to ensuring that the Committee can carry out its core tasks. Moreover, it is essential to ensure both appropriate expertise and continuity of resources.

D. Cooperation with other United Nations bodies

54. At its sixty-eighth session the Committee began consideration of its participation in the initiative emerging from the Memorandum of Understanding signed by the Office of the High Commissioner for Human Rights and United Nations Development Programme on cooperation over a wide range of human rights issues and activities. The Committee welcomes the fact that, in its development programmes and in particular those relating to technical assistance, the United Nations Development Programme takes account of the Committee's conclusions arising from its consideration of State party reports. While the indicators, i.e. quantitative and qualitative criteria for assessing compliance by States parties with the provisions of human rights treaties and for a State party's capacity for good governance, do not as yet include many rights guaranteed by the International Covenant on Civil and Political Rights, the Committee intends to play its part in refining and developing these indicators, so that United Nations resources may be more effectively targeted.

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

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

A. Reports submitted to the Secretary-General from August 1999 to July 2000

56. During the period covered by the present report, 13 initial or periodic reports were submitted to the Secretary-General: initial reports were submitted by Croatia, the Czech Republic and Monaco; second periodic reports were submitted by Azerbaijan, the Democratic People's Republic of Korea,[c] Guatemala and the Syrian Arab Republic; third periodic reports by the Dominican Republic (combined with the fourth periodic report), Trinidad and Tobago (combined with the fourth periodic report) and Venezuela; fifth periodic reports by Ukraine, the United Kingdom of Great Britain and Northern Ireland and the United Kingdom (Overseas Territories).

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

57. States parties to the Covenant must submit the reports referred to in article 40 of the Covenant on time, so that the Committee can duly perform its functions under that article. Those reports are the basis of the discussion between the Committee and States parties on the human rights situation in States parties. Regrettably, serious delays have been noted since the establishment of the Committee. For example, at its sixty-fourth session in October/November 1998, the Committee decided to request the overdue report from Trinidad and Tobago. During the sixty-fifth session, held in March 1999 in New York, the Committee met with the Attorney General of Trinidad and Tobago, and a combined third and fourth report was submitted in September 1999.

58. The Committee is facing not only a problem of overdue reports, but also a backlog of reports already received but not yet considered, which has continued to grow notwithstanding the Committee's new guidelines and other significant improvements in the Committee's working methods. With a view to reducing this backlog, the Committee decided to consider jointly the third and fourth reports of Australia, which had been received and issued as separate documents, at its sixty-ninth session. In the same vein and for the same reason, the Committee has decided

to accept the submission of two overdue reports combined in a single document, for example the combined third and fourth reports submitted by Trinidad and Tobago. The Committee does not, however, encourage the practise of combining overdue reports. Since the adoption of the new Guidelines, the date for the submission of the next periodic report is stated in the concluding observations. It is too early to comment on the observance of this requirement.

59. The Committee notes with concern that the failure of States to submit reports hinders the Committee in the performance of its monitoring functions under article 40 of the Covenant. The Committee lists below the States parties that have a report more than five years overdue, as well as those that have not submitted reports requested by a special decision of the Committee. The Committee wishes to reiterate that those States are in serious default of their obligations under article 40 of the Covenant.

States parties that have reports more than five years overdue (as of 28 July 2000) or that have not submitted a report requested by a special decision of the Committee

State party	Type of report	Date due	Years overdue
Gambia	Second	21 June 1985	15
Suriname	Second	2 August 1985	14
Kenya	Second	11 April 1986	14
Mali	Second	11 April 1986	14
Equatorial Guinea	Initial	24 December 1988	11
Central African Republic	Second	9 April 1989	11
Togo	Third	31 December 1990	9
Barbados	Third	11 April 1991	9
Somalia	Initial	23 April 1991	9
Nicaragua	Third	11 June 1991	9
Viet Nam	Second	31 July 1991	8
Democratic Republic of the Congo	Third	31 July 1991	8
Portugal	Third	1 August 1991	8
Saint Vincent and The Grenadines	Second	31 October 1991	8
San Marino	Second	17 January 1992	8
Panama	Third	31 March 1992	8
Rwanda	Third	10 April 1992	8
Madagascar	Third	31 July 1992	7
Grenada	Initial	5 December 1992	7
Albania	Initial	3 January 1993	7
Philippines	Second	22 January 1993	7
Bosnia and Herzegovina	Initial	5 March 1993	7
Benin	Initial	11 June 1993	7
Côte d'Ivoire	Initial	25 June 1993	7
Seychelles	Initial	4 August 1993	6
Mauritius	Fourth	4 November 1993	6
Angola	Initial/Special	31 January 1994	6

State party	Type of report	Date due	Years overdue
Niger	Second	31 March 1994	6
Afghanistan	Third	23 April 1994	6
Republic of Moldova	Initial	25 April 1994	6
Ethiopia	Initial	10 September 1994	5
Dominica	Initial	16 September 1994	5
Guinea	Third	30 September 1994	5
Mozambique	Initial	20 October 1994	5
Cape Verde	Initial	5 November 1994	5
Luxembourg	Third	17 November 1994	5
Bulgaria	Third	31 December 1994	5
Egypt	Third	31 December 1994	5
Islamic Republic of Iran	Third	31 December 1994	5
Ghana	Third	1 February 1995	5
Malawi	Initial	21 March 1995	5
New Zealand	Fourth	27 March 1995	5

60. The Committee drew particular attention to 19 initial reports which had not yet been presented (including the 15 overdue initial reports listed above). The result was to frustrate a major objective of ratifying the Covenant, that of submitting to the Committee regular reports on compliance with the Covenant. There was no opportunity even to commence a discussion of the human rights situation in those States.

61. The Committee noted that, in the period under review, two States parties (Afghanistan and Venezuela) whose reports had been listed for consideration at the sixty-eighth session, had notified the Committee a few days before the scheduled consideration of the respective report that they could not send a delegation on the scheduled date and had asked for a postponement. The Committee expressed its concern at such failure by States to cooperate in the reporting process and especially their withdrawal at a late stage; such conduct aggravates the backlog problem in the examination of reports, since it is impossible for the Committee to schedule on short notice the examination of any other report. During the sixty-seventh session the Committee received a notification from another State party, Peru, that it would not be able to come for the consideration of its report during the sixty-eighth session. In that case, the Committee was able to reschedule the examination of that State party's report in October 2000 and select another State party report for examination during the sixty-eighth session.

62. The Committee is working on establishing procedures which would enable it, in circumstances such as those set out in paragraphs 60 and 61, to consider compliance by States parties which have failed to submit reports under article 40.

63. At the sixty-seventh session an addendum to the report of a State party, updating the information already submitted was presented to the Secretariat. This addendum was submitted one working day before the scheduled consideration of the report. The addendum was duly copied and distributed to the members in the language of submission. While the Committee very much appreciated receiving updated information to enhance the dialogue, it drew to the attention of the delegation and wishes to stress to all States parties that, in accordance with the guidelines, addenda can only be fully taken into account if they are received at least 10 weeks before the consideration of a report, so as to ensure their translation into the languages used by the Committee members.

64. At its 1860th meeting, on 24 July 2000, the Committee decided that Kazakhstan should be requested to submit its initial report by 31 July 2001, notwithstanding the fact that no instrument of succession or accession has been received from Kazakhstan following its independence**.**

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

65. The following sections, arranged on a country-by-country basis in the sequence followed by the Committee in its consideration of the reports, contain the concluding observations adopted by the Committee with respect to the States parties' reports considered at its sixty-seventh, sixty-eighth and sixty-ninth sessions. The Committee urges States parties to adopt corrective measures consistent with their obligations under the Covenant and indents these recommendations.

A. Norway

66. The Committee considered the fourth periodic report of Norway (CCPR/C/115/Add.2) at its 1785th and 1786th meetings (CCPR/C/SR.1785 and 1786) held on 19 October 1999 and adopted the following concluding observations at its 1796th meeting, held on 26 October 1999.

1. Introduction

67. The Committee welcomes the timely submission of the State party's fourth periodic report and its detailed information on laws, other measures and practices relating to the implementation of the Covenant. The Committee also appreciates the further information about developments in the implementation of human rights in Norway subsequent to the submission of the report. The Committee expresses its appreciation for the constructive and open dialogue it had with the Norwegian delegation.

2. Positive aspects

68. The Committee commends the State party for its generally positive record in the implementation of the provisions of the Covenant. It notes with appreciation the extensive legislative activity and other measures that have been taken for the promotion and protection of rights recognized under the Covenant since the examination of the third periodic report.

69. The Committee welcomes the adoption of the Human Rights Act under which the Covenant has been directly incorporated into the legal system of Norway and the fact that it prevails over conflicting statutory provisions (art. 2).

70. The Committee also welcomes both the appointment of a new Minister for Development and Human Rights and the new practice of the Government in presenting comprehensive annual reports to the Storting (Parliament) on the implementation and monitoring of human rights. The Committee looks forward to receiving information in future reports on the Plan of Action which is to be forwarded to the Storting on 10 December 1999, and the measures which will be recommended to further enhance the protection of human rights in Norway (art. 2).

71. While noting that the unemployment rate for immigrants is still substantially higher than for the rest of the population, the Committee commends the new legislation and the Plan of Action, both seeking to promote equality in the labour market (art. 26).

72. The Committee appreciates the steps taken to increase the number of women in the judiciary, in politics, and in leading positions both in public institutions and in the private sector, and other measures taken to combat traditional gender concentration in certain professions (arts. 3 and 26).

73. Noting that the Lund Commission uncovered many instances of unlawful telephone-monitoring, the Committee welcomes Law No. 73 of 1999 which after its entry into force on 1 January 2000 will afford the right to compensation to victims, and a general right to seek information about oneself contained in the records and registers of the Police Security Service (art. 17).

74. The Committee commends the State party for the new system which was implemented in 1998 with regard to the questioning of child victims of sexual abuse in judicial proceedings (arts.14 and 24).

75. The Committee takes note of the positive developments in the field of protecting and promoting the human rights of members of the Sami indigenous people, including the strengthening of the Sami Parliament, measures aimed at promoting the Sami language, the transfer of certain cultural institutions to the Sami themselves, as well as the ongoing legal reform related to lands and resources in Finnmark and other areas with a Sami population. The Committee welcomes the developments to ensure full consultation with the Sami in matters affecting their traditional means of livelihood (arts. 1 and 27).

3. Principal subjects of concern and recommendations

76. The Committee notes with concern that pre-trial detention in some cases is used for excessive periods of time. The Committee is also concerned at the extent to which the liberty of persons may be withdrawn by administrative detention. The Committee recommends that the enabling legislation and practice be reviewed with regard to both pre-trial and administrative detention, with a view to guaranteeing full compliance with all provisions of article 9 of the Covenant.

77. The Committee welcomes the partial withdrawal of the reservation to article 14, paragraph 5, but recommends that the State party consider a complete withdrawal.

78. The Committee reiterates its concerns over section 2 of the Constitution which provides that individuals professing the Evangelical Lutheran religion are bound to bring up their children in the same faith. Its inclusion in the Constitution is incompatible with the Covenant. The Committee therefore recommends that section 2 be modified to comply with article 18 of the Covenant.

79. The Committee recommends early action to review and reform laws relating to criminal defamation (art. 19).

80. With reference to the information in the report about alleged lack of proper reaction from law enforcement officials in cases of racial discrimination, the Committee recommends that the situation be thoroughly analysed and requests that further information be made available (art. 26).

81. The Committee remains concerned that while legislative reform work in the field of Sami land and resource rights is in progress, traditional Sami means of livelihood, falling under article 27 of the Covenant, do not appear to enjoy full protection in relation to various forms of competing public and private uses of land. Lawsuits by private landowners leading to judicial prohibition of reindeer-herding and high legal costs for the Sami are a particular concern in the absence of satisfactory legal aid.

82. As the Government and Parliament of Norway have addressed the situation of the Sami in the framework of the right to self-determination, the Committee expects Norway to report on the Sami people's right to self-determination under article 1 of the Covenant, including paragraph 2 of that article.

4. Dissemination of information about the Covenant (art. 2)

83. The Committee requests that Norway's fifth periodic report be submitted by 31 October 2004. That report should be prepared in accordance with the revised guidelines adopted by the Committee (CCPR/C/66/GUI/Rev.1) and should give particular attention to the issues raised in these concluding observations. The Committee requests that these concluding observations and the next periodic report be widely disseminated in Norway.

B. Morocco

84. The Committee considered the fourth periodic report of Morocco (CCPR/C/115/Add.1) at its 1788th, 1789th and 1790th meetings (CCPR/C/SR.1788-1790), held on 20 and 21 October 1999, and adopted the following concluding observations at its 1802nd meeting, held on 29 October 1999.

1. Introduction

85. The Committee welcomes the fourth periodic report of Morocco, which was submitted in time. While the Committee appreciates the information provided on the new Constitution and other legislation adopted since the examination of Morocco's third periodic report, it notes that little information was provided on the actual application of these laws through the granting of remedies, or on the reality of the human rights situation.

2. Positive aspects

86. The Committee welcomes the adoption by the State party of the 1996 Constitution, providing, inter alia, for the protection of certain Covenant rights, and the steps taken towards democratization since the examination of Morocco's third report in 1994. It welcomes the recognition by the State party of the need for reforms to implement Covenant rights fully and the recent statements at the highest level to this effect. It encourages Morocco to accelerate the ongoing process of reviewing its legislation and enacting laws to give effect to the provisions of the Covenant.

87. The Committee welcomes the commutation of death sentences which has applied since 1994, and the new autopsy procedures in cases of death in custody. It also welcomes the release of many prisoners, the granting of passports to some government opponents and the return from exile of others, and the provision of medical examinations for detainees.

88. The Committee notes with satisfaction the establishment of a Ministry of Human Rights, a Consultative Council on Human Rights, which has reported on many cases of disappearance, and a Commission of Arbitration to provide compensation to victims of arbitrary detention and to the families of disappeared persons. The establishment of a National Observatory for the Rights of the Child and a National Plan of Action for the Integration of Women is particularly welcome.

89. The Committee welcomes the fact that the State party has entered into an agreement with the Office of the United Nations High Commissioner for Human Rights to establish a centre for documentation and education in human rights to provide for human rights training in Morocco. It also welcomes the action taken by the State party in regard to human rights training for the legal profession and the media.

3. Principal subjects of concern and recommendations

90. The Committee observes that while it is stated that the Covenant is part of domestic law, the effect of this on many laws which appear to be incompatible with the Covenant is unclear. The Committee is also concerned that there is no agency fully independent of Government with general responsibility for monitoring the implementation of human rights (art. 2).

91. The Committee encourages the State party to ratify the Optional Protocol.

92. The Committee remains concerned about the very slow pace of the preparations towards a referendum in Western Sahara on the question of self-determination, and at the lack of information on the implementation of human rights in that region.

93. The State party should move expeditiously and cooperate fully in the completion of the necessary preparations for the referendum (arts. 1 and 2).

94. The Committee reiterates its concern that many cases of disappeared persons in Morocco have not yet been resolved by or referred to the Consultative Council on Human Rights, and that according to the delegation it is not yet opportune to investigate the responsibility for those disappearances.

95. It urges the State party to intensify investigations into the whereabouts of all persons reportedly missing, to release any such persons who may still be held in detention, to provide lists of prisoners of war to independent observers, to inform families about the location of the graves of disappeared persons known to be dead, to prosecute the persons responsible for the disappearances or deaths, and to provide compensation to victims or their families where rights have been violated.

96. The Committee notes that Moroccan law does not specify or limit the derogations on rights which are permitted in time of public emergency and does not ensure compliance with article 4 of the Covenant.

97. The State party should ensure that its law and practice are in full compliance with its obligations under article 4.

98. The Committee regrets the lack of specific information in the report about the de facto situation of women in Morocco and observes that the high rate of female illiteracy reported by the delegation underlines the lack of equal opportunity for women in all aspects of society. It continues to be deeply concerned about the extent of discrimination against Moroccan women in education, in employment, in public life and in criminal and civil laws, including laws dealing with inheritance, marriage, divorce and family relations, including the questions of polygamy, repudiation of marriage, grounds for divorce, age of marriage and restrictions on marriage by Muslim women to non-Muslims. It notes with concern that the constitutional guarantees of women's equality extend only to political rights.

99. The State party is urged to intensify its efforts to overcome illiteracy, lack of education and all forms of discrimination against women, to implement fully the guarantee of equality contained in the Covenant (and in particular articles 2, paragraph 1, 3, 23, 25 and 26) and to ensure the equal enjoyment by women of all rights and freedoms.

100. The Committee notes with concern that the strict prohibition on abortion, even in cases of rape or incest, and the stigmatization of women who give birth to children outside marriage results in clandestine, unsafe abortions which contribute to a high rate of maternal mortality.

101. The State party should ensure that women have full and equal access to family planning services and to contraception and that criminal sanctions are not applied in such a way as to increase the risk to life and health of women.

102. The Committee notes with concern that there are no special programmes, legal sanctions or protective measures to counter violence and sexual abuse of women, including marital rape, and that there are aspects of the criminal law (such as the crime of honour defence) which fail to provide equal protection of women's rights under articles 7 and 9 of the Covenant.

103. Legal and protective measures should be adopted to guarantee women's rights to personal security.

104. The Committee reiterates its concern at the number of offences which remain subject to the death penalty.

105. The State party should bring its laws into line with its current policy by abolishing the death penalty altogether and, in any event, should limit the application of the death penalty to the most serious offences as required by article 6 of the Covenant. The Committee also urges the State party to fulfil its undertaking to release a list of all persons under sentence of death.

106. The Committee is concerned at the number of allegations of torture and ill-treatment of detainees by police officials, and that these have been dealt with, if at all, only by disciplinary action and not by the imposition of criminal sanctions on those responsible for such violations.

107. In fulfilment of its obligations under article 7 of the Covenant, the State party should adopt firm measures to eradicate the practice of torture and enact legislation to make torture a criminal offence and to exclude the admissibility in evidence of any confession or statement obtained by torture or duress; appropriate mechanisms should be established for independent monitoring of police detention centres and penitentiaries; all reports of torture and ill-treatment must be investigated, the persons responsible should be prosecuted, and victims of torture must be granted compensation.

108. The Committee notes with concern that the maximum length of detention of a suspect before being brought before a judge may in some cases be as long as 96 hours, that the Crown Prosecutor General has power to extend this period, and that persons detained may not have access to counsel during this period. The Committee is also concerned about the length of pre-trial detention.

109. The State party should ensure that its laws and procedures comply with the guarantees of article 9.

110. The Committee is concerned that the fair trial guarantees of article 14, such as the presumption of innocence and the right to appeal in criminal cases, are not fully reflected in the Constitution or in the Code of Criminal Procedure. It is also concerned that there is no review by higher courts of decisions handed down by special courts like the Permanent Court of the Royal Armed Forces and the Special Court of Justice.

111. The State party should adopt appropriate legislation so as to guarantee the presumption of innocence, as required under article 14, paragraph 2, of the Covenant, and ensure a right of appeal in all criminal cases in keeping with article 14, paragraph 5, of the Covenant.

112. The Committee regrets the continued existence of legislation allowing the court to order imprisonment for debt arising from a contractual obligation, despite a decision by the Administrative Tribunal of Rabat holding that imprisonment may not be imposed in a particular case of this kind because it violates Morocco's obligations under the Covenant.

113. Sections 673 et seq. of the Code of Criminal Procedure should be amended so as to comply with article 11 of the Covenant.

114. The Committee regrets the lack of specific information in the report concerning the law and practice in relation to freedom of movement within the territory and the right to enter and to leave the territory of the State party. In particular, it is not clear under which laws exile may be imposed or withdrawn or how the right to obtain a passport and, where applicable, an exit visa can be enforced by individuals.

115. The State party should ensure that its laws are in full conformity with article 12 of the Covenant, that the laws are transparent and that effective remedies are available to enforce the rights protected by article 12.

116. The Committee is concerned that the impartiality of the judiciary is not fully ensured in accordance with article 14, paragraph 1. The State party should take steps to guarantee the independence and impartiality of the judiciary, and in particular to ensure that there are effective and independent disciplinary mechanisms.

117. The Committee continues to be concerned that freedom of religion and belief is not fully guaranteed. In this regard it observes that the Covenant requires religious freedom to be respected in regard to persons of all religious convictions and not restricted to monotheistic religions, and that the right to change religion should not be restricted, directly or indirectly.

118. The State party should take measures to ensure respect for freedom of religion and belief, and ensure that its laws and policies fully comply with article 18 of the Covenant.

119. The Committee continues to be concerned that the Moroccan Press Code includes provisions (e.g. arts. 42, 64, 77) which severely restrict freedom of expression by authorizing seizure of publications and by imposing penalties for broadly defined offences (such as publishing inaccurate information or undermining the political or religious establishment). It is deeply concerned that 44 persons have been imprisoned for offences under these laws. In addition, the Committee is particularly concerned that persons expressing political views opposing the Government or calling for a republican form of government have been sentenced to imprisonment under article 179 of the Penal Code for the offence of insulting members of the royal family. These laws and their application appear to exceed the limits permitted by article 19, paragraph 3.

120. The State party should amend or repeal the dahir of 1973 and bring all its criminal and civil laws into full compliance with article 19 of the Covenant and release persons whose conviction and imprisonment are incompatible with those provisions.

121. The Committee is concerned at the breadth of the requirement of notification for assemblies and that the requirement of a receipt of notification of an assembly is often abused, resulting in de facto limits of the right of assembly, ensured in article 21 of the Covenant.

122. The requirement of notification should be restricted to outdoor assemblies and procedures adopted to ensure the issue of a receipt in all cases.

4. Dissemination of information about the Covenant (art. 2)

123. The Committee sets the date for the submission of Morocco's fifth periodic report as 31 October 2003. That report should be prepared in accordance with the Committee's revised guidelines and should give particular attention to the situation of women, the problem of the disappeared and to the other issues raised by the Committee in these concluding observations. The Committee urges the State party to make available to the public as well as to the legislative and administrative authorities the text of these concluding observations in multiple languages. It requests that the next periodic report be widely disseminated among the public, including civil society and non-governmental organisations operating in Morocco.

C. Republic of Korea

124. The Committee considered the second periodic report of the Republic of Korea (CCPR/C/114/Add.1) at its 1791st and 1792nd meetings (see CCPR/C/SR.1791 and 1792), held on 22 October 1999, and adopted the following concluding observations at its 1802nd meeting, held on 29 October 1999.

1. Introduction

125. The Committee welcomes the second periodic report submitted by the Republic of Korea within the specified time limit. The Committee regrets, however, that despite its comment that the initial report of the State party did not include sufficient information about implementation of the Covenant in practice, the second periodic report suffered from the same deficiency. The Committee further regrets the lack of responses to a number of questions posed by its members during the examination of the report. As a result, the Committee was prevented from fully monitoring compliance by the State party with all provisions of the Covenant.

2. Factors and difficulties affecting the implementation of the Covenant

126. The Committee appreciates the security concerns of the State party that result from the fact that no final agreement has been reached between the two Koreas. The Committee stresses, however, that citing security concerns does not of itself justify restrictions on Covenant rights, and that even when a State party is faced with genuine security problems restrictions on rights must meet the requirements of the Covenant.

3. Positive factors

127. The Committee commends dissemination of the report among the non-governmental organizations that contributed significantly to the Committee's examination of the report. The Committee takes note of an increasing openness of society, as is evident from the abolition of the Performance Monitoring Committee, which had been responsible for censorship of the performing arts.

128. The Committee notes the enactment of a number of laws aimed at strengthening protection of Covenant rights, especially the rights to equality protected under article 2, paragraph 1, and articles 3 and 26 of the Covenant. These laws include the Basic Women's Development Act, amendments introduced in the Employment Equality Act, the Handicapped Employment Act, the Gender Discrimination Prevention and Relief Act and the Prevention of Domestic Violence and Victim Protection Act.

129. The Committee notes measures undertaken to enhance awareness of the Covenant and of human rights in general that include obligatory human rights training for judges, lawyers and prosecutors. It also welcomes the translation into the Korean language and the distribution of the major international human rights instruments.

4. Principal areas of concern and recommendations

130. The status under domestic law of the rights provided for in the Covenant remains unclear, particularly since the Korean Constitution does not enumerate all of these rights and the extent and criteria under which they may be limited. The Committee is concerned that article 6 of the Constitution, according to which international treaties ratified by the State party have the same effect as domestic laws, has been interpreted as implying that legislation enacted after accession to the Covenant has status superior to that of Covenant rights.

131. The Committee reiterates its grave concern expressed after consideration of the initial report regarding the continued existence and application of the National Security Law. According to the State party, the National Security Law is used to deal with legal problems that arise from the division of Korea. However, the Committee is concerned that it is also used to establish special rules of detention, interrogation and substantive liability that are incompatible with various articles of the Covenant, including articles 9, 18 and 19.

132. The Committee reiterates the recommendation made after consideration of the State party's initial report that the State party phase out the National Security Law.

133. The Committee considers that the scope of activities that may be regarded as encouraging "anti-State organizations" under article 7 of the National Security Law is unreasonably wide. From the cases that have come before the Committee in individual communications under the Optional Protocol and other information provided on prosecutions brought under article 7, it is clear that the restrictions placed on freedom of expression do not meet the requirements of article 19, paragraph 3, of the Covenant, as they cannot be regarded as necessary to protect national security. The Covenant does not permit restrictions on the expression of ideas merely because they coincide with those held by an enemy entity or may be considered to create sympathy for that entity. The Committee also emphasizes that internal directives regarding prosecution policy do not provide adequate guarantees against the use of article 7 in a manner that is incompatible with the Covenant.

134. The State party must urgently amend article 7 so as to make it compatible with the Covenant.

135. The Committee is deeply concerned about the laws and practices that encourage and reinforce discriminatory attitudes towards women. In particular, the family headship system both reflects and reinforces a patriarchal society in which women have a subordinate role. The practice of identifying the sex of foetuses, the disproportionate percentage of boys among second- and third-born children and the high rate of maternal mortality that apparently arises from the number of unsafe abortions are deeply disturbing. The Committee stresses that prevailing social attitudes cannot justify failure by the State party to comply with its obligations under articles 3 and 26 of the Covenant to ensure equal protection of the law and the equal right of men and women to the enjoyment of all the rights set forth in the Covenant.

136. While welcoming the new legislation enacted by the State party for the prevention and punishment of domestic violence, the Committee remains concerned at the high level of such violence and the remaining inadequacies in law and practice.

137. Specifically, the Committee is concerned that the offence of rape requires evidence of resistance by the woman, that marriage to the victim of rape provides a defence to the accused, and that it appears that marital rape is not a criminal offence.

138. The new legislation on prevention and punishment of domestic violence should be strengthened by eliminating existing legal rules that weaken the protection of women against such violence.

139. The Committee is concerned over the extent of discrimination against women in employment, over the lack of adequate protection for the high number of women employed in small enterprises and over the disparity between the earnings of men and women.

140. In order to ensure compliance with articles 3 and 26 of the Covenant, the State party must promote effective implementation of the Gender Discrimination Prevention and Relief Act enacted in January 1999, and adopt positive measures to guarantee equality of opportunity and conditions of employment for women.

141. The law of criminal procedure, under which the detention of a suspect is subject to judicial review only if the detainee lodges an appeal, is incompatible with article 9, paragraph 3, of the Covenant, which provides that every person detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power. The excessive length of permissible pre-trial detention (30 days in ordinary cases and 50 days in cases involving the National Security Law), and the lack of defined grounds for such detention also raise questions of compliance by the State party with article 9.

142. The State party must amend its law so as to ensure respect for all the rights of detained persons provided for under article 9 of the Covenant.

143. The Committee takes note of the procedures for monthly monitoring of conditions in detention centres by prosecutors, but it is concerned that these and other mechanisms are not adequate to prevent instances of torture and cruel, inhuman and degrading treatment of detainees. The small percentage of cases in which complaints of torture or cruel, inhuman and degrading treatment lead to action against officials calls into question the credibility of the existing procedures of investigation. The Committee is also concerned that non-compliance by the State party with the requirements of article 9 of the Covenant, and the seemingly widespread reliance of the prosecuting authorities and the courts on confessions by accused persons and accomplices, facilitate acts of torture and cruel, degrading and inhuman treatment by interrogating officials.

144. Establishment of an independent body to investigate allegations of torture and amendments of the criminal procedure mentioned in paragraph 142 above should not be delayed.

145. While the Committee welcomes the abolition of the “ideology conversion oath”, it regrets that it has been replaced by a “law-abidance oath”. From the information provided to the Committee it remains unclear which prisoners are required to sign the oath and what the consequences and legal effects of the oath are. The Committee is concerned that the oath requirement is applied on a discriminatory basis, particularly to persons convicted under the National Security Law, and that in effect it requires persons to make an oath to abide by a law that is incompatible with the Covenant.

146. The “law-abidance oath” imposed on some prisoners as a condition for their release should be abolished.

147. The Committee regrets that, in view of the paucity of the information provided in the report and in the responses of the delegation during consideration of the report it is unable adequately to assess the extent of judicial independence. It is particularly concerned about the system of reappointment of judges which raises serious questions about judicial independence.

148. The State party must provide full details on the system and actual practice of judicial appointments.

149. The extensive use of wiretapping raises serious questions of compliance by the State party with article 17 of the Covenant. The Committee is also concerned that there are no adequate remedies by way of correction of inaccurate information in databases or for their misuse or abuse.

150. The prohibition of all assemblies on major roads in the capital would appear to be overbroad. While some restrictions on assemblies on main roads in the interests of public order are permissible, article 21 of the Covenant requires that all such restrictions be in conformity with the law and be necessary in a democratic society. The absolute restrictions on the right to hold assemblies on main roads imposed by the State party do not meet these standards.

151. The Committee notes the changes in law that allow teachers to form trade unions and public servants to form workplace associations. Nevertheless, the Committee is concerned that the remaining restrictions on the right to freedom of association of teachers and other public servants do not meet the requirements of article 22, paragraph 2, of the Covenant.

152. The State party should continue with its programme of legislation regarding the right of association of public servants with the object of ensuring that all persons in Korea shall enjoy their rights under article 22 of the Covenant.

153. The Committee welcomes the withdrawal by the State party of its reservations on articles 23, paragraph 4, and 14 paragraph 7. It strongly recommends that the State party review the remaining reservations on articles 14, paragraph 5, and 22 with a view to their eventual withdrawal.

154. In relation to the Committee’s Views on Communications submitted under the Optional Protocol, the Committee finds it inappropriate that the State party should require the author of a communication on which the Committee has expressed its views to seek a remedy through the domestic courts, by way of further appeal or a claim for compensation.

155. Rather than referring such cases back to the domestic courts, which have already pronounced on the matter, the State party should immediately proceed to give effect to the Views expressed by the Committee.

156. The Committee calls on the State party to continue its efforts to provide human rights education to its public officials. It recommends that the State party consider making such education obligatory, not only for public officials but for members of all human rights-related professions, including social workers and medical personnel.

157. The Committee requests that the State party submit its third periodic report by 31 October 2003. That report should be prepared in accordance with the revised guidelines adopted by the Committee and should give particular attention to the issues raised in these concluding observations. The Committee requests that these concluding observations and the next periodic report be widely disseminated in the Republic of Korea.

D. Portugal (Macau)

158. The Committee considered the fourth periodic report of Portugal relating to Macau (CCPR/C/POR/99/4) at its 1794th and 1795th meetings, held on 25 and 26 October 1999, and adopted the following concluding observations at its 1806th meeting, held on 2 November 1999.

1. Introduction

159. The Committee welcomes the attendance of a large delegation, including a number of officials from the Government of Macau. It wishes to express its thanks to the representatives of the State party for their detailed responses to the questions posed orally and in writing and to the comments made by the Committee during its consideration of the report, and for their offer to supply further information in writing. The Committee regrets that although it has received information on the legislation applicable before and after 19 December 1999, it has not been given enough details on the subject or up-to-date statistics.

160. The Sino-Portuguese Joint Declaration, read in conjunction with the Memorandum of Understanding and the Basic Law, provides a legal basis for the continued protection in Macau after 19 December 1999 of the rights specified in the Covenant. The Committee, moreover, wishes to reiterate its long-standing position that human rights treaties devolve with territory, and that States continue to be bound by the obligations under the Covenant entered into by the predecessor State. Once the people living in a territory find themselves under the protection of the International Covenant on Civil and Political Rights, they cannot be stripped of that protection on account of a change in sovereignty (see CCPR/C/SR.1178/Add.1, SR.1200-1202 and SR.1453). Consequently, the reporting requirements under article 40 of the Covenant will continue to apply and the Human Rights Committee expects to receive and review reports in relation to Macau after 19 December 1999.

2. Positive aspects

161. The Committee notes with satisfaction the negotiations between the Portuguese and Chinese authorities to ensure legal continuity (article 8 of the Basic Law) and continued application of international treaties. It welcomes the fact that a large number of the rights and fundamental freedoms set forth in the Covenant are enunciated in articles 24 to 44 of the Basic Law of Macau.

162. The Committee notes with satisfaction the great efforts which have been made in the past few years to give the Chinese-speaking population access to official forms and to court documents and decisions in Chinese, and that Chinese is used in the courts and for official business. It notes that under article 9 of the Basic Law, both Chinese and Portuguese can be used as official languages after 19 December 1999.

163. The Committee also notes with satisfaction that the Governments of Portugal and China reached agreement in March 1998 on the principles underlying the new organization of the legal system, which guarantee the non-removability of judges and the autonomy and independence of the judiciary.

3. Principal subjects of concern and Committee recommendations

164. The Committee notes with great concern that on the eve of the territory of Macau being returned to the sovereignty of the People's Republic of China, it still remains unclear which laws, including human rights laws, will be held incompatible with the Basic Law of the Macau Special Administrative Region and therefore become invalid after 19 December 1999.

165. The Committee wishes to underline the obligation of the State party, according to article 2 of the Covenant, as well as that of the State under whose jurisdiction the territory will be, to ensure that the population of Macau remains fully protected under the Covenant after 19 December 1999.

166. The Committee notes the ombudsman functions of the High Commissioner against Corruption and Administrative Illegality, and the petition procedure; however, it regrets the absence of an independent, statutory human rights commission with a mandate to monitor the implementation of human rights legislation. Such a Commission should be established.

167. The Committee is concerned at the paucity of judges, lawyers and interpreters, which might adversely affect the administration of justice.

168. Further efforts should be made to train lawyers and interpreters and give them a specialization in human rights.

169. The Committee is concerned that despite guarantees of equality in the Constitution, also reflected in article 25 of the Basic Law and in labour legislation, de facto inequalities continue with regard to the status of women and their remuneration.

170. Effective measures should be taken to eliminate inequalities with regard to the status of women and their remuneration.

171. The Committee notes reports that organized crime and, in particular, trafficking in women and prostitution persist in Macau. It acknowledges that the Penal Code prohibits organized crime, but is concerned at the authorities' failure to take action to protect the victims.

172. Preventive action should be taken to stamp out trafficking in women and rehabilitation programmes for the victims should be provided. The victims should be protected and supported by laws and policies of the State party.

173. The Committee is concerned at certain aspects of Law 6/97/M (promoting, founding or supporting a secret association), namely the creation of a vague and insufficiently defined (or "abstract") offence, and the imposition of an increased sentence, or conviction, on the basis that the person is a "habitual offender" or is likely to repeat such an offence.

174. Penal legislation should be brought into line with articles 14 and 15 of the Covenant, in particular the prohibition on trying a person or placing him/her in jeopardy twice for the same offence (non bis in idem, art. 14, para. 7) and the ban on laws with retroactive effect (nullum crimen sine lege, nulla poena sine lege, art. 15).

175. The Committee is concerned that the Governments of China and Portugal have not yet reached firm agreement on the nationality of residents of Macau after 19 December 1999, and that the criteria which will determine which Macau residents may be regarded as being of Portuguese origin are not yet known.

176. Effective measures should be taken to safeguard the rights of those who at present hold dual citizenship.

177. The Committee is also concerned that no firm agreement has been reached on the transfer of residents of the Macau Special Administrative Region to face trial in other jurisdictions in China, or their extradition to other countries in cases where they may face heavier penalties than those laid down in the Macau Penal Code, including the death penalty.

178. The Committee reiterates that Macau residents enjoy the protection of the Covenant and should not lose that protection by being transferred to other jurisdictions.

179. The Committee is concerned at the lack of firm agreements guaranteeing freedom of the press and expression after 19 December 1999.

180. Effective measures should be taken to guarantee those freedoms for the future.

181. The Committee is concerned at the paucity of non-governmental human rights organizations and the fact that their establishment is not being encouraged.

5. Dissemination of information about the Covenant (art. 2)

182. The Committee regrets that the public in general is not adequately informed of the Human Rights Committee's consideration of the report. The Committee recommends that the State party distribute the text of its report and these concluding observations widely. The State party's next report should be prepared on an article-by-article basis, in accordance with the Committee's revised guidelines and should give particular attention to the issues raised by the Committee in these concluding observations. It sets the date for the next report on the implementation of the Covenant in Macau at 31 October 2001.

E. Cameroon

183. The Committee considered the third periodic report of Cameroon (CCPR/C/102/Add.2) at its 1798th to 1800th meetings (CCPR/C/SR.1798-1800), held on 27 and 28 October 1999, and adopted, at its 1807th and 1808th meetings, held on 3 November 1999, the following observations:

1. Introduction

184. The Committee notes that the third periodic report of Cameroon was incomplete and did not address all of the concerns expressed by the Committee in its previous concluding observations on Cameroon's second periodic report (A/49/40, paras. 183-208). It welcomes, however, the updated information, including written information and legislative texts, provided by the delegation. It further welcomes the willingness of the State party to make additional submissions in writing with respect to particular concerns articulated by members of the Committee.

2. Positive aspects

185. The Committee notes that under the revised Constitution of 1996 the Covenant has priority over national law, and welcomes the statement of the delegation that Covenant rights can be invoked directly in Cameroonian courts, and that these apply the provisions of the Covenant.

186. The Committee welcomes the efforts undertaken by the State party to inform the multi-ethnic population of Cameroon about their human rights, in particular through the establishment of legal clinics, educational campaigns, workshops and seminars held throughout the territory.

187. The Committee also welcomes the commitment to promote gender equality through the Ministry of Women Affairs as well as various measures initiated by the Ministry for that purpose.

188. The Committee welcomes recent amendments to the Criminal Code, including the enactment of a crime of torture under article 132 bis.

189. The Committee welcomes the establishment of the National Committee on Human Rights and Freedoms which is empowered to oversee all relevant Cameroonian authorities.

190. The Committee notes with satisfaction that there has been a noticeable increase in the number of judges and other court personnel.

3. Principal subjects of concern and recommendations

191. The Committee is concerned about the duality of statutory law and customary law, which sometimes results in unequal treatment between men and women, particularly in the areas of marriage and inheritance laws. The Committee is also concerned that where spouses do not agree, customary law incompatible with the Covenant is often applied.

192. The State party should adopt legislation that ensures that the laws applied will in all cases be compatible with the Covenant. It emphasizes that law that gives effect to Covenant rights may fulfil an educational function. Educational campaigns should also be included in those areas in which customary practices lead to discrimination against women.

193. The Committee is also concerned at the continuing existence of polygamy, and the different ages for marriage between girls and boys.

194. The State party should ensure that the above are brought into conformity with the Covenant.

195. The Committee is further concerned with the high rate of illiteracy among women, unequal educational and employment opportunities for women and that husbands may seek a court order to prevent their wives from engaging in certain occupations.

196. The State party should ensure the equality of women with men, both in education and employment, particularly in employment of the woman's choice. It should also ensure that women receive equal pay for work of equal value.

197. The Committee is concerned at the fact that there is no specific law to prohibit female genital mutilation and that this practice continues in certain areas of Cameroonian territory in violation of article 7 of the Covenant.

198. The State party should take all measures, including legislation, to combat and eradicate the practice of female genital mutilation.

199. The Committee is concerned that the criminalization of abortion leads to unsafe abortions which account for a high rate of maternal mortality.

200. The State party must take measures to protect the life of all persons, including pregnant women.

201. The Committee recognizes that no death sentences have been carried out during the period under review, but is concerned that the death penalty is still being imposed, and that some of the crimes still punishable by the death penalty, such as secession, espionage or incitement to war, are loosely defined.

202. The State party is urged to ensure that the death penalty may be imposed only for the most serious crimes and to consider abolishing capital punishment altogether (art. 6).

203. The Committee is seriously concerned about allegations of widespread extrajudicial executions, particularly in connection with the operations by security forces to combat armed robbery. The Committee is also concerned about the death of detainees, including through torture and ill-treatment.

204. The State party is urged to overcome impunity and ensure that all allegations of killings by security forces are promptly investigated, the responsible persons brought to justice and the victims compensated.

205. The Committee is concerned by the existence of private militia, in particular those that act as "coupeurs de routes".

206. The State party should combat the phenomenon of private militia in order to eradicate it.

207. The Committee is seriously concerned at reports about abuse of the use of weapons by the police, leading to loss of life.

208. To secure compliance with articles 6 and 7 of the Covenant, the State party must take firm measures to limit the use of force by the police, to investigate all complaints regarding the use of force by the police, and take appropriate action when the use of force is in violation of the relevant regulations.

209. The Committee is further seriously concerned at reports of disappearances of persons.

210. The State party must carry out investigations of disappearances and provide compensation to victims, or their families.

211. The Committee is deeply concerned that a person held in administrative detention under article 2 of Law No. 90/024 (19 December 1990) may have his detention extended indefinitely with the authorization of the Provincial Governor or the Minister for Territorial Administration, and that such person has no remedy by way of appeal or application of habeas corpus.

212. The State party should take immediate steps to bring the law into compliance with article 9, paragraphs 3 and 4, of the Covenant and ensure that the conditions in which any such person is held comply with the Covenant.

213. The Committee is concerned about the continued practice of torture by police officials and about the absence of an independent organ for investigation. The Committee acknowledges the information provided by the delegation about the prosecution of certain cases of torture. However, it regrets that the delegation did not provide any information concerning the number of complaints of torture, the methods of investigating such reports, or of the remedies offered to the victims.

214. The State party should establish an independent mechanism to investigate reports of torture in order to comply with article 7 of the Covenant.

215. The Committee is concerned about the jurisdiction of military courts over civilians and about the extension of that jurisdiction to offences which are not per se of a military nature, for example all offences involving firearms. The Committee is further concerned about reports whereby a person who was discharged by civilian judicial authorities may be brought before a different tribunal for trial, in contravention of article 14, paragraph 7.

216. The State party should ensure that the jurisdiction of military tribunals is limited to military offences committed by military personnel. It must also avoid any person being tried or punished again for an offence for which he/she has already been finally convicted or acquitted of.

217. The Committee is concerned that citizens' passports can be seized by the police on the order of the public prosecutor, but that no information has been provided as to the criteria adopted by the prosecutor in giving such an order in that procedure.

218. Criteria for the seizure of passports should be examined so as to ensure that they are compatible with the freedom of everyone to leave his own country under article 12, paragraphs 2 and 3, of the Covenant.

219. The Committee deplores the fact that prison conditions in Cameroon are characterized by severe overcrowding and inadequate food and medical care.

220. The Committee urges the State party to address the issue of prison overcrowding as a matter of priority and to ensure that prisoners are treated with humanity, in keeping with article 10 of the Covenant.

221. The Committee is deeply concerned at the prosecution and punishment of journalists for the crime of publication of "false news" merely on the ground that the news was false, in clear violation of article 19 of the Covenant.

222. The State party must ensure that any law restricting freedom of expression meets all the requirements set out in article 19, paragraph 3, of the Covenant.

223. The Committee recommends early action to review and reform laws relating to criminal defamation, to bring them into conformity with article 19 of the Covenant.

224. The Committee is concerned with the information provided by the State party in respect of the follow-up on the Committee's decisions on an individual case, Mukong v. Cameroon (case No. 458/1991), where the Committee has established a violation of the Covenant. In particular, the Committee does not consider it appropriate to expect a person found to be a victim of a human rights violation to have to submit still more information to the Cameroonian courts in order to obtain compensation.

225. The State party is urged to provide a remedy in accordance with the views adopted by the Committee on the individual case considered under the Optional Protocol.

226. The Committee regrets that the independence of the National Committee on Human Rights and Freedoms is not ensured, that its reports to the head of State are not made public and that there is no evidence that any remedies have been provided or prosecutions initiated as a result of its work.

227. The State party is urged to ensure the independence of the National Committee and to publicize its work and recommendations.

4. Dissemination of information about the Covenant (art. 2)

228. The Committee urges the State party to make available to the public as well as to the legislative and administrative authorities the text of the Covenant and of these concluding observations in the languages used by the population, and to disseminate the Covenant by

appropriate measures so that everyone becomes aware of their rights. The State party's next report should be prepared on an article-by-article basis, in accordance with the Committee's revised guidelines, and should give particular attention to the issues raised by the Committee in these concluding observations. The Committee sets the date for the submission of Cameroon's fourth periodic report at 31 October 2003.

F. Hong Kong Special Administrative Region

229. The Committee considered the fifth periodic report of the Hong Kong Special Administrative Region (CCPR/C/HKSAR/99/1 and supplementary information CCPR/C/HKSAR/99/1/Add.1) at its 1803rd to 1805th meetings (CCPR/C/SR.1803-1805), held on 1 and 2 November 1999. This report is the first submitted by China after the return of Hong Kong Special Administrative Region (HKSAR) to Chinese sovereignty on 1 July 1997. The Committee adopted, at its 1810th meeting, held on 4 November 1999, the following concluding observations.

1. Introduction

230. The Committee expresses its appreciation to the delegation from HKSAR for the information it provided and for its willingness to submit further information in writing. It further welcomes the recognition given by the delegation to the contribution made by NGOs to the consideration of the HKSAR report.

231. The Committee thanks the Government of China for its willingness to participate in the reporting procedure under article 40 of the Covenant by submitting the report prepared by the HKSAR authorities and by introducing the HKSAR delegation to the Committee. The Committee affirms its earlier pronouncements on the continuity of the reporting obligations in relation to Hong Kong.

2. Positive aspects

232. The Committee notes that article 39 of the Basic Law provides that the provisions of the Covenant as applied to HKSAR shall remain in force and shall be implemented through the laws of HKSAR. The Committee welcomes the fact that the primacy of the Covenant is ensured in domestic legislation by a combination of articles 39 and 11 of the Basic Law.

233. The Committee welcomes the efforts undertaken by HKSAR to give publicity to its report and its commitment to give wide dissemination to the Committee's concluding observations.

234. The Committee welcomes the efforts undertaken by HKSAR to educate civil society about human rights. In particular, the Committee welcomes the great number of training courses, workshops and seminars conducted in HKSAR for all sectors of the population, including the civil service, the judiciary, the police and educational establishments.

235. The Committee welcomes the steps taken by HKSAR to promote gender equality through educational campaigns and appropriate legislation.

3. Principal subjects of concern and recommendations

236. The Committee is concerned that most of the recommendations formulated in the Committee's previous concluding observations (A/51/40, paras. 66-72; A/52/40, paras. 84-85) have not yet been implemented.

237. The Committee remains concerned that there is no independent body established by law to investigate and monitor human rights violations in HKSAR and the implementation of Covenant rights.

238. The Committee is seriously concerned at the implications for the independence of the judiciary of the request by the Chief Executive of HKSAR for a reinterpretation of article 24, paragraphs 2 and 3, of the Basic Law by the Standing Committee of the National People's Congress (under article 158 of the Basic Law) following upon the decision of the Court of Final Appeal in the Ng Ka Ling and Chan Kam Nga cases, which placed a particular interpretation on that article. The Committee has noted the statement of HKSAR that it would not seek another such interpretation except in highly exceptional circumstances. Nevertheless, the Committee remains concerned that a request by the executive branch of Government for an interpretation under article 158, paragraph 1, of the Basic Law could be used in circumstances that undermine the right to a fair trial under article 14.

239. The Committee takes the view that the Independent Police Complaints Council does not have the power to ensure proper and effective investigation of complaints against the police. The Committee remains concerned that investigations of police misconduct are still in the hands of the police themselves, which undermines the credibility of these investigations.

240. HKSAR should reconsider its approach on the issue of complaints against the police and should provide for independent investigation of such complaints.

241. The Committee reiterates its concern expressed in its concluding observations adopted at the end of the consideration of the fourth periodic report (A/51/40, para. 65) that the electoral system for the Legislative Council does not comply with articles 2, paragraph 1, 25 and 26 of the Covenant. The Committee is concerned about the impending abolition of the Municipal Councils that would further diminish the opportunity of HKSAR residents to take part in the conduct of public affairs, which is guaranteed under article 25.

242. The HKSAR should reconsider this step. It should take all necessary measures to maintain and strengthen democratic representation of HKSAR residents in public affairs.

243. The Committee is concerned that the Interception of Communications Ordinance, which was passed in June 1997 in order to restrict the power of the authorities to intercept communications, has not yet been brought into effect. Section 33 of the Telecommunication Ordinance and Section 13 of the Post Office Ordinance still continue to be in force, thus allowing the authorities to violate the right to privacy under article 17 of the Covenant.

244. HKSAR must ensure that its law and practice protect the rights guaranteed under article 17.

245. In the light of the fact that the Covenant is applied in HKSAR subject to a reservation that seriously affects the application of article 13 in relation to decision-making procedures in deportation cases, the Committee remains concerned that persons facing a risk of imposition of the death penalty or of torture, or inhuman, cruel or degrading treatment as a consequence of their deportation from HKSAR may not enjoy effective protection.

246. In order to secure compliance with articles 6 and 7 in deportation cases, HKSAR should ensure that its deportation procedures provide effective protection against the risk of imposition of the death penalty or of torture or inhuman, cruel or degrading treatment.

247. The Committee remains concerned that no legislative remedies are available to individuals in respect of discrimination on the grounds of race or sexual orientation.

248. Necessary legislation should be enacted in order to ensure full compliance with article 26 of the Covenant.

249. The Committee is concerned that the educational system in HKSAR discriminates against girls in selection for secondary schools, that considerable differences exist in the earning levels between men and women, that women are under-represented in public boards and public offices, and that there is discrimination against women in the Small Home Policy.

250. HKSAR should adopt positive measures to overcome discrimination against women and should ensure equal pay for work of equal value.

251. The Committee is concerned that the age of criminal responsibility is seven years and takes note of the statement by the delegation that the Law Reform Commission is currently conducting a review of this matter.

252. The age of criminal responsibility should be raised so as to ensure the rights of children under article 24.

253. The Committee is concerned that the offences of treason and sedition under the Crimes Ordinance are defined in overly broad terms, thus endangering freedom of expression guaranteed under article 19 of the Covenant.

254. All laws enacted under article 23 of the Basic Law must be in conformity with the Covenant.

255. With regard to freedom of assembly, the Committee is aware that there are very frequent public demonstrations in HKSAR and takes note of the delegation’s statement that permission to hold demonstrations is never denied. Nevertheless, the Committee is concerned that the Public Order Ordinance could be applied to restrict unduly enjoyment of the rights guaranteed in article 21 of the Covenant.

256. HKSAR should review the Public Order Ordinance and bring its terms into compliance with article 21 of the Covenant.

257. With regard to freedom of association, the Committee is concerned that the Societies Ordinance may be applied in a way to restrict unduly the enjoyment of article 22 rights.

258. HKSAR should review the Societies Ordinance so as to ensure full protection of the right to freedom of association, including trade union rights, under article 22 of the Covenant.

4. Dissemination of information about the Covenant (art. 2)

259. The Committee sets the date for the submission of the next periodic report at 31 October 2003. That report should be prepared in accordance with the Committee's revised guidelines and should give particular attention to the issues raised by the Committee in these concluding observations. The Committee urges that the text of these concluding observations be made available to the public as well as to the legislative and administrative authorities. It requests that the next periodic report be widely disseminated among the public, including civil society and non-governmental organizations operating in HKSAR.

G. Congo

260. The Committee considered the second periodic report of the Republic of the Congo (CCPR/C/63/Add.5) at its 1813th and 1814th meetings (CCPR/C/SR.1813 and 1814), held on 13 and 14 March 2000, and adopted the following concluding observations at its 1823th and 1824th meetings, held on 21 and 22 March 2000.

1. Introduction

261. The Committee welcomed with interest the submission of the second periodic report of the Republic of the Congo and the supplementary written information provided on the period since the submission of that report. It also noted the delegation's commitment to submit additional information on, inter alia, the implementation of the Covenant by the Congolese courts.

262. The Committee expresses its satisfaction at the efforts made by the delegation to provide answers to the questions asked. It regrets, however, that the report was submitted six years late and more as a matter of form, in that it is limited to a description of legal measures and does not refer to any implementation in practice. The Committee regrets that the precise information which it had requested was not fully provided.

263. The Committee notes that the delegation itself acknowledged that serious human rights violations occurred during the civil wars that have raged in the Congo since 1993/94, but that peace and reconciliation are now fundamental priorities.

264. The Committee notes the statements on creating conditions conducive to respect for human rights and the functioning of Congolese institutions according to the rule of law. It notes that a constitutional referendum is scheduled for 2000 and presidential elections for 2001.

265. The Committee takes note of the information provided by the delegation on the establishment of a national human rights commission by the end of 2000 and on the organization of a human rights education and awareness campaign.

2. Main positive aspects

266. The Committee expresses its satisfaction at the return home of more than half of the displaced population and hopes that this process, having begun, will be completed as soon as possible. It also welcomes the return of refugees, and the return to their villages of persons who had taken refuge in the forests.

3. Principal subjects of concern and recommendations

267. The Committee is gravely concerned at the information provided on summary and extrajudicial executions, disappearances and arbitrary arrests and detentions carried out in the past seven years not only by the armed forces but also by the militias and other paramilitary groups, as well as by foreign soldiers, in violation of articles 6, 7 and 9 of the Covenant.

268. The State party should conduct all appropriate inquiries and investigations into these crimes and take the necessary measures to bring the perpetrators to justice and effectively protect the right to life and to security of person.

269. The Committee regrets that the precise information which it had requested on the status of women was not fully provided.

270. The State party should take the necessary steps to increase women's participation, without discrimination, in political and social life, in accordance with article 3 of the Covenant. It should provide fuller information, including statistics, on the status of women in its next report.

271. The Committee is also gravely concerned at the rape of women and the perpetration of other forms of violence against them by armed men, and is disturbed at the extent and persistence of these crimes, in violation of the obligations imposed under articles 3, 7 and 9 of the Covenant.

272. The State party should give women the necessary protection and assistance, ensure the reintegration of rape victims, and do everything possible to identify and prosecute the perpetrators of these crimes.

273. The Committee is concerned at the persistence of polygamy, in violation of articles 3 and 26 of the Covenant.

274. The State party should take the necessary steps to abolish polygamy and to implement educational measures to prevent it.

275. The Committee observes that the political desire for an amnesty for the crimes committed during the periods of civil war may also lead to a form of impunity that would be incompatible with the Covenant. It considers that the texts which grant amnesty to persons who have

committed serious crimes make it impossible to ensure respect for the obligations undertaken by the Republic of the Congo under the Covenant, especially under article 2, paragraph 3, which requires that any person whose rights or freedoms recognized by the Covenant are violated shall have an effective remedy. The Committee reiterates the view, expressed in its General Comment 20, that amnesty laws are generally incompatible with the duty of States parties to investigate such acts, to guarantee freedom for such acts within their jurisdiction and to ensure that they do not occur in the future.

276. The State party should ensure that these most serious human rights violations are investigated, that those responsible are brought to justice and that adequate compensation is provided to the victims or their families.

277. The Committee is concerned at the use of torture and cruel, inhuman or degrading treatment and at the failure to criminalize torture as such in internal law in such a way that it is no longer possible to treat cases of torture as simple cases of voluntary infliction of blows and wounds.

278. The State party should take effective measures, in accordance with articles 7 and 10 of the Covenant, to combat torture, to criminalize torture and other cruel, inhuman or degrading treatment or punishment in internal law, to punish the perpetrators of such crimes and, in future, to avoid treating cases of torture as simple cases of voluntary infliction of blows and wounds.

279. The Committee expresses its concern at the attacks on the independence of the judiciary, in violation of article 14, paragraph 1, of the Covenant. It draws attention to the fact that such independence is limited owing to the lack of any independent mechanism responsible for the recruitment and discipline of judges, and to the many pressures and influences, including those of the executive branch, to which judges are subjected.

280. The State party should take the appropriate steps to ensure the independence of the judiciary, in particular by amending the rules concerning the composition and operation of the Supreme Council of Justice and its effective establishment. The Committee considers that particular attention should be given to the training of judges and to the system governing their recruitment and discipline, in order to free them from political, financial and other pressures, ensure their security of tenure and enable them to render justice promptly and impartially. It invites the State party to adopt effective measures to that end and to take the appropriate steps to ensure that more judges are given adequate training.

281. The Committee notes the precarious conditions of prisoners who are not being held in the central prison of Brazzaville, which are incompatible with article 10 of the Covenant.

282. The State party should guarantee minimum conditions for all prisoners and should provide them, inter alia, with the necessary medical care.

283. The Committee regrets that the Republic of the Congo has maintained its reservation to article 11 of the Covenant.

284. It calls on the State party to withdraw that reservation, bring articles 386 to 393 of the Code of Civil, Commercial, Administrative and Financial Procedure into line with the Covenant, and make sure that no one is imprisoned for debt.

285. The Committee is concerned at the violations of secrecy of correspondence in the Republic of the Congo and at the repercussions of such violations.

286. The Committee reminds the State party of its obligations in regard to the secrecy of correspondence under article 17 of the Covenant and requests it to draft rules and procedures to guarantee the secrecy of correspondence and to punish violations of such secrecy.

287. The Committee is deeply concerned at the tendency of political groups and associations to resort to violent means of expression and to set up paramilitary structures that encourage ethnic hatred and incite discrimination and hostility.

288. The Committee calls on the State party, in accordance with articles 20 and 22 of the Covenant, to take effective steps to combat hatred, violence and discrimination and to impose on all actors and political forces rules of conduct and behaviour that are compatible with human rights, democracy and the rule of law.

289. The Committee is concerned at the increase in the number of children at risk owing, inter alia, to civil wars. It is deeply concerned in particular at the enlistment of children in armed groups and militias.

290. The State party should redouble its efforts to take care of children at risk, assist them, ensure them adequate development, and adopt measures to afford them the protection required by their status as minors, in accordance with article 24 of the Covenant.

291. The Committee notes with concern that the Congolese people have been unable, owing to the postponement of general elections, to exercise their right to self-determination in accordance with article 1 of the Covenant and that Congolese citizens have been deprived of the opportunity to take part in the conduct of public affairs in accordance with article 25 of the Covenant.

292. The Committee calls on the State party to organize general elections as soon as possible in order to enable its citizens to exercise their rights under articles 1 and 25 of the Covenant and thus to participate in the process of reconstruction of the country.

293. The Committee regrets the lack of specific information on the different ethnic groups in the Congo, particularly the Pygmies, and on measures taken to guarantee, simultaneously, the full and equal enjoyment of their civil and political rights and respect for their rights under article 27 to enjoy their own cultural traditions.

294. More detailed information on minority groups and on the measures taken to protect the rights of persons belonging to minority groups should be provided in the State party's third periodic report.

4. Dissemination of information about the Covenant (art. 2)

295. In submitting its third periodic report, which is expected by 31 March 2002, the State party must take into account the Committee's revised guidelines. It must ensure that its third periodic report and the present observations are broadly disseminated. In that report, it must, inter alia, provide information on the present concluding observations and on the follow-up actions taken in that regard.

H. United Kingdom of Great Britain and Northern Ireland - the Crown Dependencies of Jersey, Guernsey and the Isle of Man

296. The Committee considered the fourth and fifth periodic reports of the United Kingdom of Great Britain and Northern Ireland regarding the Crown Dependencies of Jersey, Guernsey and the Isle of Man (CCPR/C/95/Add.10 and CCPR/C/UKCD/99/5) at its 1818th and 1819th meetings (CCPR/C/SR.1818 and 1819) held on 17 March 2000, and adopted the following concluding observations at its 1827th meeting, held on 23 March 2000.

1. Introduction

297. The Committee welcomes the submission of the State party's fourth and fifth periodic reports concerning these territories and appreciates the opportunity to examine them, but regrets the delay in the submission of the fourth periodic report. The Committee also appreciates the useful core document submitted by the State party and the constructive and open dialogue it had with the State party's delegation.

298. The Committee welcomes the information provided in the reports on developments in domestic legislation relating to the promotion and protection of rights recognized under the Covenant. The Committee observes, however, that while the reports provide details on progress made through new legislation, they contain little information on actual practice. The State party should ensure that all concerns are reported upon, even when those concerns have not yet been addressed.

2. Positive aspects

299. The Committee notes with satisfaction that the domestic courts in several cases have had regard to the Covenant (art. 2).

300. The Committee welcomes the Administrative Decisions (Review) (Amendment) (Jersey) Law 1995 which provides for a system of administrative appeals against decisions of committees, departments and officials of the States of Jersey to an independent review board (arts. 2 and 14).

301. The Committee welcomes the withdrawal on 2 February 1993 of the State party's reservation to subparagraph (c) of article 25 which, inter alia, applied to jury service in the Isle of Man.

302. The Committee welcomes the various steps taken in all territories to combat any discrimination on the basis of sex and race. The Committee notes with appreciation the

information provided by the delegation that all distinctions based on sex have been abolished with regard to inheritance of realty in Sark. The Committee also welcomes the steps taken in Jersey to eliminate differences between the rights of children born in wedlock and the rights of those born out of wedlock (arts. 3, 24 and 26).

3. Principal subjects of concern and recommendations

303. The Committee strongly urges the State party to ensure that all Covenant rights are given effect in domestic law (art. 2).

304. The Committee recommends that human rights education be extended to members of the police force, the legal profession and other persons involved in the administration of justice, with a view to making it a part of their regular training. Human rights education should also be incorporated at every level of general education (art. 2).

305. The Committee recommends that the authorities in Guernsey and the Isle of Man give due consideration to establishing independent bodies with a mandate to review administrative decisions (arts. 2 and 14).

306. The Committee notes the information provided by the delegation that corporal punishment is not permitted in schools on the Isle of Man as a matter of policy, and recommends the adoption of legislation to outlaw corporal punishment (arts. 7 and 10).

307. The Committee notes the information provided by the delegation that steps are being taken in the United Kingdom to ensure that its anti-terrorism laws comply with article 9 of the Covenant, and urges Jersey, Guernsey and the Isle of Man to take corresponding measures.

308. The Committee recommends that the authorities in Jersey consider amending relevant legislation to enable a withdrawal of the reservation to article 11 of the Covenant.

309. The Committee recommends that measures be taken to remove and prohibit any discrimination on grounds of sexual orientation (arts. 17 and 26).

310. The Committee notes with concern that the archaic and discriminatory provisions of the Criminal Code which make blasphemy a misdemeanour are still in force on the Isle of Man, and recommends that these be repealed (art. 19).

311. The Committee notes that consideration has been given in Jersey to amending the Separation and Maintenance Orders (Jersey) Law 1953 and recommends that all three jurisdictions introduce legislation and other effective measures to prohibit discrimination between women and men (arts. 3 and 26).

312. With reference to the withdrawal of the State party's reservation to article 25, the Committee urges the authorities to introduce further reforms that secure all their inhabitants full right of participation in the conduct of public affairs.

313. The Committee recommends that the authorities complete the current process of enacting legislation outlawing all racial discrimination. In accordance with article 26, the authorities

should also promulgate legislation which prohibits any discrimination and guarantees to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

4. Dissemination of information about the Covenant (art. 2)

314. The Committee requests that the sixth periodic report concerning Jersey, Guernsey and the Isle of Man be submitted together with the sixth report of the United Kingdom of Great Britian and Northern Ireland, at a date to be set after the examination of the pending fifth report. That report should be prepared in accordance with the revised guidelines adopted by the Committee and should give particular attention to the issues raised in the present concluding observations. The Committee requests that these concluding observations and the next periodic report be widely disseminated in Jersey, Guernsey and the Isle of Man.

I. Mongolia

315. The Committee considered the fourth periodic report of Mongolia (CCPR/C/103/Add.7) at its 1825th and 1826th meetings (CCPR/C/SR.1825 and 1826), held on 22 and 23 March 2000, and adopted the following comments at its 1835th meeting, held on 29 March 2000.

1. Introduction

316. The Committee expresses its satisfaction at the submission of the fourth periodic report of Mongolia, which contains valuable information on key legal developments in Mongolia, and welcomes the opportunity to examine the report in a frank discussion with the delegation. However, the Committee deeply regrets the paucity of information presented, both in the report and in many of the answers given orally by the delegation, on the enjoyment in practice of the rights provided for in the Covenant. The lack of such information severely impairs the Committee's ability to carry out its responsibilities to assess the situation in regard to the implementation of the Covenant.

317. The Committee recognizes the substantial progress made towards the establishment of democratic institutions and the enactment of legislation which seeks to ensure many Covenant rights.

2. Positive aspects

318. The State party is commended for taking account in the report of the Committee's concluding observations following its examination of the third periodic report.

319. The Committee notes with satisfaction that the State party has welcomed international assistance in institution-building and capacity-building, particularly in relation to the protection of human rights.

320. The Committee welcomes the Law on the Freedom of the Press. It also welcomes the improvements with respect to freedom of association made possible by the 1997 Law on Non-governmental Organizations and the emergence of a free Bar Association.

3. Principal subjects of concern and recommendations

321. The status of the Covenant in domestic law is not clear, in view of the fact that the Constitution (art. 10, para. 3) stands in conjunction with laws of lower status; the Committee notes that no example was adduced of reliance on any article of the Covenant in any court proceedings to date.

322. It should be made clear by law that Covenant rights shall have superior status and shall prevail over domestic law in case of any conflict.

323. Many areas of concern remain in relation to discrimination against women and the inability of women fully to enjoy Covenant rights (arts. 3 and 26). In particular, attention has been drawn to:

(a) A general deterioration in the status of women in society, especially in the political sphere, despite their high level of competence;

(b) The acute problem of maternal mortality, due in part to unsafe abortions, and the unavailability of family planning advice and facilities;

(c) Discrimination against women in private sector employment, with effective impunity of employers in the face of court judgements;

(d) Failure to prosecute persons engaged in organizing prostitution or to adopt effective measures to combat trafficking in women;

(e) The growing incidence of domestic violence and the failure to prosecute perpetrators under the relevant article of the Code of Criminal Procedure;

(f) The necessity to prove violence in order to obtain a conviction for rape;

(g) The failure to make marital rape an offence.

324. The next report should provide in much greater detail statistics concerning the position of women by way of their participation in public life, private employment and in other relevant respects. It should also include details on the National Programme on Improving the Status of Mongolian Women and on other actions taken to combat all the above violations of human rights by administrative, medical, educational and legal measures. Prosecution for violations, where they constitute offences, should be sought and civil remedies properly enforced.

325. The Committee regrets that it has been largely precluded, through lack of information in the report and in the delegation's responses to oral questions, from examining compliance of the State party's judicial procedures with the rights guaranteed under article 14 of the Covenant.

326. The next report should provide information, in detail, on:

(a) Any threats to the independence and impartiality of the judiciary, including those that may result from low remuneration;

(b) Practical means of guaranteeing all aspects of due process spelt out in article 14 , paragraph 3, of the Covenant and article 16, paragraph 14 of the Constitution;

(c) The right to review of a conviction in every case, including trials at first instance by the Supreme Court under article 50, paragraph 1 (1), of the Constitution (art. 14, para. 5).

327. The Committee is deeply concerned that the General Department for Implementation of Judicial Decisions, within the Ministry of Justice, has not been able to ensure that victims of human rights violations obtain in practice the benefit of remedies that have been granted by the courts (art. 2, para. 3).

328. The Committee reminds the State party of its obligation under article 2, paragraph 3, to ensure that all victims have effective remedy for violations of Covenant rights; the State party should ensure that the General Department for Implementation of Judicial Decisions provides such remedies.

329. The Committee is deeply concerned about all aspects of detention before trial; neither the report nor the delegation's answers give adequate details about:

(a) Grounds for detention without bail;

(b) Conditions of detainees' confinement by the police;

(c) Remedies for violations of a detainee's rights by the police;

(d) Means of ensuring that a detainee is promptly brought before a judge or judicial officer;

(e) Statistics on the length of detention within the 26-month maximum;

(f) The extent to which, in practice, the Procurator-General exercises supervision over the necessity for, length and conditions of detention (art. 9).

330. The State party should urgently implement its proposal to set up an adequate mechanism to oversee all such matters, to provide individual remedies to detainees whose Covenant rights are violated and generally to review the operation of the Detention Law (1999), in accordance with article 9, paragraphs 3 and 4, of the Covenant.

331. The State party should give details in its next report on the grounds for which persons may be detained by administrative action and the remedies available to such persons.

332. The Committee is seriously concerned by information it has received that a number of prisoners died of starvation during the reporting period. In this regard, it welcomes the recent changes in law and practice by which food is provided to all prisoners. However, the Committee retains its concern at the lack of other humane conditions of detention, such as timely medical care, sanitation and adequate space for prisoners (art. 10).

333. Steps should be taken to improve prison conditions to ensure that imprisonment does not damage prisoners' health and to introduce alternative forms of punishment other than imprisonment; the next periodic report should indicate by what means prisoners may make complaints about their treatment and the effectiveness of the only existing remedy, namely recourse to the courts.

334. The Committee notes the limitation of the categories of persons on whom, and crimes for which the death sentence may be passed and welcomes the commutation of many death sentences by the Supreme Court or the President to life imprisonment (art. 6).

335. The State party is urged to reconsider whether it is necessary to maintain the death penalty.

336. The Constitution or the Law on Emergency Situations, or both, should be amended to protect fully all non-derogable rights enumerated in article 4 of the Covenant.

337. The Committee is concerned about the problems confronting the populations of remote regions of the territory described by the delegation (art. 26).

338. Efforts should continue to ensure that persons throughout rural areas of the country have access to education and to medical treatment and other public facilities that are available to those who live in urban areas.

339. The Committee regrets the absence of specific information on freedom of religion and belief and notes that, in its decision of 12 January 1994, the Constitutional Court considered that certain aspects of the Law on the Relationship between the State and the Church were unconstitutional.

340. In its next report, the State party should provide specific information on the effect of the decision of the Constitutional Court, on the consequences resulting from the dominant character of Buddhism, and generally on the legal regime and practices with regard to freedom of religion and belief as well as on full compliance with article 18 of the Covenant.

341. The Committee notes that the State party recognizes only the Khazakhs as an ethnic, religious or linguistic minority whose members are entitled to the rights specified in article 27, despite the existence of numerous other such minorities in Mongolia.

342. The State party should ensure respect for the rights of all persons belonging to ethnic, religious or linguistique minorities in accordance with article 27 of the Covenant.

4. Dissemination of information about the Covenant (art. 2)

343. The texts of the Covenant and of the Optional Protocol should be made more widely available to the public, together with an explanation that the former may be relied on in the courts in order to obtain remedies and that the latter provides recourse to the Human Rights Committee.

344. The State party should emphasize the importance of human rights education and should seek to impart such education and information to the population who live outside urban areas and to the illiterate by appropriate means such as radio and other media.

345. The attention of the State party is drawn to the Committee's revised Guidelines for the preparation of reports. The fifth periodic report should be prepared in accordance with those guidelines and submitted by 31 March 2003. It should pay particular attention to indicating the measures taken to give effect to these concluding observations. The Committee requests that these concluding observations and the next periodic report be widely disseminated in Mongolia.

J. Guyana

346. The Committee considered the second periodic report of Guyana (CCPR/C/GUY/99/2) at its 1829th to 1830th meetings (CCPR/C/SR.1829 and 1830), held on 24 and 27 March 2000, and adopted at its 1836th meeting, on 30 March 2000, the following concluding observations.

1. Introduction

347. The Committee expresses its satisfaction at the submission of the second periodic report of Guyana. It welcomes the opportunity to examine the State party's report after over a decade in which the State party has failed to fulfil its reporting obligations under article 40 of the Covenant. The Committee regrets that the report deals with the situation only up to 1987 and that it fails to provide information on the practical implementation of rights protected by the Covenant.

348. The Committee welcomes the copies of legislation that were provided by the State party during the session, but regrets that the delegation was unable to provide full information on the current situation in the State party in answer to the list of issues and the Committee members' questions. The Committee notes that the list of issues was provided to the State party some months before the session. Some helpful written information was provided to the Committee during the discussions but it did not address all the questions posed.

2. Positive aspects

349. The Committee notes with satisfaction the efforts being made by the State party in its transition to democratic rule to harmonize many aspects of the domestic legal order with international standards.

350. The Committee welcomes the enactment of the Domestic Violence Act in 1996 and its extension to children.

3. Principal subjects of concern and recommendations

351. The Committee is concerned that not all Covenant rights have been included in the current Constitution and therefore cannot be directly enforced. No information was provided as to how the rights that are enumerated in the Constitution are given effect and how their

violations are remedied. The Committee notes that a constitutional reform process is near completion in the State party, but regrets that the delegation could not provide specific information as to how the enjoyment of Covenant rights will be ensured by the new Constitution.

352. The State party should ensure that all Covenant rights are implemented in domestic law and should give consideration to including those rights in the new Constitution. It should also explain how the new Caribbean Court of Appeal will affect the remedies available to alleged victims of human rights violations.

353. The Committee regrets the continued application of the death penalty and is particularly concerned that in some cases the procedural safeguards of fair trial may not have been respected in imposing the death penalty, contrary to articles 6 and 14 of the Covenant.

354. The State party is encouraged to consider the abolition of the death penalty. The State party must take measures to ensure strict compliance with procedural safeguards in all criminal cases.

355. The Committee regrets the lack of information concerning the right to legal assistance in practice for persons charged with criminal offences and urges the State party to ensure that its obligations in that regard under article 14 of the Covenant are fully met.

356. The Committee regrets that the State party has not taken steps to implement the Committee's Views in respect of communication No. 676/1996 (Yasseen and Thomas v. Guyana) under the Optional Protocol.

357. The State party is urged to implement fully the Committee's Views in communication No. 676/1996 and to formally withdraw its reservation made on its reaccession to the Optional Protocol. The State party should consider adopting appropriate procedures for taking into account the Committee's Views under the Optional Protocol.

358. The Committee is deeply concerned about allegations that extrajudicial killings by the police take place in the State party and at information received alleging widespread police brutality. The Committee is further concerned that the State party was unable to provide information about specific incidents to which the Committee drew attention.

359. Allegations of extrajudicial killings and excessive use of force should be promptly investigated by an impartial body and measures taken to ensure the prosecution of offenders and to provide effective remedies to victims. All law enforcement officials should be thoroughly trained in international human rights standards, particularly those contained in the Covenant (arts. 6, 7 and 10).

360. The State party should include detailed information in its next report about the role and functions of the Police Complaints Authority, measures taken to ensure its independence and impartiality, its relationship with other police investigative mechanisms and the implementation and effectiveness of its decisions and recommendations (arts. 6 and 7).

361. The Committee is concerned that corporal punishment is still resorted to in the State party and regrets the lack of specific information on this issue.

362. The State party should take legal and other measures to eliminate corporal punishment (art. 7).

363. The Committee is concerned at the low level of participation by women in the workforce and in the conduct of public affairs. It regrets that the State party could not provide any information on the application and effect of the Anti-Discrimination Act of 1997 or the Equal Rights Act of 1990. It is also concerned at the apparent conflict between article 29 of the Constitution, which mandates equal rights for women and men, and article 149 (3) (b), which excludes from the prohibition on discrimination laws dealing with marriage, divorce, and inheritance.

364. The State party is urged to take positive measures to ensure equality of opportunity for women in all fields and to ensure that the principles of equality and non-discrimination on all grounds and in all areas of activity are fully implemented in the new Constitution.

365. The Committee is concerned that the Domestic Violence Act of 1996 appears to have been applied in very few cases and at the lack of information relating to its impact in reducing the level of violence against women.

366. Police and other law enforcement personnel should be trained to understand the importance of ensuring that women who are victims of violence are accorded equal protection and that preventive and punitive measures are enforced.

367. The Committee regrets that the law relating to the arrest and charge of suspects does not appear to ensure compliance with article 9 of the Covenant in that it does not provide for persons to be brought promptly before a judge or provide an enforceable right to compensation against the State in case of unlawful arrest. The Committee regrets deeply that the periods of pre-trial detention are prolonged for as long as three or four years.

368. The State party should review its laws on arrest and detention and should take effective legal and other measures to reduce the period of pre-trial detention and to ensure full compliance with article 9 ((3) and (5)) of the Covenant.

369. The Committee expresses its profound concern that children, including children under 10 years of age, are held in detention on remand.

370. The State party should take immediate steps to ensure that children are not held in detention together with adults and that young children are not held in detention at all (arts. 10, para. 2, and 24).

371. The Committee expresses deep concern over dire prison conditions (art. 10), including poor sanitation and lack of adequate food and medical care, resulting in disease and death. This is exacerbated by the excessive recourse to imprisonment as a punishment or as a preventive measure and by the overcrowding of prisons.

372. The State party is reminded of its obligation under article 10 to ensure that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. It is encouraged to consider greater use of alternative forms of punishment or preventive measures.

373. The Committee notes proposals to recruit part-time and temporary judges to deal with the backlog of cases waiting to be tried.

374. The State party is urged to ensure that the recruitment of temporary judges does not undermine the competence, independence and impartiality of the judiciary.

375. The Committee is concerned that freedom of expression may be unduly restricted by reason of the Government monopoly of radio broadcasting. It is also concerned at the lack of specific remedies for journalists who have been subjected to violence or harassment by the police or other authorities (art. 19).

376. The State party should remove restrictions on freedom of expression which are incompatible with article 19, paragraph 3, and should ensure that effective remedies are available to any person whose rights under article 19 of the Covenant have been violated.

377. The Committee is concerned at insufficient attention being paid to the need for multi-ethnicity within the police force, and at reports of considerable ethnic tension and at manifestations of incitement to discrimination, hostility or violence on racial grounds.

378. The State party should encourage recruitment to the police force of members of all ethnic communities, and ensure strict compliance with article 20, paragraph 2, of the Covenant by enforcing the prohibition of incitement to racial hostility and by taking measures to reduce ethnic tension between all the different groups in Guyana.

379. The Committee regrets the delay by the State party in amending the Amerindian Act, and is concerned that members of the indigenous Amerindian minority do not enjoy fully the right to equality before the law. It is particularly concerned that the right of Amerindians to enjoy their own culture is threatened by logging, mining and delays in the demarcation of their traditional lands, that in some cases insufficient land is demarcated to enable them to pursue their traditional economic activities and that there appears to be no effective means to enable members of Amerindian communities to enforce their rights under article 27.

380. The State party should ensure that there are effective measures of protection to enable members of indigenous Amerindian communities to participate in decisions which affect them and to enforce their right to enjoy their rights under the Covenant.

3. Dissemination of information about the Covenant (art. 2)

381. The Committee draws the attention of the State party to the Committee's revised Guidelines for the preparation of reports. The third periodic report should be prepared in accordance with those guidelines, with particular attention paid to the implementation of rights in practice. It should indicate the measures taken to give effect to these concluding observations. The third periodic report should be submitted by 31 March 2003.

K. Kyrgyzstan

382. The Committee considered the initial report of Kyrgyzstan (CCPR/C/113/Add.1) at its 1841st, 1842nd and 1843rd meetings (CCPR/C/SR.1841-1843), held on 11 and 12 July 2000, and adopted the following concluding observations at its 1854th and 1855th meetings, held on 19 and 20 July 2000.

1. Introduction

383. The Committee has examined the detailed and comprehensive initial report of Kyrgyzstan, covering events that occurred as from the country's independence. It appreciates the frankness with which the report and the delegation acknowledged the problems and shortcomings still being encountered in the implementation of the human rights provided for in the Covenant and the State party's willingness to provide further information and statistics in writing. It regrets the delay in the submission and consideration of the initial report.

2. Positive aspects

384. The Committee commends the State party, which still is in a difficult period of transition, for undertaking the process of bringing its legislation into harmony with its international obligations. It notes the status conferred to the Covenant in the domestic legal order, and appreciates that its provisions are directly applicable. It notes the ratification of a number of human rights treaties and the enactment of important legislation including a new Code of Criminal Procedure. It welcomes the efforts recently undertaken to sensitize the population on human rights standards, and the growing role played by civil society in Kyrgyzstan. It commends the willingness of the delegation to recognize the positive contributions of non-governmental organizations and election observers, including international observers.

385. The Committee notes the establishment of a Commission on Human Rights as an advisory body to the President of the Republic, as well as of the Parliamentary Committee on Human Rights. It further notes the steps taken towards the establishment of the post of an independent Commissioner of Human Rights.

386. The Committee welcomes the information provided by the delegation that individuals have, in principle, the right to petition the Constitutional Court in cases of alleged breach of their rights protected by the Constitution as well as by the Covenant, but notes that this remedy has not been used so far.

3. Principal subjects of concern and recommendations

387. The Committee notes that the general public in Kyrgyzstan as well as public officials remain insufficiently aware of the Covenant and its Optional Protocol and the accompanying mechanisms.

388. Measures should be taken to enhance awareness of the Covenant and its Optional Protocol through a programme of dissemination of human rights texts and the systematic training of all persons involved in the administration of justice, in particular judges, lawyers, prosecutors and prison personnel.

389. The Committee is gravely concerned about instances of torture, inhuman treatment and abuse of power by law enforcement officials.

390. The State party should amend the Criminal Code to ensure that acts of torture are indictable offences and that all allegations of torture are properly investigated and the persons responsible prosecuted (art. 7). Complaints about torture and other abuses by officials should be investigated by independent bodies. Provision should be made for medical examination of detained persons, particularly of persons held in pre-trial detention, in order to ensure that no physical abuse of detainees occurs. The State party should institute an independent system of monitoring all places of detention with the purpose of preventing torture and other abuses of power by law enforcement officials.

391. While noting the current moratorium on carrying out sentences of death, the Committee is concerned with the current situation with regard to capital punishment and about the number of persons currently detained under sentences of death.

392. While the Committee commends the State party for having imposed a moratorium on the execution of capital punishment, it urges the State party to extend it indefinitely and to commute the sentences of those persons currently on death row. The Committee commends the State party for abolishing the imposition of the death penalty against women, but points out that retention of the death penalty for men alone is incompatible with its obligations under articles 2, 3 and 26 of the Covenant. The State party should ensure equality by abolishing the death penalty for all persons.

393. The Committee is concerned about the number of persons held in pre-trial detention, some of them incommunicado, that all the grounds for authorizing pre-trial detention are not exhaustively listed in the present laws, and about lack of judicial control over the prolongation of detention.

394. The State party should ensure that anyone arrested or detained on a criminal charge be brought promptly before a judge (art. 9, para. 3) and that all other aspects of its law and practice be harmonized with the requirements of article 9 of the Covenant, and that detained persons have access to counsel and contact with their families. In the next report precise statistics should be provided on the number of persons held in pre-trial detention and the length of such detention.

395. The Committee is also concerned about the detention of persons on mental health grounds and the apparent lack of possibility of challenging such detention.

396. Persons detained on mental health grounds should have prompt access to judicial review.

397. The Committee remains concerned about inhuman prison conditions, characterized by overcrowding, inadequate food and medical care, and by the fact that convicted persons are frequently not kept segregated from the accused and that juvenile offenders are frequently detained in the same detention centres as adults (art. 10).

398. The State party must take measures to improve prison conditions and to ensure that juveniles are detained in segregated centres. It must ensure that all persons deprived of their liberty are treated with humanity and respect for their inherent dignity. Specifically, the State party must ensure that all detainees are afforded adequate food and medical care.

399. The Committee is concerned that the Law on Public Emergency in Kyrgyzstan does not specifically restrict the power of derogation from certain specific Covenant provisions, as stipulated in article 4 of the Covenant.

400. The State party should take measures to bring its Law on Public Emergency in to compliance with article 4 of the Covenant.

401. The Committee notes that although article 15 of the Constitution provides for the equality of men and women, the condition of women continues to decline in the private and public sectors. The number of women in Parliament, in public service and in management posts remains very low, a situation which constitutes a serious contravention of the fundamental principle of equality and which has a negative impact on the enjoyment of all other rights and on the harmonious development of society. Moreover, the problems of poverty and unemployment have contributed to high rates of maternal and infant mortality.

402. The Committee refers to articles 3 and 26 of the Covenant and to its General Comment No. 28 on gender equality, and urges the State party to take all necessary measures to sensitize the population, so as to improve the condition of women by eradicating all traditional and stereotypical attitudes that deny women equality in education, the workplace, public life, and in access to public service. In particular, measures against discrimination should be enforced and positive measures taken to further the education of women at all levels.

403. The Committee expresses grave concern over the occurrence of violence against women and the increasing phenomenon of trafficking in women, which is aggravated by the economic hardship facing women in Kyrgyzstan (arts. 3, 7, 8).

404. The State party should ensure that existing laws relating to violence against women and trafficking are vigorously enforced; adopt effective measures to protect women; provide victims of violence and abuse with a measure of compensation and rehabilitation; and combat trafficking in all appropriate ways, including the prosecution and punishment of those responsible. Specific legislation on the prohibition and punishment of domestic violence and trafficking in women should be enacted.

405. The Committee is concerned about the lack of full independence of the judiciary (art. 14, para. 1). In particular, the Committee notes that the applicable certification procedure for judges, the requirement of re-evaluation every seven years, the low level of salaries and the uncertain tenure of judges may encourage corruption and bribery. The Committee is also concerned that trials may be held in camera in circumstances not permitted by article 14, paragraph 1.

406. The Committee notes with approval the time limits ensuring expeditious commencement of criminal trials, but is concerned that the courts may, under the Code of Criminal Procedure, reach no decision at the end of a trial, but rather remit the case to the prosecutor for further inquiries.

407. The procedure described in the preceeding paragraph should be abolished.

408. The continued existence of the authorization (propiska) system violates the right to freedom of movement and choice of residence under article 12 of the Covenant.

409. The State party should abolish the authorization system (propiska) and give full effect to the provisions of article 12 of the Covenant.

410. The Committee takes note that conscientious objection to military service is allowed only for members of a registered religious organization whose teachings prohibit the use of arms. The Committee regrets that the State party has not sought to justify why the provision on alternative service entails a period of service twice as long as that required of military conscripts, and why persons of higher education serve for a considerably lesser period in the military as well as in alternative service (arts. 18, 26).

411. Conscientious objection should be provided for in law in a manner that is consistent with articles 18 and 26 of the Covenant, bearing in mind that article 18 also protects freedom of conscience of non-believers. The State party should fix the periods of military service and alternative service on a non-discriminatory basis.

412. The Committee is concerned about the continued existence of child labour, the problem of mistreatment of children in some educational institutions, cruel punishment, and the phenomenon of trafficking in children.

413. The State party must urgently address the issues described above so as to ensure the special protection to which children are entitled under article 24 of the Covenant. Specifically, corporal punishment must be prohibited.

414. The Committee is concerned about the intimidation and harassment, in particular by government officials, of journalists and human rights activists, including members of human rights NGOs, who have been subjected to prosecution, fines and imprisonment. It is especially concerned about the use of libel suits against journalists who criticize the Government. Such harassment is incompatible with the freedom of expression and of the press as stipulated in article 19 of the Covenant.

415. The State party must protect journalists and human rights activists from harassment. It should ensure that journalists can exercise their profession without fear of being subjected to prosecution and libel suits for criticizing government policy or government officials. Journalists and human rights activists subjected to imprisonment in contravention of articles 9 and 19 of the Covenant should be released, rehabilitated, and given compensation pursuant to articles 9, paragraph 5, and 14, paragraph 6, of the Covenant.

416. The Committee expresses its concern about the closing of newspapers on charges of tax evasion and in order to secure the payment of fines. It is further concerned about the functions of the National Communications Agency, which is attached to the Ministry of Justice and has the wholly discretionary power to grant or deny licences to radio and television broadcasters. Delay in the granting of licences and the denial of licences have a negative impact on the exercise of

freedom of expression and the press guaranteed under article 19 and result in serious limitations in the exercise of political rights prescribed in article 25, in particular with regard to fair elections.

417. The tasks and competences of the National Communications Agency should be clearly defined by law, and its decisions should be subject to appeal to judicial authority.

418. The Committee is concerned about restrictions on the holding of public meetings and demonstrations, which excede those permitted by article 21, and about the lack of appeal procedures in case of denial of permission.

419. The Committee is concerned about the conduct of the parliamentary elections in Kyrgyzstan in March 2000, in particular about the non-participation of the political parties which had failed to register one year prior to the elections or whose statutes did not explicitly declare an intention to present candidates for elections.

420. The State party should take the necessary measures to ensure that all its citizens enjoy the rights provided for in article 25 of the Covenant, taking due account of the Committee's General Comment No. 25 on article 25.

4. Dissemination of information about the Convention (art. 2)

421. The Committee requests that the State party submit its second periodic report by 31 July 2004; this report should be prepared in compliance with the Committee's revised guidelines, provide gender-disaggregated data and up-to-date statistics on the condition of women, and give particular attention to the recommendations made in these concluding observations. The Committee urges the State party to make available to the public the text of the State party's initial report together with the present concluding observations. It further requests that the second periodic report be widely disseminated among the public, including civil society and non-governmental organizations operating in Kyrgyzstan.

L. Ireland

422. The Committee examined the second periodic report of Ireland (CCPR/C/IRL/98/2) at its 1846th, 1847th and 1848th meeetings (CCPR/C/SR.1846-1848), held on 13, 14 and 15 July 2000, respectively. At its 1858th meeting, on 21 July 2000, the Committee adopted the following concluding observations.

1. Introduction

423. The Committee appreciated the high quality of the report of Ireland, which was comprehensive, responded to the concluding observations made by the Committee after the examination of the initial report and generally conformed with the Committee's guidelines for the preparation of States parties reports. The Committee also appreciated the additional oral and written information provided by the State party delegation during the examination of the report; this information was highly instructive and enhanced the dialogue between the Committee and

the delegation. Furthermore, the Committee welcomed the publication and wide dissemination of the report by the Government and its willingness to involve non-governmental organizations in the process.

424. Recalling its earlier comments, the Committee notes with satisfaction that the problems of terrorism have diminished and that, despite the problems experienced, the State party has maintained its democratic institutions and respect for the rule of law.

2. Positive aspects

425. The Committee notes with appreciation the increased use of the Covenant by the courts as an aid to the interpretation of common law and constitutional rights, and the withdrawal of several reservations made upon ratification of the Covenant.

426. The Committee welcomes the fact that the recently enacted Human Rights Commission Act provides for the establishment of a Human Rights Commission.

427. The Committee welcomes the establishment in 1997 of the Standing Interdepartmental Committee on Human Rights, which is mandated to consider all aspects of Ireland's international human rights obligations, including the preparation of reports due under human rights treaties, as well as the Joint Department of Foreign Affairs/Non-Governmental Organizations Standing Committee on Human Rights. It further welcomes the operation of the Constitution Review Group, which is reviewing the 1937 Constitution with a view to proposing reforms necessary to bring it in line, inter alia, with international human rights standards.

428. The Committee expresses satisfaction that the state of emergency declared in 1976 was ended in 1995 and that the Emergency Powers Act of 1976 has now lapsed.

429. The Committee welcomes the Child Trafficking and Pornography Act 1998 and the Sexual Offenders (Jurisdiction) Act 1996, which allows prosecution in respect of offences committed outside Ireland. It also notes with satisfaction the abolition of corporal punishment in public and private schools.

430. The Committee notes with satisfaction the enactment of the Family Law (Divorce) Bill 1996, the Freedom of Information Act of 1997, and the Civil Legal Aid Act of 1995 by which legal services are provided to persons of modest means at little or no cost through legal centres based throughout the country.

431. The Committee welcomes the initiatives being undertaken in the area of human rights education, including education for primary and secondary students, members of the police (Garda) and the legal profession.

3. Principal subjects of concern and recommendations

432. The Committee expresses continuing concern that not all Covenant rights are guaranteed in the domestic law of the State party. The consequent lack of domestic recourse will limit the power of the proposed Human Rights Commission to take action in the courts to enforce those rights not covered.

433. The State party should ensure that all Covenant rights and freedoms are guaranteed and that effective remedies are available to any person whose rights or freedoms are violated, in accordance with article 2 of the Covenant.

434. While it welcomes the existence of a mechanism to investigate complaints made against the police force, namely the Garda Complaints Board, the Committee regrets that the Board is not fully independent, in that investigations of complaints against the Garda are often entrusted to members of the Garda without consultation with the Board. It emphasizes that the availability of recourse to the courts to address allegedly unlawful conduct by the police does not displace the need for independent and transparent investigation of allegations of abuse.

435. The Committee recommends that, in the context of its current review of the Garda Complaints Act of 1986, the State party take steps to ensure that the Garda Complaints Board is not dependent on the Garda for the conduct of investigations. Consideration should be given to the establishment of a police ombudsman. In the case of death resulting from action by members of the Garda, the State party should ensure that allegations are investigated by an independent and public process.

436. The law establishing the Special Criminal Court does not specify clearly the cases which are to be assigned to that Court but leaves it to the broadly defined discretion of the Director of Public Prosecutions (DPP). The Committee is also concerned at the continuing operation of the Offences Against the State Act, that the periods of detention without charge under the Act have been increased, that persons may be arrested on suspicion of being about to commit an offence, and that the majority of persons arrested are never charged with an offence. It is concerned that, in circumstances covered by the Act, failure to respond to questions may constitute evidence supporting the offence of belonging to a prohibited organization. The application of the Act raises problems of compatibility with articles 9 and 14, paragraph 3 (g), of the Covenant. The Committee regrets that legal assistance and advice may not be available until a person has been charged.

437. Steps should be taken to end the jurisdiction of the Special Criminal Court and to ensure that all criminal procedures are brought into compliance with articles 9 and 14 of the Covenant.

438. The Committee expresses concern that the seven-day period of detention without charge under the Drug Trafficking Act raises issues of compatibility with article 9, paragraph 1. It is also concerned that legal aid is not available to detainees between arrest and charge and does not extend to visits to persons in detention.

439. The State party should ensure that all aspects of detention, including the period of detention and availability of legal aid, are administered in full compliance with article 9 of the Covenant.

440. The Committee recommends that the review of the Constitution should take fully into account the obligations of the State party under article 4 of the Covenant, particularly in regard to permitted derogations.

441. While noting the many advances that have been made in regard to the participation of women in all aspects of political, social and economic life, the Committee is concerned

at the continuing inequalities faced by women in Ireland, which are reflected in the under-representation of women in certain occupations and in political life and in the generally lower salaries paid to women as compared with men. The Committee is also concerned that the references to women made in article 41 (para. 2) of the Constitution could perpetuate traditional attitudes toward the role of women. In that provision, the State "recognizes that by her life within the home, woman gives to the State a support without which the common good cannot be achieved. The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home".

442. The Committee urges the State party to intensify its efforts to ensure equality of women in all spheres, particularly in public and political life and in decision-making bodies, in accordance with articles 3 and 26 of the Covenant. It encourages the State party to strengthen its efforts to monitor the situation of women by collecting gender-disagreggated data in these spheres and by "gender-proofing" all draft legislation to ensure neutrality.

443. The Committee is concerned that exemptions under the Employment Equality Act, which allow religious bodies directing hospitals and schools to discriminate in certain circumstances on the ground of religion in employing persons whose functions are not religious, may result in discrimination contrary to article 26 of the Covenant.

444. The Committee is concerned that the circumstances in which women may lawfully obtain an abortion are restricted to when the life of the mother is in danger and do not include, for example, situations where the pregnancy is the result of rape.

445. The State party should ensure that women are not compelled to continue with pregnancies where that is incompatible with obligations arising under the Covenant (art. 7) and General Comment No. 28.

446. While the Committee notes the many improvements in prison conditions, it recommends that further efforts be made to ensure that all prisons and detention centres are brought up to the minimum standards required to ensure respect for the human dignity of detainees and to avoid overcrowding, in accordance with article 10. The Independent Prison Authority, whose establishment is envisaged in a current bill, should have power and resources to deal with complaints of abuse made by prisoners.

447. In regard to proposed changes to the law regarding asylum-seekers, the State party should ensure that the grounds on which detention may be authorized and the right of access to judicial review of detention decisions are in full conformity with the provisions of article 9 of the Covenant. It should also ensure that requirements relating to the place of residence of refugees do not infringe the rights to liberty of movement protected under article 12.

448. With respect to the Travelling community, the Committee continues to be concerned about the generally lower living standards of members of this community, their low levels of participation in national political and social life and their high levels of maternal and infant mortality.

449. The State party is urged to continue its efforts to take positive action to overcome discrimination and to ensure the equal enjoyment of rights by members of the Travelling

community and in particular to improve their access to health, education and welfare services, including accommodation, and their participation in political and public life. The State should also pursue actively programmes to change attitudes and to promote understanding between the Travelling and the settled communities (arts. 26, 27).

450. The Committee recommends that further action be taken to ensure full implementation of the Covenant in these matters:

(a) Withdrawal of the remaining reservations to the Covenant;

(b) Reform of constitutional provisions requiring judges to make a declaration with religious references (art. 18);

(c) Provision for prompt review of detention on mental health grounds, i.e. within a few days (art. 9);

(d) Repeal or reform of discriminatory aspects of legislation requiring the registration of alien husbands of Irish women citizens, which is not required of alien wives of Irish male citizens (arts. 3, 26);

(e) Ensuring the full and equal enjoyment of Covenant rights by disabled persons, without discrimination, in accordance with article 26; and

(f) Improving remedies for victims of domestic violence.

4. Dissemination of information about the Covenant (art. 2)

451. The Committee requests that the third periodic report be submitted by 31 July 2005. That report should be prepared in accordance with the revised guidelines adopted by the Committee and should give particular attention to the issues raised in the present concluding observations. The Committee requests that these concluding observations and the next periodic report be widely disseminated in the territory of the State party.

M. Kuwait

452. The Committee considered the initial report of Kuwait (CCPR/C/120/Add.1) at its 1851st, 1852nd, 1853rd and 1854th meetings (CCPR/C/SR.1851-1854), held on 18 and 19 July 2000, and adopted the following concluding observations at its 1864th and 1865th meetings, held on 26 and 27 July 2000.

1. Introduction

453. The Committee has examined the initial report of Kuwait and the additional information and statistics furnished by the delegation. The Committee appreciates the frankness with which the report and the delegation acknowledged the problems encountered in the implementation of the Covenant and the State party's undertaking to provide further information and statistics in writing. While welcoming the abundance of laws and tables submitted for examination, the

Committee noted that the report and the delegation did not sufficiently explain how Covenant rights are enjoyed in practice by the generality of the people within its territory and subject to its jurisdiction.

2. Principal subjects of concern and recommendations

454. The Committee notes with concern that the position of Covenant rights in the laws of Kuwait is not clear, due to contradictory constitutional provisions. It remains unclear, notwithstanding the explanation given by the delegation, whether individuals can invoke the provisions of the Covenant directly before Kuwaiti courts.

455. The State party should guarantee that all rights provided for in the Covenant are respected and ensured, in order that all individuals within the territory of Kuwait and subject to its jurisdiction have full enjoyment of these rights and are afforded remedies pursuant to article 2 of the Covenant.

456. The Committee, referring to its General Comment No. 24 on reservations, notes that the "interpretative declarations" of the State party regarding article 2, paragraph 1, article 3, and article 23, as well as the "reservations" concerning article 25 (b) of the Covenant raise the serious issue of their compatibility with the object and purpose of the Covenant. In particular, the Committee notes that articles 2 and 3 of the Covenant constitute core rights and overarching principles of international law that cannot be subject to "limits set by Kuwaiti law". Such broad and general limitations would undermine the object and purpose of the entire Covenant.

457. The Committee finds that the interpretative declaration regarding articles 2 and 3 contravenes the State party's essential obligations under the Covenant and is therefore without legal effect and does not affect the powers of the Committee. The State party is urged to withdraw formally both the interpretative declarations and the reservations.

458. Discrimination against women limits the enjoyment by women of their rights under the Covenant. In particular, pursuant to the Act on Personal Status, women cannot freely marry before they are 25 years of age, except with the approval of a guardian, who is usually the father or a judge, women's right to marry non-Kuwaiti citizens is restricted, and the age of marriage for men and women is different (17 for men, 15 for women). The Committee is concerned that polygamy is still practised in Kuwait, that men and women who commit adultery are not treated equally, and that toleration of so-called "crimes of honour" adds to the existing inequality between the sexes.

459. Kuwait must grant women effective equality in law and practice and ensure their right to non-discrimination as stipulated in article 26 of the Covenant. Polygamy should be prohibited by law. The Committee refers to its General Comment No. 28 on equality between men and women and urges the State party to take all necessary measures to sensitize the population, so as to eradicate attitudes that lead to discrimination against women in all sectors of daily life and society.

460. The Committee is deeply concerned that, in spite of constitutional provisions on equality, Kuwait's electoral laws continue to exclude entirely women from voting and being elected to public office. It notes with regret that the Amir's initiatives to remedy this situation were defeated in Parliament.

461. The State party should take all the necessary steps to ensure to women the right to vote and to be elected on an equal footing with men, in accordance with articles 25 and 26 of the Covenant.

462. The Committee, while commending the State party for recent progress achieved in granting women access to higher education and positions in public life, including the legal profession, continues to be concerned that the percentage of women in those higher positions remains low and that, while women hold positions as investigative judges, there is not one woman serving as a judge in the courts.

463. The State party should ensure that women fully enjoy their rights under article 25 (c) of the Covenant.

464. The Committee expresses serious concern over the large number of offences for which the death penalty can be imposed, including very vague categories of offences relating to internal and external security as well as drug-related crimes. It also regrets that, according to the delegation, there are 28 persons currently on death row and that death sentences have continued to be carried out since the Covenant entered into force in Kuwait.

465. The State party should ensure that the provisions of article 6 of the Covenant are strictly observed and that the death penalty is not imposed except for crimes that can be seen to be the most serious crimes, following proceedings in which all the guarantees for a fair trial under article 14 of the Covenant are observed. The State party is invited to consider the abolition of the death penalty, in the spirit of article 6, paragraph 6, of the Covenant.

466. The Committee notes that abortion is a crime under Kuwaiti law and that the law makes no provision for exceptions on humanitarian grounds.

467. The State party should consider amending the law and make provision for the protection of the right to life of pregnant women under article 6 of the Covenant.

468. The Committee is concerned about the number of persons still detained under prison sentences handed down in 1991 by the Martial Law Courts in trials which did not meet the minimum standards set by article 14 of the Covenant, in particular the principles of equality before the courts, the impartiality of the tribunal, the presumption of innocence, the right to have adequate time and facilities for the preparation of the defence, and other rights of due process under article 14, paragraphs 3 and 5, of the Covenant.

469. The cases of persons still held under sentences described in the previous paragraph should be reviewed by an independent and impartial body, and compensation should be paid pursuant to articles 9, paragraph 5, and 14, paragraph 6, of the Covenant, where appropriate. The Committee expresses concern over the many reported cases of persons detained in 1991 who have subsequently disappeared, many of them Palestinians with Jordanian passports, Kurds, and

other persons formerly residing in Kuwait. While the delegation acknowledges only one case, other sources suggest that the fate of at least 62 persons, whose names have been communicated to the State party, remains unknown. The Committee notes with appreciation the delegation's undertaking to receive and investigate this and other lists of names, and in this connection refers to the State party's cooperation with the United Nations Working Group on Enforced or Involuntary Disappearances (see E/CN.4/2000/64, paras. 113-114).

470. In accordance with articles 2, paragraph 3, 6, 7 and 16, of the Covenant, the State party should adopt concrete measures to clarify each and every case of disappearance and inform the Committee in its next report.

471. The Committee is concerned about the fact that a detained person may be held in police custody for a period of four days before being brought before an investigating official and notes that, according to the report and the oral explanations given by the delegation, it would appear that this period can be extended.

472. The Committee stresses that the period of police custody before a detained person is brought before a judge should not exceed 48 hours. The State party should ensure that anyone arrested or detained on a criminal charge is brought promptly before a judge or other officer authorized by law to exercise judicial power (art. 9, para. 3), that all other aspects of its law and practice are harmonized with the requirements of article 9 of the Covenant, and that detained persons have immediate access to counsel and contact with their families. In the next report precise statistics should be provided on the number of persons held in pre-trial detention and the length of such detention.

473. The Committee is concerned about reported cases of abuses by the Kuwaiti police, in contravention of articles 7 and 10 of the Covenant. The Committee nevertheless notes the State party's increased cooperation with international institutions such as the Office of the United Nations High Commissioner for Refugees and the International Committee of the Red Cross, which facilitate international monitoring of prison conditions.

474. All cases of abuse by the police and prison personnel should be investigated by independent authorities, action should be taken against perpetrators, and victims should be granted compensation.

475. The Committee cannot accept the statement of the delegation that there are no minorities in Kuwait. Given the wide diversity of persons in the State party's territory and subject to its jurisdiction, it is clear that in fact there are persons in Kuwait who belong to ethnic, religious and linguistic minorities whose rights under article 27 of the Covenant should be ensured and protected.

476. The next periodic report should contain comprehensive information on all minority-related issues arising under article 27 of the Covenant.

477. The Committee remains gravely concerned about the treatment of the Bedoons (included in the category of stateless persons) in Kuwait, who number several thousand. In view of the fact that many of these people are born in Kuwait or have been living in Kuwaiti territory for decades, and some are in the service of the Government, the Committee is gravely concerned

over the sweeping statement of the delegation characterizing the Bedoons generally as “illegal residents”. The Committee is concerned that many Bedoons long resident in Kuwait who left the country during the Iraqi occupation in 1990/91 are not permitted to return to Kuwait.

478. The State party must ensure that all persons in its territory and subject to its jurisdiction, including Bedoons, enjoy Covenant rights without discrimination (art. 26). The right to remain in one’s own country and to return to it must be scrupulously respected (art. 12).

479. The Committee is further concerned at the fact that the delegation did not refute allegations that Bedoons have been offered a five-year residence permit in exchange for renouncing any claims for naturalization and that the State party seeks to deport Bedoons to countries with which the person concerned has no effective links.

480. The State party should confer its nationality on a non-discriminatory basis and ensure that those who are granted Kuwaiti nationality are treated equally with other Kuwaiti citizens with regard to voting rights (arts. 25, 26). The State party is urged to refrain from deporting residents on the basis of their classification as Bedoons who have failed to regularize their status.

481. The Committee is concerned about the lack of information concerning the situation of children of non-Kuwaiti parents living in Kuwait, in particular with regard to education, medical care, and the issuance of birth and death certificates. The Committee is further concerned that children who are born in Kuwait and whose parents are stateless or whose mother only has Kuwaiti nationality do not acquire any nationality.

482. The State party should ensure the right of all children in Kuwait to measures of special protection pursuant to articles 24 and 26 of the Covenant. The State party is under an obligation to respect article 24, paragraph 3, of the Covenant, in order to ensure that every child has the right to acquire a nationality.

483. The Committee is concerned about other instances of discrimination, in particular the naturalization of Muslim applicants exclusively. It is also concerned that the legal consequence of a conversion from Islam to another religion may result in the loss of Kuwaiti nationality.

484. The laws on naturalization and nationality should be amended to ensure that their application does not entail discrimination on any of the grounds enumerated in article 26 of the Covenant.

485. The Committee is concerned about the lack of information concerning detention of persons awaiting deportation.

486. The State party should ensure that all the rights protected under the Covenant are respected vis-à-vis persons awaiting deportation, in particular articles 9, 10, 12 and 13, and provide information on these matters in its second periodic report.

487. The Committee is concerned about the limits imposed on freedom of expression and opinion in Kuwait, which are not permissible under article 19, paragraph 3, of the Covenant, and refers in this connection to its General Comment No. 10. The Committee is particularly concerned about the vagueness of chapter III of Law No. 3 of 1961 on Printing and Publication

(report, para. 240), and about restrictions imposed on academic and press freedom, the temporary closing of a newspaper and the banning of certain books; it is alarmed at the criminal prosecution, imprisonment and fining of authors and journalists in connection with their non-violent expression of opinion and artistic expression, which in some cases has been deemed to be disrespectful of Islam and in other cases held to be pornographic. The Committee is concerned about the implications of penal proceedings against journalists, requiring them to prove their good faith and reveal their sources, raising issues not only under article 19 but also with regard to the presumption of innocence guaranteed by article 14, paragraph 2, of the Covenant.

488. The State party should ensure that every person can enjoy his or her rights under article 19 of the Covenant without fear of being subjected to harassment. The Press and Publications Law and the Penal Code should be brought into harmony with article 19 of the Covenant. Any restriction on the rights under article 19 must be in strict conformity with paragraph 3 of that article.

489. The Committee is concerned about Kuwait's legislation on associations, in particular Law No. 24 of 1962 on the Organization of Clubs and Community Service Societies, and about the difficulties encountered by Kuwaitis in exercising their rights under article 22 of the Covenant. In particular, the Kuwaiti Society for Human Rights has not been able to register as an association since 1992.

490. The State party should amend Law No. 24, encourage the formation of human rights non-governmental organizations in Kuwait and further their activities so as to enable a culture of human rights to flourish and expand.

491. The Committee expresses concern that the right of foreign and domestic workers to form and join trade unions and to take part in their activities is restricted de facto.

492. The State party should enable all parts of the labour force to join and to engage in trade union activities, for example by informing them of their rights under article 22, paragraph 1, of the Covenant.

493. The Committee is concerned about the absence of political parties in Kuwait.

494. Bearing in mind that political parties constitute an important component of democracy, the State party should take appropriate measures so as to ensure the right of Kuwaitis to establish such parties, in conformity with articles 22 and 25 of the Covenant. The Committee notes the existence of compulsory military service and that Kuwaiti law does not contain any provision on conscientious objection.

495. In order to implement article 18 of the Covenant, the State party should reflect in its legislation the situation of persons who believe that the use of armed force conflicts with their convictions, and establish for these cases an alternative civilian service.

496. The Committee, while noting the establishment of a Human Rights Commission in the Ministry of the Interior and of a Human Rights Committee in the National Assembly, encourages the State party to establish a truly independent and effective mechanism to ensure effective remedies as required by article 2, paragraph 3, of the Covenant.

3. Dissemination of information about the Covenant (art. 2)

497. The Committee requests that the State party submit its second periodic report by 31 July 2004; this report should be prepared in compliance with the Committee's revised guidelines, provide gender-disaggregated data and up-to-date statistics on the condition of women, and give particular attention to the recommendations made in these concluding observations. The Committee urges the State party to make available to the public the text of the State party's initial report together with the present concluding observations. It further requests that the second periodic report be widely disseminated among the public, including civil society and non-governmental organizations operating in Kuwait.

N. Australia

498. The Committee examined the third and fourth periodic reports of Australia (CCPR/C/AUS/99/3 and 4) at its 1955th, 1957th and 1958th meetings (CCPR/C/SR.1955, 1957 and 1958), held on 20 and 21 July 2000. At its 1967th meeting, on 28 July 2000, the Committee adopted the following concluding observations.

1. Introduction

499. The Committee appreciates the quality of the reports of Australia, which conformed to the Committee's guidelines for the preparation of States parties' reports and provided a comprehensive view of such measures as have been adopted by Australia to implement the Covenant in all parts of the country. The Committee also appreciated the extensive additional oral and written information provided by the State party delegation during the examination of the report. Furthermore, the Committee expresses appreciation for the answers to its oral and written questions and for the publication and wide dissemination of the report by the State party.

500. The Committee regrets the long delay in the submission of the third report, which was received by the Committee 10 years after the examination of the second periodic report of the State party.

501. The Committee expresses its appreciation for the contribution of non-governmental organizations and statutory agencies to its work.

2. Positive aspects

502. The Committee welcomes the accession of the State party to the Optional Protocol to the Covenant in 1991, thereby recognizing the competence of the Committee to consider communications from individuals within its territory and subject to its jurisdiction. It welcomes the action taken by the State party to implement the Views of the Committee in the case of communication No. 488/1992 (Toonen v. Australia) by enacting the necessary legislation at the federal level.

503. The Committee welcomes the enactment of anti-discrimination legislation in all jurisdictions of the State party, including legislation to assist disabled persons.

504. The Committee welcomes the establishment of the Aboriginal and Torres Strait Islander Social Justice Commissioner in 1993.

505. The Committee notes with satisfaction that the status of women in Australian society has improved considerably during the reporting period, particularly in public service, in the general workforce and in academic enrolment, although equality has yet to be achieved in many sectors. The Committee welcomes the initiatives to make available to women facilities to ensure their equal access to legal services, including in rural areas, and the strengthening of the Sex Discrimination Act, 1984.

3. Principal subjects of concern and recommendations

506. With respect to article 1 of the Covenant, the Committee takes note of the explanation given by the delegation that rather than the term "self-determination", the Government of the State party prefers terms such as "self-management" and "self-empowerment" to express domestically the principle of indigenous peoples' exercising meaningful control over their affairs. The Committee is concerned that sufficient action has not been taken in that regard.

507. The State party should take the necessary steps in order to secure for the indigenous inhabitants a stronger role in decision-making over their traditional lands and natural resources (art. 1, para. 2).

508. The Committee is concerned, despite positive developments towards recognizing the land rights of the Aboriginals and Torres Strait Islanders through judicial decisions (Mabo, 1992; Wik, 1996) and enactment of the Native Title Act of 1993, as well as actual demarcation of considerable areas of land, that in many areas native title rights and interests remain unresolved and that the Native Title Amendments of 1998 in some respects limit the rights of indigenous persons and communities, in particular in the field of effective participation in all matters affecting land ownership and use, and affects their interests in native title lands, particularly pastoral lands.

509. The Committee recommends that the State party take further steps in order to secure the rights of its indigenous population under article 27 of the Covenant. The high level of exclusion and poverty facing indigenous persons is indicative of the urgent nature of these concerns. In particular, the Committee recommends that the necessary steps be taken to restore and protect the titles and interests of indigenous persons in their native lands, including by considering amending anew the Native Title Act, taking into account these concerns.

510. The Committee expresses its concern that securing continuation and sustainability of traditional forms of economy of indigenous minorities (hunting, fishing and gathering), and protection of sites of religious or cultural significance for such minorities, which must be protected under article 27, are not always a major factor in determining land use.

511. The Committee recommends that in the finalization of the pending bill intended to replace the Aboriginal and Torres Strait Islander Heritage Protection Act (1984), the State party should give sufficient weight to the values described above.

512. While noting the efforts by the State party to address the tragedies resulting from the previous policy of removing indigenous children from their families, the Committee remains concerned about the continuing effects of this policy.

513. The Committee recommends that the State party intensify these efforts so that the victims themselves and their families will consider that they have been afforded a proper remedy (arts 2, 17 and 24).

514. The Committee is concerned that in the absence of a constitutional Bill of Rights, or a constitutional provision giving effect to the Covenant, there remain lacunae in the protection of Covenant rights in the Australian legal system. There are still areas in which the domestic legal system does not provide an effective remedy to persons whose rights under the Covenant have been violated.

515. The State party should take measures to give effect to all Covenant rights and freedoms and to ensure that all persons whose Covenant rights and freedoms have been violated have an effective remedy (art. 2).

516. While noting the explanation by the delegation that political negotiations between the Commonwealth Government and the governments of states and territories take place in cases in which the latter have adopted legislation or policies that may involve a violation of Covenant rights, the Committee stresses that such negotiations cannot relieve the State party of its obligation to respect and ensure Covenant rights in all parts of its territory without any limitations or exceptions (art. 50).

517. The Committee considers that political arrangements between the Commonwealth Government and the governments of states or territories may not condone restrictions on Covenant rights that are not permitted under the Covenant.

518. The Committee is concerned by the government bill in which it would be stated, contrary to a judicial decision, that ratification of human rights treaties does not create legitimate expectations that government officials will use their discretion in a manner that is consistent with those treaties.

519. The Committee considers that enactment of such a bill would be incompatible with the State party's obligations under article 2 of the Covenant and it urges the Government to withdraw the bill.

520. The Committee is concerned over the approach of the State party to the Committee's Views in Communication No. 560/1993 (A. v. Australia). Rejecting the Committee's interpretation of the Covenant when it does not correspond with the interpretation presented by the State party in its submissions to the Committee undermines the State party's recognition of the Committee's competence under the Optional Protocol to consider communications.

521. The Committee recommends that the State party reconsider its interpretation with a view to achieving full implementation of the Committee's Views.

522. Legislation regarding mandatory imprisonment in Western Australia and the Northern Territory, which leads in many cases to imposition of punishments that are disproportionate to the seriousness of the crimes committed and would seem to be inconsistent with the strategies adopted by the State party to reduce the over-representation of indigenous persons in the criminal justice system, raises serious issues of compliance with various articles of the Covenant.

523. The State party is urged to reassess the legislation regarding mandatory imprisonment so as to ensure that all Covenant rights are respected.

524. The Committee notes the recent review within Parliament of the State party's refugee and humanitarian immigration policies and that the Minister for Immigration and Multicultural Affairs has issued guidelines for referral to him of cases in which questions regarding the State party's compliance with the Covenant may arise.

525. The Committee is of the opinion that the duty to comply with Covenant obligations should be secured in domestic law. It recommends that persons who claim that their rights have been violated should have an effective remedy under that law.

526. The Committee considers that the mandatory detention under the Migration Act of "unlawful non-citizens", including asylum-seekers, raises questions of compliance with article 9, paragraph 1, of the Covenant, which provides that no person shall be subjected to arbitrary detention. The Committee is concerned at the State party's policy, in this context of mandatory detention, of not informing the detainees of their right to seek legal advice and of not allowing access of non-governmental human rights organizations to the detainees in order to inform them of this right.

527. The Committee urges the State party to reconsider its policy of mandatory detention of "unlawful non-citizens" with a view to instituting alternative mechanisms of maintaining an orderly immigration process. The Committee recommends that the State party inform all detainees of their legal rights, including their right to seek legal counsel.

4. Dissemination of information about the Covenant (art. 2)

528. The Committee requests the fifth periodic report to be submitted by 31 July 2005. It requests that the present concluding observations and the next periodic report be widely disseminated among the public, including civil society and non-governmental organizations operating in the State party.

V. CONSIDERATION OF COMMUNICATIONS UNDER THE OPTIONAL PROTOCOL

529. Individuals who claim that any of their rights under the International Covenant on Civil and Political Rights have been violated by a State party, and who have exhausted all available domestic remedies, may submit written communications to the Human Rights Committee for consideration under the Optional Protocol. No communication can be considered unless it concerns a State party to the Covenant that has recognized the competence of the Committee by becoming a party to the Optional Protocol. Of the 145 States that have ratified, acceded or succeeded to the Covenant, 95 have accepted the Committee's competence to deal with individual complaints by becoming parties to the Optional Protocol (see annex I, sect. B). Moreover, under article 12 (2) of the Optional Protocol the Committee is still considering communications from two States parties (Jamaica and Trinidad and Tobago) that have denounced the Optional Protocol, such communications having been registered before denunciation took effect.

530. Consideration of communications under the Optional Protocol is confidential and takes place in closed meetings (art. 5, para. 3, of the Optional Protocol). Under rule 96 of the rules of procedure, all working documents issued for the Committee are confidential unless the Committee decides otherwise. However, the author of a communication and the State party concerned may make public any submissions or information bearing on the proceedings unless the Committee has requested the parties to respect confidentiality. The Committee's final decisions (Views, decisions declaring a communication inadmissible, decisions to discontinue a communication) are made public; the name(s) of the author(s) is(are) disclosed unless the Committee decides otherwise.

A. Progress of work

531. The Committee started its work under the Optional Protocol at its second session, in 1977. Since then, 936 communications concerning 65 States parties have been registered for consideration by the Committee, including 63 placed before it during the period covered by the present report (1 August 1999-30 July 2000).

532. The status of the 936 communications registered for consideration by the Human Rights Committee so far is as follows:

(a) Concluded by Views under article 5, paragraph 4, of the Optional Protocol: 346, including 268 in which violations of the Covenant were found;

(b) Declared inadmissible: 283;

(c) Discontinued or withdrawn: 134;

(d) Not yet concluded: 173 of which 28 have been declared admissible.

533. In addition, the secretariat of the Committee receives large numbers of communications in respect of which the authors are advised that further information would be needed before their communications could be registered for consideration by the Committee. The authors of a

considerable number of additional communications have been informed that their cases will not be submitted to the Committee, as they fall clearly outside the scope of the Covenant or appear to be frivolous. Other cases, not yet registered, are mentioned in section B below, together with the Committee's comments on this situation.

534. During the sixty-seventh to sixty-ninth sessions, the Committee concluded consideration of 18 cases by adopting Views thereon. These are cases Nos. 625/1995 Freemantle v. Jamaica, 631/1995 Spakmo v. Norway, 666/1995 Foin v. France, 682/1996 Westerman v. the Netherlands, 688/1996 Arredondo v. Peru, 689/1996 Maille v. France, 690/1996 and 691/1996 Venier and Nicolas v. France, 694/1996 Waldman v. Canada, 701/1996 Gomez v. Spain, 711/1996 Dias v. Angola, 731/1996 Robinson v. Jamaica, 759/1997 Osbourne v. Jamaica, 760/1997 Rehoboth v. Namibia, 767/1997 Ben Said v. Norway, 770/1997 Gridin v. Russia, 780/1997 Laptsevich v. Belarus, 789/1997 Bryhn v. Norway. The text of the views in these cases is reproduced in annex IX.

535. The Committee also concluded consideration of 16 cases by declaring them inadmissible. These are cases Nos. 748/1997 Silva v. Sweden, 756/1997 Doukoure v. France, 772/1997 Y. v. Australia, 777/1997 Sanchez López v. Spain, 785/1997 Wuyts v. the Netherlands, 807/1999 Koutny v. Czech Republic, 816/1998 Tadman et al. v. Canada, 824/1998 Nicolov v. Bulgaria, 861/1999 Lestourneaud v. France, 871/1999 Timmerman v. the Netherlands, 873/1999 Hoelen v. the Netherlands, 882/1999 Bech v. Norway, 883/1999 Mansur v. the Netherlands, 891/1999 Tamihere v. New Zealand, 934/2000 Ms. G. v. Canada, 936/2000 Gillan v. Canada. The text of these decisions is reproduced in annex X.

536. Under the Committee's rules of procedure, in force as of 1 August 1997, the Committee will as a rule decide on the admissibility and merits of a communication together in order to expedite its work under the Optional Protocol. Only in exceptional circumstances will the Committee request a State party to address admissibility only. A State party which has received a request for information on admissibility and merits may within two months apply for the communication to be rejected as inadmissible. Such a request, however, will not absolve the State party from the requirement to submit information on the merits within the set time limit unless the Committee, its Working Group or its designated Special Rapporteur decides to extend the time for submission of information on the merits until after the Committee has ruled on admissibility. In the period under review, the Committee, acting through its Special Rapporteur on new communications, decided in several cases to deal first with the admissibility of the communication. Communications received before the new rules of procedure came into force will be dealt with under the old rules, according to which admissibility is considered at the first stage.

537. During the period under review, two communications were declared admissible for examination on the merits. Decisions declaring communications admissible are not normally published by the Committee. Because of the importance of the Committee's decision declaring case No. 845/1999 (Kennedy v. Trinidad and Tobago) admissible and its possible effects, the Committee decided to make this decision public (see para. 554 below). Procedural decisions were adopted in a number of pending cases (under article 4 of the Optional Protocol or under rules 86 and 91 of the Committee's rules of procedure). The Committee requested the secretariat to take action in other pending cases.

538. The Committee decided to discontinue the consideration of five communications: 678/1996 Gutierrez v. Peru, 725/1996 Ceberio v. Costa Rica, 764/1997 Agatanova v. Latvia, 810/1998 Allen et al. v. Angola, 892/1999 Schier v. New Zealand.

B. Growth of the Committee's caseload under the Optional Protocol

539. As the Committee has stated in previous reports, the increasing number of States parties to the Optional Protocol and better public awareness of the procedure have led to a growth in the number of communications submitted to the Committee. The table below sets out the pattern of the Committee's work on communications over the last five calendar years to 31 December 1999.

Communications dealt with, 1994-1998

	(1)	(2)	(3)	(4)	(5)
Year to 31 December 1999	New cases registered	Cases concluded[a] 1 January-31 December	Pending cases at 31 December ((4) + (5))	Pre-admissible cases	Admissible cases
1999	59	55	167	131	36
1998	53	51	163	121	42
1997	60	56	157	113	44
1996	56	35	153	111	42
1995	68	44	132	91	41

[a] Total number of all cases decided (by the adoption of Views, inadmissibility decisions and cases discontinued).

540. The increase in communications is not reflected in the number of new cases that have been registered formally under the Optional Protocol. That figure would be considerably higher were it not for the fact that many communications, despite having been initially screened, have not yet reached the stage of registration; it is registration that has been delayed for a considerable period, up to over a year in some cases. In addition to that delay, other than those considered urgent, there is a growing backlog of correspondence awaiting reply which relates to matters other than cases for registration. An approximate count of the correspondence received by the Committee's secretariat shows that in 1996, 1,198 pieces of correspondence were received, in 1997, 1,482, in 1998, 1,675, and in 1999, 1,741.

541. The Committee has already addressed the reasons for these delays in its 1998 report (A/53/40, vol. I, paras. 430-432). The same problems remain and are summarized below.

542. The essence of the problem is that:

(a) The number of communications continues to increase in absolute terms;

(b) The number of Professional staff dealing with communications has decreased in each of the last four years;

(c) While this reduced staff has continued to process cases (of ever-increasing complexity) so that a sufficient number is available for the Committee's consideration at every session, the overall result has been an increase in the backlog of unprocessed communications;

(d) An increasing number of cases are being submitted in languages which are not within the competence of the available Professional staff, in particular Russian; the secondment to the staff for six months of a Russian speaker has improved but by no means eliminated the backlog.

543. There has been at the same time a further reduction in the ability of staff to find resources to support the Committee's programme for follow-up on cases where violations have been found: there are now 268 such cases where follow-up is desirable.

544. The Committee wishes again to draw attention to article 36 of the Covenant, whereby it shall be guaranteed the necessary resources for the effective performance of all its functions, including the consideration of communications, and that it has a particular need for staff experienced in the various legal systems and with knowledge of multiple official languages.

545. The Committee welcomes the initiative taken by the Office of the High Commissioner for Human Rights, in the context of its annual appeal, to request donations for the improvement of the servicing of the treaty bodies and which aims, inter alia, to eliminate the backlog in the processing of communications under the Optional Protocol (see also chap. I, para. 21, and annex XII).

C. Approaches to considering communications under the Optional Protocol

1. Special Rapporteur on new communications

546. At its thirty-fifth session, the Committee decided to designate a Special Rapporteur to process new communications as they were received, i.e. between sessions of the Committee. At the Committee's sixty-fifth session in March 1999, Mr. Kretzmer was designated Special Rapporteur. In the period covered by the present report, the Special Rapporteur transmitted 49 new communications to the States parties concerned under rule 91 of the Committee's rules of procedure, requesting information or observations relevant to the questions of admissibility and merits. In 11 cases, the Special Rapporteur issued requests for interim measures of protection pursuant to rule 86 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 86 of the rules of procedure is described in the 1997 annual report (A/52/40, vol. I, para. 467).

2. Competence of the Working Group on Communications

547. At its thirty-sixth session, the Committee decided to authorize the Working Group on Communications to adopt decisions declaring communications admissible when all five members so agreed. Failing such agreement, the Working Group would refer the matter to the

Committee. It could also do so whenever it believed that the Committee itself should decide the question of admissibility. While the Working Group could not adopt decisions declaring communications inadmissible, it might make recommendations in that respect to the Committee. Pursuant to those rules, the Working Group on Communications that met prior to the sixty-seventh, sixty-eighth and sixty-ninth sessions of the Committee declared one communication admissible.

548. At its fifty-fifth session, the Committee decided that each communication would be entrusted to a member of the Committee, who would act as rapporteur for it in the Working Group and in the plenary Committee. The role of the rapporteur is described in the 1997 report (A/52/40, para. 469).

D. Individual opinions

549. In its work under the Optional Protocol, the Committee strives to arrive at its decisions by consensus. However, pursuant to rule 94, paragraph 4, of the Committee's rules of procedure, members can add their individual concurring or dissenting opinions to the Committee's Views. Pursuant to rule 92, paragraph 3, members can append their individual opinions to the Committee's decisions declaring communications inadmissible.

550. During the period under review, individual opinions were appended to the Committee's Views in cases Nos. 625/1995 Freemantle v. Jamaica, 631/1995, Spakmo v. Norway, 666/1995 Foin v. France, 682/1996, Westerman v. the Netherlands, 689/1996 Maille v. France, 690/1996 and 691/1996 Venier and Nicolas v. France, 694/1996 Waldman v. Canada, 731/1996, Robinson v. Jamaica, 760/1997 Diergaardt et al. v. Namibia, 767/1997 Ben Said v. Norway. Individual opinions were also appended to the Committee's decision declaring inadmissible communication No. 816/1998 Tadman v. Canada, as well as to the Committee's decision to declare admissible communication No. 845/1999 (Kennedy v. Trinidad and Tobago).

E. Issues considered by the Committee

551. A review of the Committee's work under the Optional Protocol from its second session in 1977 to its sixty-sixth session in 1999 can be found in the Committee's annual reports for 1984 to 1999, which, inter alia, contain summaries of the procedural and substantive issues considered by the Committee and of the decisions taken. The full texts of the Views adopted by the Committee and of its decisions declaring communications inadmissible under the Optional Protocol are reproduced in annexes to the Committee's annual reports to the General Assembly.

552. Two volumes containing selected decisions of the Human Rights Committee under the Optional Protocol, from the second to the sixteenth sessions (1977-1982) and from the seventeenth to the thirty-second sessions (1982-1988), have been published (CCPR/C/OP/1 and 2). The publication of volume 3 of the selected decisions, covering the period from the thirty-third to the thirty-ninth sessions, is still at the stage, reported last year, of being "expected shortly". As domestic courts increasingly apply the standards contained in the International Covenant on Civil and Political Rights, it is imperative that the Committee's decisions are available on a worldwide basis. In this connection, the Committee notes with appreciation that

several institutions are making the Committee's decisions under the Optional Protocol available on the Internet. The Committee's recent decisions are also available on the Web site of the Office of the High Commissioner for Human Rights (www.unhchr.ch).

553. The following summary reflects further developments concerning issues considered during the period covered by the present report.

1. Procedural issues

(a) Reservations to the Optional Protocol

554. In case No. 845/1999 (Kennedy v. Trinidad and Tobago), the Committee had to decide on the validity of a reservation made by Trinidad and Tobago upon its re-accession to the Optional Protocol on 26 May 1998. In the wording of the reservation the Human Rights Committee

> "shall not be competent to receive and consider communications relating to any prisoner who is under sentence of death in respect of any matter relating to his prosecution, his detention, his trial, his conviction, his sentence or the carrying out of the death sentence on him and any matter connected therewith".

555. After having examined the reasons for the reservation, and recalling its General Comment No. 24 concerning reservations, the Committee concluded that it

> "cannot accept a reservation which singles out a certain group of individuals for lesser procedural protection than that which is enjoyed by the rest of the population. In the view of the Committee, this constitutes a discrimination which runs counter to some of the basic principles embodied in the Covenant and its Protocols, and for this reason the reservation cannot be deemed compatible with the object and purpose of the Optional Protocol. The consequence is that the Committee is not precluded from considering the present communication under the Optional Protocol" (annex XI, sect. A, para. 6.7).[*]

Four members of the Committee appended a dissenting opinion.

(b) Standing of the author (Optional Protocol, art. 1)

556. Under article 1 of the Optional Protocol, the Committee can only consider communications from individuals who claim to be victims of a violation of the Covenant. When the person presenting the communication to the Committee cannot claim to be or duly to represent a victim of a violation of a Covenant right, the communication is inadmissible under the Optional Protocol. Communications Nos. 772/1997 (Y. v. Australia), 777/1997 (Sánchez López v. Spain), 816/1998 (Tadman v. Canada) and 936/2000 (Gillan v. Canada) were declared inadmissible on this ground. In case No. 772/1997 (Y. v. Australia), the Committee considered in this context:

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[*] Trinidad and Tobago denounced the Optional Protocol, effective 27 June 2000.

"The Committee has always taken a wide view of the right of alleged victims to be represented by counsel in submitting communications under the Optional Protocol. However, counsel acting on behalf of victims of alleged violations must show that they have real authorization from the victims (or their immediate family) to act on their behalf, that there were circumstances which prevented counsel from receiving such authorization, or that given the close relationship in the past between counsel and the alleged victim it is fair to assume that the victim did indeed authorize counsel to proceed with a communication to the Human Rights Committee" (annex X, sect. C, para. 6.3)

(c) Inadmissibility ratione temporis (Optional Protocol, art. 1)

557. Under article 1 of the Optional Protocol, the Committee may only receive communications concerning alleged violations of the Covenant which occurred after the entry into force of the Covenant and the Optional Protocol for the State party concerned, unless continuing effects exist which in themselves constitute a violation of a Covenant right. One of the claims in case No. 807/1998 (Koutny v. Czech Republic) was declared inadmissible on this ground, since the claim referred to events before the entry into force of the Covenant and the Optional Protocol.

(d) Claim not substantiated (Optional Protocol, art. 2)

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

559. Although an author does not need to prove the alleged violation at the admissibility stage, he must submit sufficient evidence substantiating his allegation for purposes of admissibility. A "claim" is, therefore, not just an allegation, but an allegation supported by a certain amount of substantiating evidence. In cases where the Committee finds that the author has failed to substantiate a claim for purposes of admissibility, the Committee has held the communication inadmissible, in accordance with rule 90 (b) of its rules of procedure.

560. Cases declared inadmissible, inter alia for lack of substantiation of the claim or failure to advance a claim, are communications Nos. 748/1997 (Silva v. Sweden), 785/1997 (Wuyts v. the Netherlands), 824/1998 (Nicolov v. Bulgaria), 861/1999 (Lestourneaud v. France), 871/1999 (Timmerman v. the Netherlands), 873/1999 (Hoelen v. the Netherlands), 882/1999 (Bech v. Norway), 891/1999 (Tamihere v. New Zealand) and 934/2000 (G. v. Canada).

(e) Claims not compatible with the provisions of the Covenant (Optional Protocol, art. 3)

561. Communications must raise an issue concerning the application of the Covenant. Despite previous attempts to explain that the Committee cannot function under the Optional Protocol as an appellate body where the issue is one of domestic law, some communications continue to be based on such a misapprehension; such cases, as well as those where the facts presented do not raise issues under the articles of the Covenant invoked by the author, are declared inadmissible under article 3 of the Optional Protocol as incompatible with the provisions of the Covenant.

562. Cases declared inadmissible, inter alia for incompatibility with the provisions of the Covenant, are communications Nos. 873/1999 (Hoelen v. the Netherlands) and 934/2000 (G. v. Canada).

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

563. Pursuant to article 5, paragraph 2 (b), of the Optional Protocol, the Committee shall not consider any communication unless it has ascertained that the author has exhausted all available domestic remedies. However, the Committee has already established that the rule of exhaustion applies only to the extent that those remedies are effective and available. The State party is required to give "details of the remedies which it submitted had been available to the author in the circumstances of his case, together with evidence that there would be a reasonable prospect that such remedies would be effective" (case No. 4/1977 (Torres Ramírez v. Uruguay)). The rule also provides that the Committee is not precluded from examining a communication if it is established that the application of the remedies in question is unreasonably prolonged. In certain cases, a State party may waive before the Committee the requirement of exhaustion of domestic remedies.

564. In the period covered by the present report, cases Nos. 756/1997 (Doukoure v. France), 785/1997 (Wuyts v. the Netherlands), 807/1998 (Koutny v. Czech Republic), 871/1999 (Timmerman v. the Netherlands), 883/1999 (Mansur v. the Netherlands), 934/2000 (G. v. Canada) were declared inadmissible, inter alia for failure to pursue available and effective remedies.

(g) Interim measures under rule 86

565. Under rule 86 of the Committee's rules of procedure, the Committee may, after receipt of a communication and before adopting its Views, request a State party to take interim measures in order to avoid irreparable damage to the victim of the alleged violations. The Committee continues to apply this rule on suitable occasions, mostly in cases submitted by or on behalf of persons who have been sentenced to death and are awaiting execution and who claim that they were denied a fair trial. In view of the urgency of the communications, the Committee has requested the States parties concerned not to carry out the death sentences while the cases are under consideration. Stays of execution have specifically been granted in this connection. Rule 86 has also been applied in other circumstances, for instance in cases of imminent deportation or extradition which may involve or expose the author to a real risk of violation of rights protected by the Covenant. For the Committee's reasoning on whether or not to issue a request under rule 86, see the Committee's Views in communication No. 558/1993 (Canepa v. Canada) (A/52/40, vol. II, annex VI, sect. K).

2. Substantive issues

566. Under the Optional Protocol, the Committee bases its Views on all written information made available by the parties. This implies that if a State party does not provide an answer to an author's allegations, the Committee will give due weight to an author's uncontested allegations as long as they are substantiated. In the period under review, this happened, inter alia, in case No. 711/1996 (Dias v. Angola).

(a) The right not to be subjected to torture or to cruel, inhuman or degrading treatment (Covenant, art. 7)

567. Article 7 of the Covenant provides that no one shall be subjected to torture or cruel, inhuman or degrading treatment or punishment. In case No. 759/1997 (Osbourne v. Jamaica), the complainant had been sentenced to imprisonment and to 10 strokes with a tamarind switch. He claimed that the imposition of corporal punishment was in violation of article 7 of the Covenant. The State party argued that corporal punishment was constitutional in Jamaica, but the Committee held that the

> "permissibility of the sentence under domestic law cannot be invoked as justification under the Covenant. Irrespective of the nature of the crime that is to be punished, however brutal it may be, it is the firm opinion of the Committee that corporal punishment constitutes cruel, inhuman and degrading treatment or punishment contrary to article 7 of the Covenant. The Committee finds that by imposing a sentence of whipping with the tamarind switch, the State party has violated the author's rights under article 7" (annex IX, sect. L, para. 9.1).

568. In case No. 625/1995 (Michel Freemantle v. Jamaica) the complainant, who was detained on death row, had given a detailed account of how he had been beaten by warders during disturbances in the prison. The State party has argued that no meaningful investigation could be carried out, since the warders concerned no longer worked in the prison. The Committee considered that this fact in no way absolved the State party from its obligations, and noted that no investigation was undertaken by the State party at the time of the incident in 1990, despite a complaint made on the author's behalf. In the circumstances, the Committee gave due weight to the author's allegations and found that a violation of article 7 had occurred.

569. Similar findings were made in case No. 731/1996 (Robinson v. Jamaica).

570. In its jurisprudence regarding claims that a prolonged stay on death row constitutes cruel, inhuman and degrading treatment, the Committee has consistently held that the facts and circumstances of each case must be examined to see whether an issue under article 7 arises and that, in the absence of further compelling circumstances, prolonged detention on death row does not per se constitute that kind of treatment. In the period under review, this jurisprudence was confirmed by the Committee in case No. 731/1996 (Robinson v. Jamaica).

(b) Liberty and security of person (Covenant, art. 9)

571. Paragraph 1 of article 9 provides for the right to liberty and security of person. In case No. 711/1996 (Dias v. Angola) the Committee recalled that article 9, paragraph 1

> "protects the right to security of person also outside the context of formal deprivation of liberty. An interpretation of article 9 which would allow a State party to ignore threats to the personal security of non-detained persons subject to its jurisdiction would render totally ineffective the guarantees of the Covenant. In the present case, the author has claimed that the authorities themselves have been the source of the threats. As a consequence of the threats against him, the author has been unable to enter Angola, and he has therefore been prevented from exercising his rights" (annex IX, sect. J, para. 8.3).

572. The Committee concluded that the author's right to security of person under article 9, paragraph 1, had been violated.

573. Paragraph 1 of article 9 also provides that no one shall be subjected to arbitrary arrest or detention. In case No. 631/1995 (Spakmo v. Norway), the Committee found a violation of this provision because the State party had not shown that it was necessary to keep the author detained for eight hours after having arrested him. Six members of the Committee appended a dissenting opinion. Further violations of this provision were found in case No. 688/1996 (Arredondo v. Peru).

574. Article 9, paragraph 3, provides, inter alia, that anyone arrested on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power. The Committee found violations of this provision in cases Nos. 625/1995 (Freemantle v. Jamaica) and 688/1996 (Arredondo v. Peru).

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

575. Article 10, paragraph 1, prescribes that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. The Committee found that the conditions under which prisoners were held amounted to a violation of article 10, paragraph 1, in cases Nos. 625/1995 (Freemantle v. Jamaica), 688/1996 (Arredondo v. Peru) and 731/1996 (Robinson v. Jamaica).

(d) Guarantees of a fair trial (Covenant, art. 14)

576. Article 14, paragraph 1, provides for the right to equality before the courts and the right to a fair and public hearing by a competent, independent and impartial tribunal established by law. In case No. 688/1996 (Arredondo v. Peru), the Committee found that Ms. Arredondo's trial, before a court of faceless judges, constituted a violation of this provision.

577. In case No. 770/1997 (Gridin v. Russia), the Committee found that the court's failure to control the hostile atmosphere in the courtroom during the trial of the author constituted a violation of paragraph 1 of article 14.

578. In case No. 767/1997 (Ben Said v. Norway), the Committee considered that this may require that an individual be able to participate in person in a suit at law before the court. The complainant in the case had not been able to attend a court hearing which he had initiated about visiting rights to his child because he was a foreigner subject to a deportation order and as such not allowed to enter the country. The Committee, however, did not find that a violation had occurred in the specific case, since the complainant had been represented by a lawyer, who had not requested a postponement of the hearing in order to allow the complainant to be present, nor had the complainant himself instructed his lawyer to do so. Four members of the Committee appended a dissenting opinion to the Committee's finding, because they considered the communication inadmissible.

579. Paragraph 2 of article 14 protects the presumption of innocence of everyone charged with a criminal offence. In case No. 770/1997 (Gridin v. Russia) high-ranking law enforcement officials had made statements portraying the author as guilty and these statements had been given wide media coverage. The Committee found that the authorities had failed to exercise the restraint that article 14, paragraph 2, requires.

580. Paragraph 3 (b) of article 14 provides that in the determination of any criminal charge against him, everyone is entitled to have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing. In case No. 770/1997 (Gridin v. Russia), the Committee found that denying the author, who was in police detention, access to legal counsel after he had requested such access and interrogating him during that time constituted a violation of this provision.

581. In case No. 688/1996 (Arredondo v. Peru), the Committee found a violation of paragraph 3 (c) of article 14, which provides that everyone should be tried without undue delay, because the prosecutor's 1995 appeal against Ms. Arredondo's aquittal of 1987 had still not been decided.

582. Paragraph 3 (d) of article 14 provides that everyone is entitled to be tried in his presence and to defend himself in person or through legal assistance, which should be provided free of charge where the interests of justice so require. In the past, the Committee has had occasion to hold that under article 14, paragraph 3 (d), the court should ensure that the conduct of a case by a lawyer is not incompatible with the interests of justice. In a capital case, when counsel for the accused concedes that there is no merit in the appeal, the court should ascertain whether counsel has consulted with the accused and informed him accordingly. If not, the court must ensure that the accused is so informed and given an opportunity to engage other counsel. In case No. 731/1996 (Robinson v. Jamaica), counsel at the appeal had conceded that there was nothing he could urge on behalf of the applicant and had told the court that he had informed the applicant accordingly. In the circumstances, the Committee found that there had been no violation of article 14, paragraph 3 (d).

583. Paragraph 5 of article 14 provides that everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law. In case No. 701/1996 (Gómez v. Spain), the Committee found a violation of this provision because the Supreme Court, being the second instance court in this particular case, had rejected the author's application for judicial review of his conviction and sentence on the ground that it was not in a position to re-evaluate the evidence. The Committee considered that since the review was limited to the formal or legal aspects of the author's conviction, he was denied the right to review within the meaning of article 14, paragraph 5.

584. In case No. 789/1997 (Bryhn v. Norway), the complainant had appealed against sentence only.

> "The Court of Appeal, sitting with three judges, in accordance with section 321 of the Criminal Procedure Act, reviewed the material that had been before the court of first instance, the judgement and the arguments advanced on behalf of the author as to the inappropriateness of the sentence, and concluded that the appeal had no possibility of leading to a reduced sentence. Moreover, the Court of Appeal again reviewed the

elements of the case when reconsidering its earlier decision, and this second decision was subject to appeal to the Appeals Committee of the Supreme Court. Although the Committee is not bound by the consideration of the Norwegian Parliament, sustained by the Supreme Court, that the Norwegian Criminal Procedure Act is consistent with article 14, paragraph 5, of the Covenant, the Committee considers that in the circumstances of the instant case, notwithstanding the absence of an oral hearing, the totality of the reviews by the Court of Appeal satisfied the requirements of article 14, paragraph 5" (annex IX, sect. Q, para. 7.2).

585. In case No. 731/1996 (Robinson v. Jamaica), the author's written confession statement could not be produced by the State party at the appeal before the Judicial Committee of the Privy Council. The complainant wished to have the statement examined by a handwriting expert in order to prove that it was forged. The Committee considered:

"While recognizing that in order for the right to review of one's conviction to be effective, the State party must be under an obligation to preserve sufficient evidential material to allow for such a review, the Committee cannot see, as implied by counsel, that any failure to preserve evidential material until the completion of the appeals procedure constitutes a violation of article 14, paragraph 5. Article 14, paragraph 5, will, in the view of the Committee, only be violated where such failure prejudices the convict's right to a review, i.e. in situations where the evidence in question is indispensable to perform such a review. It follows that this is an issue which it is primarily for the appellate courts to consider.

"In the present case, the State party's failure to preserve the original confession statement was made one of the grounds of appeal before the Judicial Committee of the Privy Council which, nevertheless, found that there was no merit in the appeal and dismissed it without giving further reasons. The Human Rights Committee is not in a position to re-evaluate the Judicial Committee's finding on this point, and finds that there was no violation of article 14, paragraph 5, in this respect" (annex IX, sect. K, paras. 10.7 and 10.8)

(e) Nullum crimen et nulla poena sine lege (Covenant, art. 15)

586. Article 15 of the Covenant provides that no one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence at the time it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. In case No. 682/1996 (Westerman v. the Netherlands), the author had refused to carry out military orders which at the time was an offence under the Military Criminal Code, for which he was charged.

"Subsequently, and before the author was convicted, the Code was amended and the amended Code was applied to the author. Under the new Code, the author's refusal to obey military orders still constituted a criminal offence. The Committee has noted the author's argument that the nature of the offence in the new Code is different from the one in the old Code, in that it is constituted by total refusal, an attitude, rather than a single refusal of orders. The Committee notes that the acts which constituted the offence under the new Code were that the author refused to perform *any* military duty. Those acts were

> an offence at the time they were committed, under the old Code, and were then punishable by 21 months' imprisonment (for a single act) or by 42 months' imprisonment (for repeated acts). The sentence of nine months imposed on the author was not heavier than that applicable at the time of the offence. Consequently, the Committee finds that the facts of the case do not reveal a violation of article 15 of the Covenant" (annex IX, sect. D, para. 9.2).

One member of the Committee appended a dissenting opinion to the Committee's finding on this point.

(f) Right to freedom of conscience (Covenant, art. 18)

587. Article 18, paragraph 1, of the Covenant provides that everyone shall have the right to freedom of thought, conscience and religion. In case No. 682/1996 (Westerman v. the Netherlands), the complainant had been convicted for refusal to carry out military orders (see para. 586 above). His defence was based on conscientious objections to military service, and he claimed that his conviction was therefore in violation of article 18 of the Covenant. The Committee noted that in the Netherlands, a procedure for the recognition of conscientious objection to military service existed and that the author's claim to have his objections recognized under that procedure had failed. The Committee observed

> "that the authorities of the State party evaluated the facts and arguments advanced by the author in support of his claim for exemption as a conscientious objector in the light of its legal provisions in regard to conscientious objection and that these legal provisions are compatible with the provisions of article 18. The Committee observes that the author failed to satisfy the authorities of the State party that he had an 'insurmountable objection of conscience to military service ... because of the use of violent means' (para. 5). There is nothing in the circumstances of the case which requires the Committee to substitute its own evaluation of this issue for that of the national authorities" (annex IX, sect. D, para. 9.5).

Six members of the Committee appended a dissenting opinion to the Committee's findings.

(g) The right to freedom of opinion and freedom of expression (Covenant, art. 19)

588. Article 19 provides for the right to freedom of opinion and expression. According to paragraph 3 of article 19 these rights may only be restricted as provided by law and when necessary for respect of the rights or reputations of others or for the protection of national security or public order (ordre public), or of public health or morals. The right to freedom of expression also includes the right to seek, receive and impart information. In case No. 780/1997 (Laptsevich v. Belarus), the complainant was convicted and sentenced for not complying with the requirements of article 26 of the Press Act by distributing leaflets on the occasion of the anniversary of the proclamation of independence of Belarus, because he had failed to obtain an index and registration number for the leaflet. The Committee found that the State party had not shown that the registration requirements for a leaflet with a print run of 200 and the consequent measures taken by the State party were necessary for any of the legitimate purposes set out in paragraph 3 of article 19, and concluded that article 19, paragraph 2, had been violated.

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

589. Article 26 of the Covenant guarantees equality before the law and prohibits discrimination. In case No. 666/1995 (Foin v. France) the complainant was convicted of having deserted his alternative service after 12 months. The length of the alternative service at the time was 24 months, whereas the length of normal military service was 12 months. The Committee reiterated that

> "Article 26 does not prohibit all differences of treatment. Any differentiation, as the Committee has had the opportunity to state repeatedly, must, however, be based on reasonable and objective criteria. In this context, the Committee recognizes that the law and practice may establish differences between military and national alternative service and that such differences may, in a particular case, justify a longer period of service, provided that the differentiation is based on reasonable and objective criteria, such as the nature of the specific service concerned or the need for special training in order to accomplish that service. In the present case, however, the reasons forwarded by the State party do not refer to such criteria or refer to criteria in general terms without specific reference to the author's case, and are rather based on the argument that doubling the length of service was the only way to test the sincerity of an individual's convictions. In the Committee's view, such argument does not satisfy the requirement that the difference in treatment involved in the present case was based on reasonable and objective criteria. In the circumstances, the Committee finds that a violation of article 26 occurred, since the author was discriminated against on the basis of his conviction of conscience" (annex IX, sect. C, para. 10.3).

Three members of the Committee appended a separate dissenting opinion.

590. Similar violations were found in cases Nos. 689/1996 (Maille v. France), and 690/1996 and 691/1996 (Venier and Nicolas v. France).

591. In case No. 694/1996 (Waldman v. Canada), the issue before the Committee was whether public funding for Roman Catholic schools, but not for schools of the author's religion, which resulted in him having to meet the full costs of education in a religious school, constituted a violation of article 26. After having rejected the State party's argument that the preferential treatment of Roman Catholic schools was non-discriminatory because the distinction was enshrined in the Constitution, the Committee found that the differences in treatment between Roman Catholic religious schools and schools of the author's religion could not be considered reasonable and objective. The Committee also noted

> "the State party's argument that the aims of the State party's secular public education system are compatible with the principle of non-discrimination laid down in the Covenant. The Committee does not take issue with this argument but notes, however, that the proclaimed aims of the system do not justify the exclusive funding of Roman Catholic religious schools. It has also noted the author's submission that the public school system in Ontario would have greater resources if the Government would cease funding any religious schools. In this context, the Committee observes that the Covenant does not oblige States parties to fund schools which are established on a religious basis.

> However, if a State party chooses to provide public funding to religious schools, it should make this funding available without discrimination. This means that providing funding for the schools of one religious group and not for another must be based on reasonable and objective criteria. In the instant case, the Committee concludes that the material before it does not show that the differential treatment between the Roman Catholic faith and the author's religious denomination is based on such criteria. Consequently, there has been a violation of the author's rights under article 26 of the Covenant to equal and effective protection against discrimination" (annex IX, sect. H, para. 10.6).

592. In case No. 760/1997 (Diergaardt et al. v. Namibia), the Committee found a violation of article 26 of the Covenant because the State party had issued instructions to its civil servants not to reply to the authors' written or oral communications in the Afrikaans language, even when they were perfectly capable of doing so. These instructions also barred the use of Afrikaans in telephone conversations. The Committee considered that in the absence of a response from the State party, it must give due weight to the allegations of the authors that the instructions were intentionally targeted against the possibility of using Afrikaans when dealing with public authorities. Consequently, the Committee found a violation of article 26 of the Covenant. Several Committee members appended an individual opinion to the findings.

F. Remedies called for under the Committee's Views

593. After the Committee has made a finding on the merits - its "Views" under article 5, paragraph 4, of the Optional Protocol - of a violation of a provision of the Covenant, it proceeds to ask the State party to take appropriate steps to remedy the violation, such as commutation of sentence, release, or providing adequate compensation for the violations suffered. When recommending a remedy, the Committee observes that:

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

594. The Committee's recommendation in case No. 780/1997 (Laptsevich v. Belarus) is a new step towards more specific pronouncements on the remedy, in referring to the amount of compensation.

595. The compliance by States with these requests for information is monitored by the Committee through its follow-up procedure, as described in chapter VI of the present report.

VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

596. From its seventh session, in 1979, to its sixty-ninth, in July 2000, the Human Rights Committee has adopted 346 Views on communications received and considered under the Optional Protocol. The Committee found violations in 268 of them.

597. During its thirty-ninth session (July 1990), the Committee established a procedure whereby it could monitor the follow-up to its Views under article 5, paragraph 4, and it created the mandate of Special Rapporteur for the follow-up on Views (A/45/40, annex XI). From the Committee's sixty-fifth session, Mr. Fausto Pocar was Special Rapporteur for the follow-up on Views. At the sixty-eighth session, Ms. Christine Chanet assumed the duties of Special Rapporteur for the follow-up on Views.

598. The Special Rapporteur began to request follow-up information from States parties in 1991. Follow-up information has been systematically requested in respect of all Views with a finding of a violation of the Covenant. At the beginning of the Committee's sixty-ninth session, follow-up information had been received in respect of 180 Views. No information had been received in respect of 74 Views. In five cases, the deadline for receipt of follow-up information had not yet expired. In two cases no follow-up reply was required. In many instances, the Secretariat has also received information from authors to the effect that the Committee's Views had not been implemented. Conversely, in some rare instances, the author of a communication has informed the Committee that the State party had given effect to the Committee's recommendations, although the State party had not itself provided that information.

599. Attempts to categorize follow-up replies are necessarily imprecise. Roughly 30 per cent of the replies received could be considered satisfactory in that they display the State party's willingness to implement the Committee's Views or to offer the applicant an appropriate remedy. Other replies cannot be considered satisfactory because they either do not address the Committee's recommendations at all or merely relate to one aspect of them. Certain replies simply indicate that the victim has failed to file a claim for compensation within statutory deadlines and that no compensation can therefore be paid to the victim.

600. The remainder of the replies either explicitly challenge the Committee's findings, on either factual or legal grounds, constitute much-belated submissions on the merits of the case, 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.

601. 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.

Argentina:	One decision finding violations: 400/1990 - Mónaco de Gallichio (A/50/40); for follow-up reply, see A/51/40, para. 455.
Australia:	Two Views finding violations: 488/1992 - Toonen (A/49/40); for follow-up reply, see A/51/40, para. 456; 560/1993 - A. (A/52/40); for State party's follow-up reply, dated 16 December 1997, see A/53/40, para. 491. See also below.
Austria:	Two views finding violations: 415/1990 - Pauger (A/47/40); for follow-up reply, see A/52/40, para. 524; 716/1996 - Pauger (A/54/40); for follow-up reply see below.
Bolivia:	Two Views finding violations: 176/1984 - Peñarrieta (A/43/40); for follow-up reply see A/52/40, para. 530; 336/1988 - Bizouarn & Fillastre (A/47/40); for follow-up reply see A/52/40, para. 531.
Cameroon:	One decision finding violations: 458/1991 - Mukong (A/49/40); State party follow-up reply remains outstanding. See A/52/40, paras. 524 and 532.
Canada:	Nine Views finding violations: 24/1977 - Lovelace (in Selected Decisions, vol. 1); for State party's follow-up reply, see Selected Decisions, vol. 2, annex I; 27/1978 - Pinkney (in Selected Decisions, vol. 1); no follow-up reply received; 167/1984 - Ominayak (A/45/40); follow-up reply, dated 25 November 1991, unpublished; 359/1989 and 385/1989 - Ballantyne and Davidson and McIntyre (A/48/40); follow-up reply, dated 2 December 1993, unpublished; 455/1991 - Singer (A/49/40); no follow-up reply required; 469/1991 - Ng (A/49/40); follow-up reply, dated 3 October 1994, unpublished; 633/1995 - Gauthier (A/54/40); for follow-up reply see below; 694/1996 - Waldman (annex IX, sect. H.); for follow-up reply see below.
Central African Republic:	One decision finding violations: 428/1990 - Bozize (A/49/40); for follow-up reply see A/51/40, para. 457.

Colombia:	Nine Views finding violations: For the first eight cases and follow-up replies see A/51/40, paras. 439-441, and A/52/40, paras. 533-535; 612/1995 - Arhuacos (A/52/40); no follow-up reply. Follow-up consultations were held during the sixty-seventh session (see below).
Czech Republic:	Two Views finding violations: 516/1992 - Simunek et al. (A/50/40); 586/1994 - Adam (A/51/40). For the State party's follow-up replies, see A/51/40, para. 458. One author (in Simunek) has confirmed that the Committee's recommendations were implemented, the others complained that their property was not restored to them or that they were not compensated. Follow-up consultations were held during the sixty-first and sixty-sixth sessions (see A/53/40, para. 492, and A/54/40, para. 465).
Democratic Republic of the Congo (formerly Zaire)	Ten Views finding violations: 16/1977 - Mbenge et al.; 90/1981 - Luyeye; 124/1982 - Muteba; 138/1983 - Mpandanjila et al.; 157/1983 - Mpaka Nsusu, and 194/1985 - Miango (Selected Decisions, vol. 2); 241/1987 and 242/1987 - Birindwa and Tshisekedi (A/45/40); 366/1989 - Kanana (A/49/40); 542/1993 - Tshishimbi (A/51/40). No follow-up reply has been received in respect of any of the above cases, in spite of reminders addressed to the State party.
Dominican Republic:	Three Views finding violations: 188/1984 - Portorreal (in Selected Decisions, vol. 2); for State party's follow-up reply, see A/45/40, vol. II, annex XII; 193/1985 - Giry (A/45/40); 449/1991 - Mójica (A/49/40). The State party's follow-up reply in the latter two cases has been received but is incomplete in respect of Giry. Follow-up consultations with the Permanent Mission of the Dominican Republic to the United Nations were conducted during the fifty-seventh and fifty-ninth sessions (see A/52/40, para. 538).
Ecuador:	Five Views finding violations: 238/1987 - Bolanos (A/44/40); for State party's follow-up reply, see A/45/40, vol. II, annex XII, sect. B; 277/1988 - Terán Jijón (A/47/40); follow-up reply, dated 11 June 1992, unpublished; 319/1988 - Cañón García (A/47/40); no follow-up reply received; 480/1991 - Fuenzalida (A/51/40); 481/1991 - Ortega (A/52/40);

	For the State party's follow-up reply, dated 9 January 1998, in the latter two cases, see A/53/40, para. 494. Follow-up consultations with the Permanent Mission of Ecuador to the United Nations Office at Geneva were conducted during the sixty-first session (see A/53/40, para. 493). For further follow-up replies, dated 29 January and 14 April 1999, see A/54/40, para. 466.
Equatorial Guinea:	Two Views finding violations: 414/1990 - Primo Essono and 468/1991 - Oló Bahamonde (A/49/40). The State party's follow-up reply remains outstanding in both cases, in spite of follow-up consultations with the Permanent Mission of Equatorial Guinea to the United Nations during the fifty-sixth and fifty-ninth sessions (see A/51/40, paras. 442-444 and A/52/40, para. 539).
Finland:	Four Views finding violations: 265/1987 - Vuolanne (A/44/40); for the State party's follow-up reply, see A/44/40, para. 657 and annex XII; 291/1988 - Torres (A/45/40); for the State party's follow-up reply, see A/45/40, vol. II, annex XII, sect. C; 387/1989 - Karttunen (A/48/40); for follow-up reply, dated 20 April 1999, see A/54/40, para. 467; 412/1990 - Kivenmaa (A/49/40); State party's preliminary follow-up reply, dated 13 September 1994, unpublished; for a further follow-up reply, dated 20 April 1999, see A/54/40, para. 468.
France:	Three Views finding violations: 196/1985 - Gueye et al. (A/44/40); for the State party's follow-up reply, see A/51/40, para. 459; 549/1993 - Hopu (A/52/40); for the State party's follow-up reply, see A/53/40, para. 495; 666/1995 - Foin, see annex IX, sect. C, no follow-up reply required.
Georgia:	Four Views finding violations: 623/1995 - Domukovsky; 624/1995 - Tsiklauri; 626/1995 - Gelbekhiani; 627/1995 - Dokvadze (A/53/40); for the State party's follow-up replies, dated 19 August and 27 November 1998, see A/54/40, para. 469.
Guyana:	One decision finding violations: 676/1996 - Yasseen and Thomas (A/53/40); no follow-up reply received.

Hungary:	Two Views finding violations: 410/1990 - Párkányi (A/47/40); for follow-up reply, see A/52/40, para. 524; 521/1992 - Kulomin (A/51/40); for the State party's follow-up reply, see A/52/40, para. 540.
Italy:	One decision finding violations: 699/1996 - Maleki (A/54/40); for the State party's follow-up reply, see below.
Jamaica:	Ninety-one Views finding violations: 24 detailed follow-up replies received, of which 19 indicate that the State party will not implement the Committee's recommendations, two promised to investigate, and one announced the author's release (see A/54/40, para. 470); 36 general replies, indicating merely that the authors' death sentences had been commuted. No follow-up replies in 32 cases. Follow-up consultations with the State party's Permanent Representatives to the United Nations and to the United Nations Office at Geneva were conducted during the fifty-third, fifty-fifth, fifty-sixth and sixtieth sessions. Prior to the Committee's fifty-fourth session, the Special Rapporteur for the follow-up on Views conducted a follow-up fact-finding mission to Jamaica (A/50/40, paras. 557-562). See further below.
Libyan Arab Jamahiriya:	One decision finding violations: 440/1990 - El-Megreisi (A/49/40); the State party's follow-up reply remains outstanding. The author has informed the Committee that his brother was released in March 1995. Compensation remains outstanding.
Madagascar:	Four Views finding violations: 49/1979 - Marais; 115/1982 - Wight; 132/1982 - Jaona; and 155/1983 - Hammel (in Selected Decisions, vol. 2). The State party's follow-up reply remains outstanding in all four cases; the authors of the two first cases informed the Committee that they were released from detention. Follow-up consultations with the Permanent Mission of Madagascar to the United Nations were held during the fifty-ninth session (A/52/40, para. 543).
Mauritius:	One decision finding violations: 35/1978 - Aumeeruddy Cziffra et al. (in Selected Decisions, vol. 1); for the State party's follow-up reply, see Selected Decisions, vol. 2, annex I.

Netherlands:	Five Views finding violations: 172/1984 - Broeks (A/42/40); the State party's follow-up reply, dated 23 February 1995, unpublished; 182/1984 - Zwaan-de Vries (A/42/40); State party's follow-up reply, unpublished; 305/1988 - van Alphen (A/45/40); for the State party's follow-up reply, see A/46/40; paras. 707 and 708; 453/1991 - Coeriel (A/50/40); the State party's follow-up reply, dated 28 March 1995, unpublished; 786/1997 - Vos (A/54/40); for follow-up reply, see below.
Nicaragua:	One decision finding violations: 328/1988 - Zelaya Blanco (A/49/40); a follow-up reply remains outstanding, in spite of a reminder addressed to the State party in June 1995 and follow-up consultations with the Permanent Mission of Nicaragua to the United Nations during the fifty-ninth session (A/52/40, para. 544).
Norway:	One decision finding violations: 631/1995 - Spakmo (see annex IX, sect. B). For the State party's follow-up reply, see paragraph 613, below.
Panama:	Two Views finding violations: 289/1988 - Wolf (A/47/40); 473/1991 - Barroso (A/50/40). For the State party's follow-up replies, dated 22 September 1997, see A/53/40, paras. 496 and 497.
Peru:	Six Views finding violations: 202/1986 - Ato del Avellanal (A/44/40); 203/1986 - Muñoz Hermosa (A/44/40); 263/1987 - González del Río (A/48/40); 309/1988 - Orihuela Valenzuela (A/48/40); for the follow-up reply in these four cases, see A/52/40 para. 546; 540/1993 - Laureano (A/51/40); the State party's follow-up reply remains outstanding; 577/1994 - Polay Campos (A/53/40); for the State party's follow-up reply, see A/53/40, para. 498.
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.

Senegal:	One decision finding violations: 386/1989 - Famara Koné (A/50/40); for the State party's follow-up reply, see A/51/40, para. 461. See also summary record of the 1619th meeting, held on 21 October 1997 (CCPR/C/SR.1619).
Spain:	Two Views finding violations: 493/1992 - Griffin (A/50/40); the State party's follow-up reply, dated 30 June 1995, unpublished, in fact challenges Committee's findings; 526/1993 - Hill (A/52/40); for the State party's follow-up reply, see A/53/40, para. 499.
Suriname:	Eight Views with findings of violations: 146/1983 and 148-154/1983 - Baboeram et al. (in Selected Decisions, vol. 2); consultations held during the fifty-ninth session (see A/51/40, para. 451 and A/52/40, para. 549); for the State party's follow-up reply, see A/53/40, paras. 500-501. For follow-up consultations during the Committee's sixty-eighth session, see below.
Togo:	Four Views with findings of violations: 422-424/1990 - Aduayom et al. and 505/1992 - Ackla (A/51/40). The State party's follow-up replies on both Views remain outstanding.
Trinidad and Tobago:	Twelve Views finding violations: 232/1987 and 512/1992 - Pinto (A/45/40 and A/51/40); 362/1989 - Soogrim (A/48/40); 447/1991 - Shalto (A/50/40); 434/1990 - Seerattan and 523/1992 - Neptune (A/51/40); 533/1993 - Elahie (A/52/40); 554/1993 - LaVende, 555/1993 - Bickaroo, 569/1993 - Matthews and 672/1995 - Smart (A/53/40); 594/1992 - Phillip and 752/1997 - Henry (A/54/40). The State party's follow-up replies were received in respect of Pinto, Shalto, Neptune and Seerattan. Follow-up replies on the remainder of the cases are outstanding. Follow-up consultations were conducted during the sixty-first session (A/53/40, paras. 502-507); see also A/51/40, paras. 429, 452, 453 and A/52/40, paras. 550-552.
Uruguay:	Forty-five Views finding violations: 43 follow-up replies received, dated 17 October 1991, unpublished. Follow-up replies on two Views remain outstanding: 159/1983 - Cariboni (in Selected Decisions, vol. 2) and 322/1988 - Rodríquez (A/49/40); see also A/51/40, para. 454.

Venezuela:	One decision finding violations: 156/1983 - Solórzano (in Selected Decisions, vol. 2); the State party's follow-up reply, dated 21 October 1991, unpublished.
Zambia:	Four Views finding violations: 314/1988 - Bwalya and 326/1988 - Kalenga (A/48/40; 390/1990 - Lubuto (A/51/40); 768/1997 - Mukunto (A/54/40); the State party's follow-up reply, dated 3 April 1995, unpublished, was received in respect of the first two decisions; follow-up replies in respect of the last two cases remain outstanding.

602. 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 sixty-eighth session of the Committee (CCPR/C/68/R.1, dated 28 February 2000). An overview, similar to that in the present report, of the Committee's past experience with the follow-up procedure can be found in the Committee's previous reports: A/54/40, paras. 456-475; A/53/40, paras. 480-510; A/52/40, paras. 518-557 and A/51/40, paras. 424-466).

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

603. 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.

604. The follow-up replies received during the period under review are summarized below.

605. Australia. During the Committee's sixty-eighth session, the Special Rapporteur for the follow-up on Views met with a representative of Australia to discuss the State party's negative reply in case No. 560/1993 - A. A further meeting with a delegation of the State party took place on 21 July 2000, on the occasion of the Committee's consideration of Australia's third and fourth periodic report. A reference to these meetings will be included in the follow-up progress report, to be presented to the Committee in March 2001.

606. Austria. By submission of 23 February 2000, the State party challenged the Committee's Views in case No. 716/1996 - Pauger and maintained that its pension measures were not discriminatory. It informed the Committee therefore that it was not in a position to comply with the Committee's Views. After receiving this reply, the Committee decided to organize a meeting with the State party's representative. A meeting between the Special Rapporteur for the follow-up on Views and a representative of Austria took place on 25 July 2000. A reference to this meeting will be included in the follow-up progress report, to be presented to the Committee in March 2001.

607. Canada. In response to the Committee's Views in case No. 633/1995 - Gauthier, the Government of Canada informed the Committee on 20 October 1999 that it had appointed an independent expert to review the Press Gallery's criteria for accreditation, as well as the author's application for accreditation. The Government has also taken measures to allow visitors to Parliament to take notes. In order to address the Committee's concern that there should be a possibility of recourse for individuals who are denied membership of the Press Gallery, in the future the Speaker of the House will be competent to receive complaints and appoint an independent expert to report to him about the validity of the complaints. By a later submission, dated March 2000, the Government provided the Committee with a copy of the expert report on the Press Gallery's criteria for accreditation and their application in the author's case. Following the issuing of the report, the author has been invited to apply again for accreditation with the Press Gallery, if he so wishes.

608. With regard to case No. 694/1996 - Waldman, the Government of Canada informed the Committee by note of 3 February 2000, that matters of education fall under the exclusive jurisdiction of the provinces. The Government of Ontario has communicated that it has no plans to extend funding to private religious schools or to the parents of children that attend such schools, and that it intends to adhere fully to its constitutional obligation to fund Roman Catholic schools. After receipt of the State party's reply the Committee organized a meeting with the State party's representative, which took place on 18 July 2000. A reference to this meeting will be included in the follow-up progress report, to be presented to the Committee in March 2001.

609. Colombia. In November 1999 a meeting took place between the Special Rapporteur for the follow-up on Views and the Permanent Representative of Colombia to the United Nations Office at Geneva to discuss the lack of effective follow-up in case No. 563/1993 - Bautista.

610. Italy. By submission of 7 March 2000, the Government of Italy challenged the Committee's Views in case No. 699/1996 - Maleki. At the same time, the Government recognized the high moral value of the Views expressed by the Committee and informed the Committee that it was studying appropriate measures to give effect to the Committee's Views, such as granting pardon to the author. The Government also stated that it was considering withdrawal of its reservation under article 14, paragraph 3 (d), of the Covenant.

611. Jamaica. Several follow-up replies were received from the Government of Jamaica. In two cases, 647/1995 - Pennant and 719/1996 - Levy, the Government informed the Committee that it was not in a position to give effect to the Committee's recommendations. In case 702/1996 - McLawrence, the Government informed the Committee that the author's death sentence had been commuted. In case No. 610/1995 - Henry, the Government informed the Committee that it was investigating the possibility of providing compensation. In case 662/1995 - Lumley, where the Committee had recommended the author's release, the Government informed the Committee that the author had been released from prison prior to the adoption of the Committee's Views. In case 709/1996 - Bailey, the Government advised the Committee that the Court of Appeal was preparing to hear applications for review of the non-parole period and that the author's case was scheduled to be heard as required by the Committee.

612. Netherlands. By submission of 25 October 1999 concerning case No. 786/1997 - Vos, the Government of the Netherlands informed the Committee that it had published the Committee's Views in the Gazette. However, at the same time it challenged the Committee's

Views that the author had been a victim of discrimination and informed the Committee that it would not implement its recommendation. After having received the Government's reply, the Committee decided to organize a meeting with the State party's representative. The meeting has not yet taken place.

613. Norway. By submission of 3 April 2000, in respect of case No. 631/1995 - Spakmo, the Government of Norway informed the Committee that it had decided to pay the author compensation of NKr 2,000 for non-pecuniary damages, as well as NKr 70,000 compensation for legal costs. The Committee's Views were announced by the Ministry of Justice in a press release on 23 December 1999.

614. Suriname. On 23 March 2000, a meeting took place between the Ambassador and the Deputy Permanent Representative of Suriname to the United Nations and the Chairperson of the Committee and the Special Rapporteur for the follow-up on Views to discuss the lack of effective response to the Committee's Views.

Publicity for follow-up activities

615. During the fiftieth session, in March 1994, the Committee formally adopted a number of decisions concerning the effectiveness of and publicity for the follow-up procedure. Those decisions, which are set out in detail in paragraphs 435 to 437 of Committee's report A/51/40, provide for publicity to be given to follow-up activities and to the cooperation or non-cooperation of States parties with the Special Rapporteur.

Concern over the follow-up mandate

616. The Committee reconfirms that it will keep the functioning of the follow-up procedure under regular review. It recalls that States parties to the Optional Protocol have undertaken to give effect to the Committee's Views (see chap. V, para. 593)

617. The Committee again expresses its regret that its recommendation, formulated in its four previous reports, that at least one follow-up mission per year be budgeted by the Office of the United Nations High Commissioner for Human Rights, has still not been implemented. Similarly, the Committee considers that staff resources to service the follow-up mandate remain inadequate, despite the Committee's repeated requests, and that this prevents the proper and timely conduct of follow-up activities, including follow-up missions and follow-up consultations. The Committee welcomes the High Commissioner's plan of action for improving the servicing of the treaty bodies and expresses its hope that when the plan takes effect, the follow-up mandate will benefit from more effective servicing than hitherto.

Notes

[a] The Covenant continues to apply by succession in one other State, Kazakhstan. See note (d) to annex I. See also note (e) to annex I.

[b] Although at the date of this report there are 95 States parties to the Optional Protocol, the Committee is competent to consider communications concerning 97 States, including two former States parties that have denounced the Optional Protocol pursuant to article 12. These countries are Jamaica, which denounced the Optional Protocol on 23 October 1997 with effect from 23 January 1998, and Trinidad and Tobago, which denounced the Optional Protocol on 27 March 2000 with effect from 27 June 2000. Thus, communications concerning Jamaica which were submitted prior to 27 January 1998 and communications concerning Trinidad and Tobago which were submitted prior to 27 June 2000 are still under consideration.

[c] The Committee notes that, notwithstanding the notification by the Government of the Democratic People's Republic of Korea of 25 August 1997 seeking to denounce the Covenant, the Democratic People's Republic of Korea submitted its second periodic report on 20 March 2000. See the Committee's General Comment No. 26 on the continuity of obligations under the Covenant (A/53/40, vol I, annex VII).

Annex I

STATES PARTIES TO THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AND TO THE OPTIONAL PROTOCOLS AND STATES WHICH HAVE MADE THE DECLARATION UNDER ARTICLE 41 OF THE COVENANT AS AT 28 JULY 2000

State party	Date of receipt of the instrument of ratification	Date of entry into force
A. States parties to the International Covenant on Civil and Political Rights (145)		
Afghanistan	24 January 1983[a]	24 April 1983
Albania	4 October 1991[a]	4 January 1992
Algeria	12 September 1989	12 December 1989
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986	8 November 1986
Armenia	23 June 1993[a]	[b]
Australia	13 August 1980	13 November 1980
Austria	10 September 1978	10 December 1978
Azerbaijan	13 August 1992[a]	[b]
Barbados	5 January 1973[a]	23 March 1976
Belarus	12 November 1973	23 March 1976
Belgium	21 April 1983	21 July 1983
Belize	10 June 1996[a]	10 September 1996
Benin	12 March 1992[a]	12 June 1992
Bolivia	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 September 1993[c]	6 March 1992
Brazil	24 January 1992[a]	24 April 1992
Bulgaria	21 September 1970	23 March 1976
Burkina Faso	4 January 1999[a]	4 April 1999
Burundi	9 May 1990[a]	9 August 1990
Cambodia	26 May 1992[a]	26 August 1992
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Cape Verde	6 August 1993[a]	6 November 1993
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995[a]	9 September 1995
Chile	10 February 1972	23 March 1976
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976

State party	Date of receipt of the instrument of ratification	Date of entry into force
Côte d'Ivoire	26 March 1992[a]	26 June 1992
Croatia	12 October 1992[c]	8 October 1991
Cyprus	2 April 1969	23 March 1976
Czech Republic	22 February 1993[c]	1 January 1993
Democratic People's Republic of Korea	14 September 1981[a]	14 December 1981
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Dominica	17 June 1993[a]	17 September 1993
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
Egypt	14 January 1982	14 April 1982
El Salvador	30 November 1979	29 February 1980
Equatorial Guinea	25 September 1987[a]	25 December 1987
Estonia	21 October 1991[a]	21 January 1992
Ethiopia	11 June 1993[a]	11 September 1993
Finland	19 August 1975	23 March 1976
France	4 November 1980[a]	4 February 1981
Gabon	21 January 1983[a]	21 April 1983
Gambia	22 March 1979[a]	22 June 1979
Georgia	3 May 1994[a]	[b]
Germany	17 December 1973	23 March 1976
Greece	5 May 1997[a]	5 August 1997
Grenada	6 September 1991[a]	6 December 1991
Guatemala	6 May 1992[a]	5 August 1992
Guinea	24 January 1978	24 April 1978
Guyana	15 February 1977	15 May 1977
Haiti	6 February 1991[a]	6 May 1991
Honduras	25 August 1997	25 November 1997
Hungary	17 January 1974	23 March 1976
Iceland	22 August 1979	22 November 1979
India	10 April 1979[a]	10 July 1979
Iran, Islamic Republic of	24 June 1975	23 March 1976
Iraq	25 January 1971	23 March 1976
Ireland	8 December 1989	8 March 1990
Israel	3 October 1991[a]	3 January 1992

State party	Date of receipt of the instrument of ratification	Date of entry into force
Italy	15 September 1978	15 December 1978
Jamaica	3 October 1975	23 March 1976
Japan	21 June 1979	21 September 1979
Jordan	28 May 1975	23 March 1976
Kazakhstan[d]		
Kenya	1 May 1972[a]	23 March 1976
Kuwait	21 May 1996[a]	21 August 1996
Kyrgyzstan	7 October 1994[a]	[b]
Latvia	14 April 1992[a]	14 July 1992
Lebanon	3 November 1972[a]	23 March 1976
Lesotho	9 September 1992[a]	9 December 1992
Libyan Arab Jamahiriya	15 May 1970[a]	23 March 1976
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	22 December 1993[a]	22 March 1994
Mali	16 July 1974[a]	23 March 1976
Malta	13 September 1990[a]	13 December 1990
Mauritius	12 December 1973[a]	23 March 1976
Mexico	23 March 1981[a]	23 June 1981
Monaco	28 August 1997	28 November 1997
Mongolia	18 November 1974	23 March 1976
Morocco	3 May 1979	3 August 1979
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995
Nepal	14 May 1991	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	28 December 1978	28 March 1979
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Nigeria	29 July 1993[a]	29 October 1993
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1997
Paraguay	10 June 1992[a]	10 September 1992

State party	Date of receipt of the instrument of ratification	Date of entry into force
Peru	28 April 1978	28 July 1978
Philippines	23 October 1986	23 January 1987
Poland	18 March 1977	18 June 1977
Portugal	15 June 1978	15 September 1978
Republic of Korea	10 April 1990[a]	10 July 1990
Republic of Moldova	26 January 1993[a]	[b]
Romania	9 December 1974	23 March 1976
Russian Federation	16 October 1973	23 March 1976
Rwanda	16 April 1975[a]	23 March 1976
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[c]	1 January 1993
Slovenia	6 July 1992[c]	25 June 1991
Somalia	24 January 1990[a]	24 April 1990
South Africa	10 December 1998[a]	10 March 1999
Spain	27 April 1977	27 July 1977
Sri Lanka	11 June 1980[a]	11 September 1980
Sudan	18 March 1986[a]	18 June 1986
Suriname	28 December 1976[a]	28 March 1977
Sweden	6 December 1971	23 March 1976
Switzerland	18 June 1992[a]	18 September 1992
Syrian Arab Republic	21 April 1969[a]	23 March 1976
Tajikistan	4 January 1999[a]	4 April 1999
Thailand	29 October 1996[a]	29 January 1997
The former Yugoslav Republic of Macedonia	17 September 1991[c]	17 September 1991
Togo	24 May 1984[a]	24 August 1984
Trinidad and Tobago	21 December 1978[a]	21 March 1979
Tunisia	18 March 1969	23 March 1976
Turkmenistan	1 May 1997[a]	[b]
Uganda	21 June 1995[a]	21 September 1995
Ukraine	12 November 1973	23 March 1976
United Kingdom of Great Britain and Northern Ireland	20 May 1976	20 August 1976

State party	Date of receipt of the instrument of ratification	Date of entry into force
United Republic of Tanzania	11 June 1976[a]	11 September 1976
United States of America	8 June 1992	8 September 1992
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995	[b]
Venezuela	10 May 1978	10 August 1978
Viet Nam	24 September 1982[a]	24 December 1982
Yemen	9 February 1987[a]	9 May 1987
Yugoslavia	2 June 1971	23 March 1976
Zambia	10 April 1984[a]	10 July 1984
Zimbabwe	13 May 1991[a]	13 August 1991

In addition to the States parties listed above, the Covenant continues to apply in Hong Kong Special Administrative Region, People's Republic of China and Macau Special Administrative Region, People's Republic of China.[e]

B. States parties to the Optional Protocol (95)

Algeria	12 September 1989[a]	12 December 1989
Angola	10 January 1992[a]	10 April 1992
Argentina	8 August 1986[a]	8 November 1986
Armenia	23 June 1993[a]	23 September 1993
Australia	25 September 1991[a]	25 December 1991
Austria	10 December 1987	10 March 1988
Barbados	5 January 1973[a]	23 March 1976
Belarus	30 September 1992[a]	30 December 1992
Belgium	17 May 1994[a]	17 August 1994
Benin	12 March 1992[a]	12 June 1992
Bolivia	12 August 1982[a]	12 November 1982
Bosnia and Herzegovina	1 March 1995	1 June 1995
Bulgaria	26 March 1992[a]	26 June 1992
Burkina Faso	4 January 1999[a]	4 April 1999
Cameroon	27 June 1984[a]	27 September 1984
Canada	19 May 1976[a]	19 August 1976
Cape Verde	19 May 2000[a]	19 August 2000
Central African Republic	8 May 1981[a]	8 August 1981
Chad	9 June 1995	9 September 1995
Chile	28 May 1992[a]	28 August 1992

State party	Date of receipt of the instrument of ratification	Date of entry into force
Colombia	29 October 1969	23 March 1976
Congo	5 October 1983[a]	5 January 1984
Costa Rica	29 November 1968	23 March 1976
Côte d'Ivoire	5 March 1997	5 June 1997
Croatia	12 October 1995[a]	
Cyprus	15 April 1992	15 July 1992
Czech Republic	22 February 1993[c]	1 January 1993
Democratic Republic of the Congo	1 November 1976[a]	1 February 1977
Denmark	6 January 1972	23 March 1976
Dominican Republic	4 January 1978[a]	4 April 1978
Ecuador	6 March 1969	23 March 1976
El Salvador	6 June 1995	6 September 1995
Equatorial Guinea	25 September 1987[a]	25 December 1987
Estonia	21 October 1991[a]	21 January 1992
Finland	19 August 1975	23 March 1976
France	17 February 1984[a]	17 May 1984
Gambia	9 June 1988[a]	9 September 1988
Georgia	3 May 1994[a]	3 August 1994
Germany	25 August 1993	25 November 1993
Greece	5 May 1997[a]	5 August 1997
Guinea	17 June 1993	17 September 1993
Guyana[f]	10 May 1993[a]	10 August 1993
Hungary	7 September 1988[a]	7 December 1988
Iceland	22 August 1979[a]	22 November 1979
Ireland	8 December 1989	8 March 1990
Italy	15 September 1978	15 December 1978
[Jamaica[g]]		
Kyrgyzstan	7 October 1994[a]	7 January 1995
Latvia	22 June 1994[a]	22 September 1994
Libyan Arab Jamahiriya	16 May 1989[a]	16 August 1989
Liechtenstein	10 December 1998[a]	10 March 1999
Lithuania	20 November 1991[a]	20 February 1992
Luxembourg	18 August 1983[a]	18 November 1983
Madagascar	21 June 1971	23 March 1976
Malawi	11 June 1996	11 September 1996
Malta	13 September 1990[a]	13 December 1990

State party	Date of receipt of the instrument of ratification	Date of entry into force
Mauritius	12 December 1973[a]	23 March 1976
Mongolia	16 April 1991[a]	16 July 1991
Namibia	28 November 1994[a]	28 February 1995
Nepal	14 May 1991[a]	14 August 1991
Netherlands	11 December 1978	11 March 1979
New Zealand	26 May 1989[a]	26 August 1989
Nicaragua	12 March 1980[a]	12 June 1980
Niger	7 March 1986[a]	7 June 1986
Norway	13 September 1972	23 March 1976
Panama	8 March 1977	8 June 1977
Paraguay	10 January 1995[a]	10 April 1995
Peru	3 October 1980	3 January 1981
Philippines	22 August 1989[a]	22 November 1989
Poland	7 November 1991[a]	7 February 1992
Portugal	3 May 1983	3 August 1983
Republic of Korea	10 April 1990[a]	10 July 1990
Romania	20 July 1993[a]	20 October 1993
Russian Federation	1 October 1991[a]	1 January 1992
Saint Vincent and the Grenadines	9 November 1981[a]	9 February 1982
San Marino	18 October 1985[a]	18 January 1986
Senegal	13 February 1978	13 May 1978
Seychelles	5 May 1992[a]	5 August 1992
Sierra Leone	23 August 1996[a]	23 November 1996
Slovakia	28 May 1993[c]	1 January 1993
Slovenia	16 July 1993[a]	16 October 1993
Somalia	24 January 1990[a]	24 April 1990
Spain	25 January 1985[a]	25 April 1985
Sri Lanka[a]	3 October 1997	3 January 1998
Suriname	28 December 1976[a]	28 March 1977
Sweden	6 December 1971	23 March 1976
Tajikistan	4 January 1999[a]	4 April 1999
The former Yugoslav Republic of Macedonia	12 December 1994[a]	12 March 1995
Togo	30 March 1988[a]	30 June 1988
[Trinidad and Tobago[h]]		
Turkmenistan[b]	1 May 1997[a]	1 August 1997
Uganda	14 November 1995	14 February 1996

State party	Date of receipt of the instrument of ratification	Date of entry into force
Ukraine	25 July 1991[a]	25 October 1991
Uruguay	1 April 1970	23 March 1976
Uzbekistan	28 September 1995	28 December 1995
Venezuela	10 May 1978	10 August 1978
Zambia	10 April 1984[a]	10 July 1984

C. States parties to the Second Optional Protocol, aiming at the abolition of the death penalty (44)

Australia	2 October 1990[a]	11 July 1991
Austria	2 March 1993	2 June 1993
Azerbaijan	22 January 1999[a]	22 April 1999
Belgium	8 December 1998	8 March 1999
Bulgaria	10 August 1999	10 November 1999
Cape Verde	19 May 2000[a]	19 August 2000
Colombia	5 August 1997	5 November 1997
Costa Rica	5 June 1998	5 September 1998
Croatia	12 October 1995[a]	12 January 1996
Cyprus	10 September 1999	10 December 1999
Denmark	24 February 1994	24 May 1994
Ecuador	23 February 1993[a]	23 May 1993
Finland	4 April 1991	11 July 1991
Georgia	22 March 1999[a]	22 June 1999
Germany	18 August 1992	18 November 1992
Greece	5 May 1997[a]	5 August 1997
Hungary	24 February 1994[a]	24 May 1994
Iceland	2 April 1991	11 July 1991
Ireland	18 June 1993[a]	18 September 1993
Italy	14 February 1995	14 May 1995
Liechtenstein	10 December 1998	10 March 1999
Luxembourg	12 February 1992	12 May 1992
Malta	29 December 1994	29 March 1995
Monaco	28 March 2000[a]	28 June 2000
Mozambique	21 July 1993[a]	21 October 1993
Namibia	28 November 1994[a]	28 February 1995
Nepal	4 March 1998	4 June 1998
Netherlands	26 March 1991	11 July 1991
New Zealand	22 February 1990	11 July 1991
Norway	5 September 1991	5 December 1991

State party	Date of receipt of the instrument of ratification	Date of entry into force
Panama	21 January 1993[a]	21 April 1993
Portugal	17 October 1990	11 July 1991
Romania	27 February 1991	11 July 1991
Seychelles	15 December 1994[a]	15 March 1995
Slovakia	22 June 1999[a]	22 September 1999
Slovenia	10 March 1994	10 June 1994
Spain	11 April 1991	11 July 1991
Sweden	11 May 1990	11 July 1991
Switzerland	16 June 1994[a]	16 September 1994
The former Yugoslav Republic of Macedonia	26 January 1995[a]	26 April 1995
United Kingdom of Great Britain and Northern Ireland	10 December 1999	10 March 2000
Turkmenistan	12 January 2000[a]	12 April 2000
Uruguay	21 January 1993	21 April 1993
Venezuela	22 February 1993	22 May 1993

D. States which have made the declaration under article 41 of the Covenant (47)

State party	Valid from	Valid until
Algeria	12 September 1989	Indefinitely
Argentina	8 August 1986	Indefinitely
Australia	28 January 1993	Indefinitely
Austria	10 September 1978	Indefinitely
Belarus	30 September 1992	Indefinitely
Belgium	5 March 1987	Indefinitely
Bosnia and Herzegovina	6 March 1992	Indefinitely
Bulgaria	12 May 1993	Indefinitely
Canada	29 October 1979	Indefinitely
Chile	11 March 1990	Indefinitely
Congo	7 July 1989	Indefinitely
Croatia	12 October 1995	Indefinitely
Czech Republic	1 January 1993	Indefinitely
Denmark	23 March 1976	Indefinitely
Ecuador	24 August 1984	Indefinitely

State party	Valid from	Valid until
Finland	19 August 1975	Indefinitely
Gambia	9 June 1988	Indefinitely
Germany	28 March 1976	10 May 2001
Guyana	10 May 1993	Indefinitely
Hungary	7 September 1988	Indefinitely
Iceland	22 August 1979	Indefinitely
Ireland	8 December 1989	Indefinitely
Italy	15 September 1978	Indefinitely
Liechtenstein	10 March 1999	Indefinitely
Luxembourg	18 August 1983	Indefinitely
Malta	13 September 1990	Indefinitely
Netherlands	11 December 1978	Indefinitely
New Zealand	28 December 1978	Indefinitely
Norway	23 March 1976	Indefinitely
Peru	9 April 1984	Indefinitely
Philippines	23 October 1986	Indefinitely
Poland	25 September 1990	Indefinitely
Republic of Korea	10 April 1990	Indefinitely
Russian Federation	1 October 1991	Indefinitely
Senegal	5 January 1981	Indefinitely
Slovakia	1 January 1993	Indefinitely
Slovenia	6 July 1992	Indefinitely
South Africa	10 March 1999	Indefinitely
Spain	30 January 1998	Indefinitely
Sri Lanka	11 June 1980	Indefinitely
Sweden	23 March 1976	Indefinitely
Switzerland	18 September 1992	18 September 2002
Tunisia	24 June 1993	Indefinitely
Ukraine	28 July 1992	Indefinitely
United Kingdom of Great Britain and Northern Ireland	20 May 1976	Indefinitely
United States of America	8 September 1992	Indefinitely
Zimbabwe	20 August 1991	Indefinitely

Notes

[a] Accession.

[b] In the opinion of the Committee, the entry into force goes back to the date when the State became independent.

[c] Succession.

[d] Although a declaration of succession has not been received, the people within the territory of the State - which constituted part of a former State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40 (A/49/40), vol. I, paras. 48 and 49). For information on the application of the Covenant in Macau, Special Administrative Region, see chapter IV of the present report.

[e] For information on the application of the Covenant in Hong Kong, Special Administrative Region, People's Republic of China, see Official Records of the General Assembly, Fifty-first Session, Supplement No. 40 (A/51/40), chap. V, sect. B, paras. 78-85.

[f] Guyana denounced the Optional Protocol on 5 January 1999 and reacceded on the same day, subject to a reservation, with effect from 5 April 1999. Guyana's reservation elicited objections from six States parties to the Optional Protocol.

[g] Jamaica denounced the Optional Protocol on 23 October 1997, with effect from 23 January 1998.

[h] Trinidad and Tobago denounced the Optional Protocol on 26 May 1998 and reacceded on the same day subject to reservation, with effect from 26 August 1998. Trinidad and Tobago's reservation elicited objections from numerous States parties to the Optional Protocol. Trinidad and Tobago again denounced the Optional Protocol on 27 March 2000, with effect from 27 June 2000. Cases registered against Jamaica and Trinidad and Tobago prior to the entry into force of their respective denunciations are still under examination before the Committee.

Annex II

MEMBERSHIP AND OFFICERS OF THE HUMAN RIGHTS COMMITTEE, 1999-2000

A. Membership of the Human Rights Committee
Sixty-seventh to sixty-ninth sessions
(October/November 1999-July 2000)

Mr. Abdelfattah AMOR**	Tunisia
Mr. Nisuke ANDO**	Japan
Mr. Prafullachandra Natwarlal BHAGWATI**	India
Ms. Christine CHANET**	France
Lord COLVILLE*	United Kingdom of Great Britain and Northern Ireland
Ms. Elizabeth EVATT*	Australia
Ms. Pilar GAITAN DE POMBO*	Colombia
Mr. Louis HENKIN**	United States of America
Mr. Eckart KLEIN**	Germany
Mr. David KRETZMER**	Israel
Mr. Rajsoomer LALLAH*	Mauritius
Ms. Cecilia MEDINA QUIROGA**	Chile
Mr. Fausto POCAR*	Italy
Mr. Martin SCHEININ*	Finland
Mr. Hipólito SOLARI YRIGOYEN**	Argentina
Mr. Roman WIERUSZEWSKI*	Poland
Mr. Maxwell YALDEN*	Canada
Mr. Abdallah ZAKHIA*	Lebanon

* Term expires on 31 December 2000.
** Term expires on 31 December 2002.

B. Officers

The officers of the Committee, elected for a term of two years at the 1729th meeting, on 22 March 1999 (sixty-fifth session), are as follows:

Chairperson:	Ms. Cecilia Medina Quiroga
Vice-Chairpersons:	Mr. Abdelfattah Amor Mr. Prafullachandra Natwarlal Bhagwati Ms. Elizabeth Evatt
Rapporteur:	Lord Colville

Annex III

CONSOLIDATED GUIDELINES FOR STATES PARTIES' REPORTS UNDER THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

A. Introduction

A.l These guidelines replace all earlier versions issued by the Human Rights Committee, which may now be disregarded (CCPR/C/19/Rev.1 of 26 August 1982, CCPR/C/5/Rev.2 of 28 April 1995 and annex VIII to the Committee's 1998 report to the General Assembly (A/53/40)); the Committee's General Comment No. 2 (13) of 1981 is also superseded. The present guidelines do not affect the Committee's procedure in relation to any special reports which may be requested.

A.2 These guidelines will be effective for all reports to be presented after 31 December 1999.

A.3 The guidelines should be followed by States parties in the preparation of initial and all subsequent periodic reports.

A.4 Compliance with these guidelines will reduce the need for the Committee to request further information when it proceeds to consider a report; it will also help the Committee to consider the situation regarding human rights in every State party on an equal basis.

B. Framework of the Covenant concerning reports

B.1 Every State party, upon ratifying the Covenant, undertakes, under article 40, to submit, within a year of the Covenant's entry into force for that State, an initial report on the measures it has adopted which give effect to the rights recognized in the Covenant ("Covenant rights") and progress made in their enjoyment; and thereafter periodic reports whenever the Committee so requests.

B.2 For subsequent periodic reports the Committee has adopted a practice of stating, at the end of its concluding observations, a date by which the following periodic report should be submitted.

C. General guidance for contents of all reports

C.1 The articles and the Committee's general comments. The terms of the articles in Parts I, II and III of the Covenant must, together with general comments issued by the Committee on any such article, be taken into account in preparing the report.

C.2 Reservations and declarations. Any reservation to or declaration as to any article of the Covenant by the State party should be explained and its continued maintenance justified.

C.3 Derogations. The date, extent and effect of, and procedures for imposing and for lifting any derogation under article 4 should be fully explained in relation to every article of the Covenant affected by the derogation.

C.4 Factors and difficulties. Article 40 of the Covenant requires that factors and difficulties, if any, affecting the implementation of the Covenant should be indicated. A report should explain the nature and extent of, and reasons for every such factor and difficulty, if any such exist and should give details of the steps being taken to overcome these.

C.5 Restrictions or limitations. Certain articles of the Covenant permit some defined restrictions or limitations on rights. Where these exist, their nature and extent should be set out.

C.6 Data and statistics. A report should include sufficient data and statistics to enable the Committee to assess progress in the enjoyment of Covenant rights, relevant to any appropriate article.

C.7 Article 3. The situation regarding the equal enjoyment of Covenant rights by men and women should be specifically addressed.

C.8 Core document. Where the State party has already prepared a core document (see HRI/CORE/1, dated 24 February 1992), this will be available to the Committee: it should be updated as necessary in the report, particularly as regards "General legal framework" and "Information and publicity" (see HRI/CORE/1, paras. 3 and 4).

D. The initial report

D.1 General

This report is the State party's first opportunity to present to the Committee the extent to which its laws and practices comply with the Covenant which it has ratified. The report should:

Establish the constitutional and legal framework for the implementation of Covenant rights;

Explain the legal and practical measures adopted to give effect to Covenant rights;

Demonstrate the progress made in ensuring enjoyment of Covenant rights by the people within the State party and subject to its jurisdiction.

D.2 Contents of the report

D.2.1 A State party should deal specifically with every article in Parts I, II and III of the Covenant; legal norms should be described, but that is not sufficient: the factual situation and the practical availability, effect and implementation of remedies for violation of Covenant rights should be explained and exemplified.

D.2.2 The report should explain:

How article 2 of the Covenant is applied, setting out the principal legal measures which the State party has taken to give effect to Covenant rights and the range of remedies available to persons whose rights may have been violated;

Whether the Covenant is incorporated into domestic law, in such a manner as to be directly applicable;

If not, whether its provisions can be invoked before and given effect to by courts, tribunals and administrative authorities;

Whether the Covenant rights are guaranteed in a Constitution or other laws, and to what extent; or

Whether Covenant rights must be enacted or reflected in domestic law by legislation so as to be enforceable.

D.2.3 Information should be given about the judicial, administrative and other competent authorities having jurisdiction to secure Covenant rights.

D.2.4 The report should include information about any national or official institution or machinery which exercises responsibility in implementing Covenant rights or in responding to complaints of violations of such rights, and give examples of their activities in this respect.

D.3 Annexes to the report

The report should be accompanied by copies of the relevant principal constitutional, legislative and other texts which guarantee and provide remedies in relation to Covenant rights. Such texts will not be copied or translated, but will be available to members of the Committee; it is important that the report itself contain sufficient quotations from or summaries of these texts so as to ensure that the report is clear and comprehensible without reference to the annexes.

E. Subsequent periodic reports

E.1 There should be two starting points for such reports:

The concluding observations (particularly “Concerns” and “Recommendations”) on the previous report and summary records of the Committee’s consideration (insofar as these exist);

An examination by the State party of the progress made towards and the current situation concerning the enjoyment of Covenant rights by persons within its territory or jurisdiction.

E.2 Periodic reports should be structured so as to follow the articles of the Covenant.

E.3 The State party should refer again to the guidance on initial reports and on annexes, insofar as these may also apply to a periodic report.

E.4 There may be circumstances where the following matters should be addressed, in elaborating a periodic report:

There may have occurred a fundamental change in the State party's political and legal approach affecting Covenant rights: in such a case a full article-by-article report may be required;

New legal or administrative measures may have been introduced which deserve the annexing of texts and judicial or other decisions.

F. Optional protocols

F.1 If the State party has ratified the Optional Protocol and the Committee has issued Views entailing provision of a remedy or expressing any other concern relating to a communication received under that Protocol, a report should (unless the matter has been dealt with in a previous report) include information about the steps taken to provide a remedy or meet such a concern, and to ensure that any circumstance thus criticized does not recur.

F.2 If the State party has abolished the death penalty the situation relating to the Second Optional Protocol should be explained.

G. The Committee's consideration of reports

G.1 General

The Committee intends its consideration of a report to take the form of a constructive discussion with the delegation, the aim of which is to improve the situation pertaining to Covenant rights in the State.

G.2 List of issues

On the basis of all information at its disposal, the Committee will supply in advance a list of issues which will form the basic agenda for consideration of the report. The delegation should come prepared to address the list of issues and to respond to further questions from members, with such updated information as may be necessary and to do so within the time allocated for consideration of the report.

G.3 The State party's delegation

The Committee wishes to ensure that it is able effectively to perform its functions under article 40 and that the reporting State party obtains the maximum benefit from the reporting requirement. The State party's delegation should, therefore, include persons who, through their knowledge of and competence to explain the human rights situation in that State, are able to respond to the Committee's written and oral questions and comments concerning the whole range of Covenant rights.

G.4 Concluding observations

Shortly after the consideration of the report, the Committee will publish its concluding observations on the report and the ensuing discussion with the delegation. These concluding observations will be included in the Committee's annual report to the General Assembly; the Committee expects the State party to disseminate these conclusions, in all appropriate languages, with a view to public information and discussion.

G.5 Extra information

G.5.1 Following the submission of any report, subsequent revisions or updating may be submitted: (a) no later than 10 weeks prior to the date set for the Committee's consideration of the report (the minimum time required by the United Nations translation services); or (b) after that date, provided that the text has been translated by the State party into the working languages of the Committee (currently English, Spanish and French). If one or other of these courses of action is not followed, the Committee will not be able to take an addendum into account. This, however, does not apply to updated annexes or statistics.

G.5.2 In the course of the consideration of a report, the Committee may request or the delegation may offer further information; the secretariat will keep note of such matters which should be dealt with in the next report.

H. Format of the report

The distribution of a report, and thus its availability for consideration by the Committee, will be greatly facilitated if:

(a) The paragraphs are sequentially numbered;

(b) The document is written on A4-sized paper;

(c) Is single-spaced; and

(d) Allows reproduction by photo-offset (is printed on one side only of each sheet of paper).

Annex IV

SUBMISSION OF REPORTS AND ADDITIONAL INFORMATION BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

State party	Type of report	Date due	Date of submission
Afghanistan	Second periodic	23 April 1989	25 October 1991[a b]
Albania	Initial/special	3 January 1993	Not yet received
Algeria	Third periodic	1 June 2000	Not yet received
Angola	Initial	31 January 1994	Not yet received
Argentina	Third periodic	7 November 1997	15 July 1998[b]
Armenia	Second periodic	1 October 2001	Not yet due
Australia	Fifth periodic	31 July 2005	Not yet due
Austria	Fourth periodic	1 October 2002	Not yet due
Azerbaijan	Second periodic	12 November 1998	8 November 1999[b]
Barbados	Third periodic	11 April 1991	Not yet received
Belarus	Fifth periodic	7 November 2001	Not yet due
Belgium	Fourth periodic	1 October 2002	Not yet due
Belize	Initial	9 September 1997	Not yet received
Benin	Initial	11 June 1993	Not yet received
Bolivia	Third periodic	31 December 1999	Not yet received
Bosnia and Herzegovina	Initial	5 March 1993	Not yet received
Brazil	Second periodic	23 April 1998	Not yet received
Bulgaria	Third periodic	31 December 1994	Not yet received
Burkina Faso	Initial	3 April 2000	Not yet received
Burundi	Second periodic	8 August 1996	Not yet received
Cambodia	Second periodic	31 July 2002	Not yet due
Cameroon	Fourth periodic	31 October 2003	Not yet due
Canada	Fifth periodic	8 April 2000	Not yet received
Cape Verde	Initial	5 November 1994	Not yet received
Central African Republic	Second periodic	9 April 1989	Not yet received
Chad	Initial	8 September 1996	Not yet received
Chile	Fifth periodic	30 April 2002	Not yet received
Colombia	Fifth periodic	2 August 2000	Not yet received
Congo	Third periodic	31 March 2003[b]	Not yet due
Costa Rica	Fifth periodic	30 April 2004	Not yet due

State party	Type of report	Date due	Date of submission
Côte d'Ivoire	Initial	25 June 1993	Not yet received
Croatia	Initial	7 October 1992	19 November 1999[b]
Cyprus	Fourth periodic	1 June 2002	Not yet due
Czech Republic	Initial	31 December 1993	3 March 2000[b]
Democratic People's Republic of Korea	Second periodic	13 October 1987	25 December 1999
Democratic Republic of the Congo (formerly Zaire)	Third periodic	31 July 1991	Not yet received
Denmark	Fourth periodic	31 December 1998	30 December 1998[b]
Dominica	Initial	16 September 1994	Not yet received
Dominican Republic	Fourth periodic	3 April 1994	29 September 1999[b]
Ecuador	Fifth periodic	1 June 2001	Not yet due
Egypt	Third periodic	31 December 1994	Not yet received
El Salvador	Third periodic	31 December 1995	Not yet received
Equatorial Guinea	Initial	24 December 1988	Not yet received
Estonia	Second periodic	20 January 1998	Not yet received
Ethiopia	Initial	10 September 1994	Not yet received
Finland	Fifth periodic	1 June 2003	Not yet due
France	Fourth periodic	31 December 2000	Not yet due
Gabon	Second periodic	31 December 1998	6 February 1998[b]
Gambia	Second periodic	21 June 1985	
Georgia	Second periodic	2 August 2000	Not yet due
Germany	Fifth periodic	3 August 2000	Not yet due
Greece	Initial	4 August 1998	Not yet received
Grenada	Initial	5 December 1992	Not yet received
Guatemala	Second periodic	4 August 1998	6 October 1999[b]
Guinea	Third periodic	30 September 1994	Not yet received
Guyana	Third periodic	31 March 2003	Not yet due
Haiti	Initial	30 December 1996	Not yet received
Honduras	Initial	24 November 1998	2 April 1998[b]
Hong Kong Special Administrative Region (China)[c]	Second periodic (China)	31 October 2003	Not yet due
Hungary	Fourth periodic	2 August 1995	Not yet received

State party	Type of report	Date due	Date of submission
Iceland	Fourth periodic	30 October 2003	Not yet due
India	Fourth periodic	31 December 2001	Not yet due
Iran (Islamic Republic of)	Third periodic	31 December 1994	Not yet received
Iraq	Fifth periodic	4 April 2000	Not yet received
Ireland	Third periodic	21 July 2005	Not yet due
Israel	Second periodic	1 June 2000	Not yet received
Italy	Fifth periodic	1 June 2002	Not yet due
Jamaica	Third periodic	7 November 2001	Not yet due
Japan	Fifth periodic	31 October 2002	Not yet due
Jordan	Fourth periodic	21 January 1997	Not yet received
Kazakhstan[d]			
Kenya	Second periodic	11 April 1986	Not yet received
Kuwait	Second periodic	31 July 2004	Not yet due
Kyrgyzstan	Second periodic	31 July 2004	Not yet due
Latvia	Second periodic	14 July 1998	Not yet received
Lebanon	Third periodic	31 December 1999	Not yet received
Lesotho	Second periodic	30 April 2002	Not yet due
Libyan Arab Jamahiriya	Fourth periodic	1 October 2002	Not yet due
Liechtenstein	Initial	11 March 2000	Not yet received
Lithuania	Second periodic	7 November 2001	Not yet due
Luxembourg	Third periodic	17 November 1994	Not yet received
Madagascar	Third periodic	30 July 1992	Not yet received
Malawi	Initial	21 March 1995	Not yet received
Mali	Second periodic	11 April 1986	Not yet received
Macau Special Administrative Region (China)[c]	Initial (China)	31 October 2001	Not yet due
Malta	Second periodic	12 December 1996	Not yet received
Mauritius	Fourth periodic	30 June 1998	Not yet received
Mexico	Fifth periodic	30 July 2002	Not yet due
Monaco	Initial	27 November 1998	30 December 1999[b]
Mongolia	Fifth periodic	31 March 2003	Not yet due
Morocco	Fifth periodic	31 October 2003	Not yet due
Mozambique	Initial	20 October 1994	Not yet received
Namibia	Initial	27 February 1996	Not yet received
Nepal	Second periodic	13 August 1997	Not yet received
Netherlands	Third periodic	31 October 1991	(resubmitted) 28 July 2000[e]

State party	Type of report	Date due	Date of submission
New Zealand	Fourth periodic	27 March 1995	Not yet received
Nicaragua	Third periodic	11 June 1991	Not yet received
Niger	Second periodic	31 March 1994	Not yet received
Nigeria	Second periodic	28 October 1999	Not yet received
Norway	Fifth periodic	31 October 2004	Not yet due
Panama	Third periodic	31 March 1992	Not yet received
Paraguay	Second periodic	9 September 1998	Not yet received
Peru	Fourth periodic	9 April 1998	3 July 1998[f]
Philippines	Second periodic	22 January 1993	Not yet received
Poland	Fifth periodic	30 July 2003	Not yet due
Portugal	Fourth periodic	1 August 1996	1 March 1999[b]
Republic of Korea	Third periodic	31 October 2003	Not yet due
Republic of Moldova	Initial	25 April 1994	Not yet received
Romania	Fifth periodic	30 July 2003	Not yet due
Russian Federation	Fifth periodic	4 November 1998	Not yet received
Rwanda	Third periodic	10 April 1992	Not yet received
	Special[g]	31 January 1995	Not yet received
Saint Vincent and the Grenadines	Second periodic	31 October 1991	Not yet received
San Marino	Second periodic	17 January 1992	Not yet received
Senegal	Fifth periodic	4 April 2000	Not yet received
Seychelles	Initial	4 August 1993	Not yet received
Sierra Leone	Initial	22 November 1997	Not yet received
Slovakia	Second periodic	31 December 2001	Not yet due
Slovenia	Second periodic	24 June 1997	Not yet received
Somalia	Initial	23 April 1991	Not yet received
South Africa	Initial	9 March 2000	Not yet received
Spain	Fifth periodic	28 April 1999	Not yet received
Sri Lanka	Fourth periodic	10 September 1996	Not yet received
Sudan	Third periodic	7 November 2001	Not yet due
Suriname	Second periodic	2 August 1985	Not yet received
Sweden	Fifth periodic	27 October 1999	Not yet received
Switzerland	Second periodic	17 September 1998	29 September 1998[b]
Syrian Arab Republic	Second periodic	18 August 1984	19 January 2000
Tajikistan	Initial	3 April 2000	Not yet received
Thailand	Initial	28 January 1998	Not yet received
The former Yugoslav Republic of Macedonia	Second periodic	1 June 2000	Not yet received

State party	Type of report	Date due	Date of submission
Togo	Third periodic	30 December 1995	Not yet received
Trinidad and Tobago	Third and fourth periodic	20 March 1990	15 September 1999[b]
Tunisia	Fifth periodic	4 February 1998	Not yet received
Turkmenistan	Initial	31 July 1998	Not yet received
Uganda	Initial	20 September 1996	Not yet received
Ukraine	Fifth periodic	18 August 1999	20 September 1999[b]
United Kingdom of Great Britain and Northern Ireland	Fifth periodic	18 August 1999	11 October 1999[b]
United Kingdom of Great Britain and Northern Ireland (Overseas Territories)	Fifth periodic	18 August 1999	9 December 1999[b]
United Republic of Tanzania	Fourth periodic	1 June 2002	Not yet due
United States of America	Second periodic	7 September 1998	Not yet received
Uruguay	Fifth periodic	21 March 2003	Not yet due
Uzbekistan	Initial	27 December 1996	2 July 1999[b]
Venezuela	Third periodic	31 December 1993	8 July 1998[f]
Viet Nam	Second periodic	30 July 1991	Not yet received
Yemen	Third periodic	8 May 1998	Not yet received
Yugoslavia	Fourth periodic	3 August 1993	5 March 1999[b]
Zambia	Third periodic	30 June 1998	Not yet received
Zimbabwe	Second periodic	1 June 2002	Not yet due

Notes

[a] At its fifty-fifth session, the Committee requested the Government of Afghanistan to submit information updating the report before 15 May 1996 for consideration at its fifty-seventh session. No additional information was received. At its sixty-seventh session the Committee invited Afghanistan to present its report at the sixty-eighth session. The State party asked for a postponement of the examination of the report.

[b] Not yet considered.

[c] Although not itself a party to the Covenant, China has assumed the reporting obligation under article 40 with respect to Hong Kong and Macau, which were previously under British and Portuguese administration respectively.

[d] Although a declaration of succession has not been received, the people within the territory of the State - which constituted part of a former State party to the Covenant - continue to be entitled to the guarantees enunciated in the Covenant in accordance with the Committee's established jurisprudence (see Official Records of the General Assembly, Forty-ninth Session, Supplement No. 40 (A/49/40), vol. I, paras. 48 and 49).

[e] Reports for the Netherlands and the Netherlands (Antilles) were submitted in 1995, 1997 and 1998 and subsequently withdrawn. A consolidated third periodic report was resubmitted on 28 July 2000.

[f] Report scheduled for consideration at the sixty-eighth session; consideration postponed at the request of the State party.

[g] Pursuant to a Committee decision of 27 October 1994 (fifty-second session), Rwanda was requested to submit by 31 January 1995 a report relating to recent and current events affecting the implementation of the Covenant in the country for consideration at the fifty-second session. At its sixty-eighth session two members of the Bureau of the Committee met in New York with the Ambassador of Rwanda to the United Nations, who undertook to submit the overdue reports in the course of the year 2000.

Annex V

STATUS OF REPORTS CONSIDERED DURING THE PERIOD UNDER REVIEW AND OF REPORTS STILL PENDING BEFORE THE COMMITTEE

State party	Date due	Date of submission	Status
		A. Initial reports	
Croatia	7 October 1992	19 November 1999	Being processed
Czech Republic	31 December 1993	3 March 2000	Being processed
Monaco	27 November 1998	30 December 1999	Being processed
Kuwait	20 August 1997	15 May 1998	Considered on 18-19 July 2000 (sixty-ninth session)
Kyrgyzstan	6 January 1996	21 August 1998	Considered on 11-12 July 2000 (sixty-ninth session)
Uzbekistan	27 December 1996	10 June 1999	Issued, not yet considered
		B. Second periodic reports	
Afghanistan	23 April 1989	25 October 1991	Issued, not yet considered[a]
Azerbaijan	12 November 1998	8 November 1999	Being processed
Congo	4 January 1990	9 July 1996	Considered on 13-14 March 2000 (sixty-eighth session)
Gabon	31 December 1998	6 February 1998	Issued, not yet considered
Guatemala	4 August 1998	6 October 1999	Being processed
Guyana	10 April 1997	1 February 1999	Considered on 24-25 March 2000 (sixty-eighth session)

State party	Date due	Date of submission	Status
Ireland	7 March 1996	29 September 1998	Considered on 13-14 July 2000 (sixty-ninth session)
Democratic People's Republic of Korea	13 December 1987	25 December 1999	Being processed
Republic of Korea	9 April 1996	2 October 1997	Considered on 22 October 1999 (sixty-seventh session)
Switzerland	17 September 1998	29 September 1998	Issued, not yet considered
Syrian Arab Republic	18 August 1984	19 January 2000	Being processed
	C. Third periodic reports		
Argentina	7 November 1997	20 July 1998	Issued, not yet considered
Australia	12 November 1991	28 August 1998	Considered on 20-21 July 2000 (sixty-ninth session)
Netherlands	31 October 1991	28 July 2000	Being processed
Netherlands (Antilles)	31 October 1991	10 February 1999	Being processed
Trinidad and Tobago[b]	20 March 1990	15 September 1999	Issued, not yet considered
Venezuela	31 December 1993	8 July 1998	Issued, not yet considered
	D. Fourth periodic reports		
Australia	12 November 1996	28 August 1998	Considered on 20-21 July 2000 (sixth-ninth session)
Dominican Republic	3 April 1994	6 October 1999	Being processed
Mongolia	4 April 1995	20 March 1998	Considered on 22-23 March 2000 (sixty-eighth session)

State party	Date due	Date of submission	Status
Morocco	31 October 1996	27 January 1997	Considered on 20-21 October 1999 (sixty-seventh session)
Norway	1 August 1996	4 February 1997	Considered on 19 October 1999 (sixty-seventh session)
Peru	9 April 1998	3 July 1998	Issued, not yet considered[a]
Portugal (Macau)	30 June 1998	1 March 1999	Considered on 25-26 October 2000 (sixty-seventh session)
United Kingdom of Great Britain and Northern Ireland (Jersey, Guernsey and the Isle of Man)	18 August 1994	12 February 1997	Considered on 17 March 2000 (sixty-eighth session)
Federal Republic of Yugoslavia	3 August 1993	5 March 1999	Issued, not yet considered
	E. Fifth periodic reports		
Hong Kong (Special Administrative Region) (China)	18 August 1999	11 January 1999	Considered on 1-2 November 1999 (sixty-seventh session)
Ukraine	18 August 1999	20 September 1999	Being processed
United Kingdom of Great Britain and Northern Ireland	18 August 1999	11 October 1999	Being processed
United Kingdom of Great Britain and Northern Ireland (Overseas Territories)	18 August 1999	9 December 1999	Being processed

State party	Date due	Date of submission	Status
United Kingdom of Great Britain and Northern Ireland (Jersey, Guernsey and the Isle of Man)	18 August 1999	11 October 1999	Considered on 17 March 2000 (sixty-eighth session)

[a] Report scheduled for consideration by the Committee at the sixty-eighth session; consideration postponed at the request of the State party (see chap. III, para. 61).

[b] Combined third and fourth periodic reports (see chap. III, para. 58).

Annex VI

GENERAL COMMENTS ADOPTED BY THE HUMAN RIGHTS COMMITTEE UNDER ARTICLE 40, PARAGRAPH 4, OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

A. General Comment No. 27 (67) concerning article 12 (freedom of movement)[a]

1. Liberty of movement is an indispensable condition for the free development of a person. It interacts with several other rights enshrined in the Covenant, as is often shown in the Committee's practice in considering reports from States parties and communications from individuals. Moreover, the Committee in its General Comment No. 15 ("The position of aliens under the Covenant", 1986) referred to the special link between articles 12 and 13.[b]

2. The permissible limitations which may be imposed on the rights protected under article 12 must not nullify the principle of liberty of movement, and are governed by the requirement of necessity provided for in article 12, paragraph 3, and by the need for consistency with the other rights recognized in the Covenant.

3. States parties should provide the Committee in their reports with the relevant domestic legal rules and administrative and judicial practices relating to the rights protected by this article, taking into account the issues discussed in this general comment. They must also include information on remedies available if these rights are restricted.

Liberty of movement and freedom to choose residence (para. 1)

4. Everyone lawfully within the territory of a State enjoys, within that territory, the right to move freely and to choose his or her place of residence. In principle, citizens of a State are always lawfully within the territory of that State. The question whether an alien is "lawfully" within the territory of a State is a matter governed by domestic law, which may subject the entry of an alien to the territory of a State to restrictions, provided they are in compliance with the State's international obligations. In that connection, the Committee has held that an alien who entered the State illegally, but whose status has been regularized, must be considered to be lawfully within the territory for the purposes of article 12.[c] Once a person is lawfully within a State, any restrictions on his or her rights guaranteed by article 12, paragraphs 1 and 2, as well as any treatment different from that accorded to nationals, have to be justified under the rules provided for by article 12, paragraph 3.[d] It is, therefore, important that States parties indicate in their reports the circumstances in which they treat aliens differently from their nationals in this regard and how they justify this difference in treatment.

5. The right to move freely relates to the whole territory of a State, including all parts of federal States. According to article 12, paragraph 1, persons are entitled to move from one place to another and to establish themselves in a place of their choice. The enjoyment of this right must not be made dependent on any particular purpose or reason for the person wanting to move or to stay in a place. Any restrictions must be in conformity with paragraph 3.

6. The State party must ensure that the rights guaranteed in article 12 are protected not only from public but also from private interference. In the case of women, this obligation to protect is

particularly pertinent. For example, it is incompatible with article 12, paragraph 1, that the right of a woman to move freely and to choose her residence be made subject, by law or practice, to the decision of another person, including a relative.

7. Subject to the provisions of article 12, paragraph 3, the right to reside in a place of one's choice within the territory includes protection against all forms of forced internal displacement. It also precludes preventing the entry or stay of persons in a defined part of the territory. Lawful detention, however, affects more specifically the right to personal liberty and is covered by article 9 of the Covenant. In some circumstances, articles 12 and 9 may come into play together.[e]

Freedom to leave any country, including one's own (para. 2)

8. Freedom to leave the territory of a State may not be made dependent on any specific purpose or on the period of time the individual chooses to stay outside the country. Thus, travelling abroad is covered, as well as departure for permanent emigration. Likewise, the right of the individual to determine the State of destination is part of the legal guarantee. As the scope of article 12, paragraph 2, is not restricted to persons lawfully within the territory of a State, an alien being legally expelled from the country is likewise entitled to elect the State of destination, subject to the agreement of that State.[f]

9. In order to enable the individual to enjoy the rights guaranteed by article 12, paragraph 2, obligations are imposed both on the State of residence and on the State of nationality.[g] Since international travel usually requires appropriate documents, in particular a passport, the right to leave a country must include the right to obtain the necessary travel documents. The issuing of passports is normally incumbent on the State of nationality of the individual. The refusal by a State to issue a passport or prolong its validity for a national residing abroad may deprive this person of the right to leave the country of residence and to travel elsewhere.[h] It is no justification for the State to claim that its national would be able to return to its territory without a passport.

10. The practice of States often shows that legal rules and administrative measures adversely affect the right to leave, in particular, a person's own country. It is therefore of the utmost importance that States parties report on all legal and practical restrictions on the right to leave which they apply both to nationals and to foreigners, in order to enable the Committee to assess the conformity of these rules and practices with article 12, paragraph 3. States parties should also include information in their reports on measures that impose sanctions on international carriers which bring to their territory persons without required documents, where those measures affect the right to leave another country.

Restrictions (para. 3)

11. Article 12, paragraph 3, provides for exceptional circumstances in which rights under paragraphs 1 and 2 may be restricted. This provision authorizes the State to restrict these rights only to protect national security, public order (ordre public), public health or morals and the rights and freedoms of others. To be permissible, restrictions must be provided by law, must be necessary in a democratic society for the protection of these purposes and must be consistent with all other rights recognized in the Covenant (see para. 18 below).

12. The law itself has to establish the conditions under which the rights may be limited. State reports should therefore specify the legal norms upon which restrictions are founded. Restrictions which are not provided for in the law or are not in conformity with the requirements of article 12, paragraph 3, would violate the rights guaranteed by paragraphs 1 and 2.

13. In adopting laws providing for restrictions permitted by article 12, paragraph 3, States should always be guided by the principle that the restrictions must not impair the essence of the right (cf. art. 5, para. 1); the relation between right and restriction, between norm and exception, must not be reversed. The laws authorizing the application of restrictions should use precise criteria and may not confer unfettered discretion on those charged with their execution

14. Article 12, paragraph 3, clearly indicates that it is not sufficient that the restrictions serve the permissible purposes; they must also be necessary to protect them. Restrictive measures must conform to the principle of proportionality; they must be appropriate to achieve their protective function; they must be the least intrusive instrument amongst those which might achieve the desired result; and they must be proportionate to the interest to be protected.

15. The principle of proportionality has to be respected not only in the law that frames the restrictions, but also by the administrative and judicial authorities in applying the law. States should ensure that any proceedings relating to the exercise or restriction of these rights are expeditious and that reasons for the application of restrictive measures are provided.

16. States have often failed to show that the application of their laws restricting the rights enshrined in article 12, paragraphs 1 and 2, are in conformity with all requirements referred to in article 12, paragraph 3. The application of restrictions in any individual case must be based on clear legal grounds and meet the test of necessity and the requirements of proportionality. These conditions would not be met, for example, if an individual were prevented from leaving a country merely on the ground that he or she is the holder of “State secrets”, or if an individual were prevented from travelling internally without a specific permit. On the other hand, the conditions could be met by restrictions on access to military zones on national security grounds, or limitations on the freedom to settle in areas inhabited by indigenous or minorities communities.[i]

17. A major source of concern is the manifold legal and bureaucratic barriers unnecessarily affecting the full enjoyment of the rights of individuals to move freely, to leave a country, including their own, and to take up residence. Regarding the right to movement within a country, the Committee has criticized provisions requiring individuals to apply for permission to change their residence or to seek the approval of the local authorities of the place of destination, as well as delays in processing such written applications. States’ practice presents an even richer array of obstacles making it more difficult to leave the country, in particular for their own nationals. These rules and practices include, inter alia, lack of access for applicants to the competent authorities and lack of information regarding requirements; the requirement to apply for special forms through which the proper application documents for the issuance of a passport can be obtained; the need for supportive statements from employers or family members; exact description of the travel route; issuance of passports only on payment of high fees substantially exceeding the cost of the service rendered by the administration; unreasonable delays in the issuance of travel documents; restrictions on family members travelling together; requirement of a repatriation deposit or a return ticket; requirement of an invitation from the State of destination

or from people living there; harassment of applicants, for example by physical intimidation, arrest, loss of employment or expulsion of their children from school or university; refusal to issue a passport because the applicant is said to harm the good name of the country. In the light of these practices, States parties should make sure that all restrictions imposed by them are in full compliance with article 12, paragraph 3.

18. The application of the restrictions permissible under article 12, paragraph 3, needs to be consistent with the other rights guaranteed in the Covenant and with the fundamental principles of equality and non-discrimination. Thus, it would be a clear violation of the Covenant if the rights enshrined in article 12, paragraphs 1 and 2, were restricted by making distinctions of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. In examining States parties' reports, the Committee has on several occasions found that measures preventing women from moving freely or leaving the country by requiring them to have the consent or the escort of a male person constitute a violation of article 12.

The right to enter one's own country (para. 4)

19. The right of a person to enter his or her own country recognizes the special relationship of a person to that country. The right has various facets. It implies the right to remain in one's own country. It includes not only the right to return after having left one's own country; it may also entitle a person to come to the country for the first time if he or she was born outside the country (e.g. if that country is the person's State of nationality). The right to return is of the utmost importance for refugees seeking voluntary repatriation. It also implies prohibition of enforced population transfers or mass expulsions to other countries.

20. The wording of article 12, paragraph 4, does not distinguish between nationals and aliens ("no one"). Thus, the persons entitled to exercise this right can be identified only by interpreting the meaning of the phrase "his own country".[j] The scope of "his own country" is broader than the concept "country of his nationality". It is not limited to nationality in a formal sense, that is, nationality acquired at birth or by conferral; it embraces, at the very least, an individual who, because of his or her special ties to or claims in relation to a given country, cannot be considered to be a mere alien. This would be the case, for example, of nationals of a country who have there been stripped of their nationality in violation of international law, and of individuals whose country of nationality has been incorporated into or transferred to another national entity, whose nationality is being denied them. The language of article 12, paragraph 4, moreover, permits a broader interpretation that might embrace other categories of long-term residents, including but not limited to stateless persons arbitrarily deprived of the right to acquire the nationality of the country of such residence. Since other factors may in certain circumstances result in the establishment of close and enduring connections between a person and a country, States parties should include in their reports information on the rights of permanent residents to return to their country of residence.

21. In no case may a person be arbitrarily deprived of the right to enter his or her own country. The reference to the concept of arbitrariness in this context is intended to emphasize that it applies to all State action, legislative, administrative and judicial; it guarantees that even interference provided for by law should be in accordance with the provisions, aims and objectives of the Covenant and should be, in any event, reasonable in the particular

circumstances. The Committee considers that there are few, if any, circumstances in which deprivation of the right to enter one's own country could be reasonable. A State party must not, by stripping a person of nationality or by expelling an individual to a third country, arbitrarily prevent this person from returning to his or her own country.

Notes

[a] Adopted by the Committee at its 1783rd meeting (sixty-seventh session), on 18 October 1999.

[b] General Comment No. 15, para. 10, in HRI/GEN/1/Rev.4, p. 97 ff.

[c] Communication No. 456/1991, Celepli v. Sweden, para. 9.2.

[d] General Comment No. 15, op. cit., para. 8.

[e] See e.g. Communication No. 138/1983, Mpandajila v. Zaire, para. 10; Communication No. 157/1983, Mpaka-Nsusu v. Zaire, para. 10; Communication Nos. 241 and 242/1987, Birhashwirwa/Tshisekedi v. Zaire, para. 13.

[f] See General Comment No. 15, op. cit., para. 9.

[g] See Communication No. 106/1981, Montero v. Uruguay, para. 9.4; Communication No. 57/1979, Vidal Martins v. Uruguay, para. 7; Communication No. 77/1980, Lichtensztejn v. Uruguay, para. 6.1.

[h] See Communication No. 57/1979, Vidal Martins v. Uruguay, para. 9.

[i] See General Comment No. 23, para. 7, in HRI/GEN/1/Rev.4, p. 115 ff.

[j] See communication No. 583/1993, Stewart v. Canada.

B. General Comment No. 28 concerning article 3 (equality of rights between men and women)[a]

1. The Committee has decided to update its general comment on article 3 of the Covenant and to replace General Comment No. 4 (thirteenth session, 1981), in the light of the experience it has gathered in its activities over the last 20 years. The present revision seeks to take account of the important impact of this article on the enjoyment by women of the human rights protected under the Covenant.

2. Article 3 implies that all human beings should enjoy the rights provided for in the Covenant, on an equal basis and in their totality. The full effect of this provision is impaired whenever any person is denied the full and equal enjoyment of any right. Consequently, States should ensure to men and women equally the enjoyment of all rights provided for in the Covenant.

3. The obligation to ensure to all individuals the rights recognized in the Covenant, established in articles 2 and 3 of the Covenant, requires that States parties take all necessary steps to enable every person to enjoy those rights. These steps include the removal of obstacles to the equal enjoyment of such rights, the education of the population and of State officials in human rights, and the adjustment of domestic legislation so as to give effect to the undertakings set forth in the Covenant. The State party must not only adopt measures of protection, but also positive measures in all areas so as to achieve the effective and equal empowerment of women. States parties must provide information regarding the actual role of women in society so that the Committee may ascertain what measures, in addition to legislative provisions, have been or should be taken to give effect to these obligations, what progress has been made, what difficulties are encountered and what steps are being taken to overcome them.

4. States parties are responsible for ensuring the equal enjoyment of rights without any discrimination. Articles 2 and 3 mandate States parties to take all steps necessary, including the prohibition of discrimination on the ground of sex, to put an end to discriminatory actions, both in the public and the private sector, which impair the equal enjoyment of rights.

5. Inequality in the enjoyment of rights by women throughout the world is deeply embedded in tradition, history and culture, including religious attitudes. The subordinate role of women in some countries is illustrated by the high incidence of prenatal sex selection and abortion of female foetuses. States parties should ensure that traditional, historical, religious or cultural attitudes are not used to justify violations of women's right to equality before the law and to equal enjoyment of all Covenant rights. States parties should furnish appropriate information on those aspects of tradition, history, cultural practices and religious attitudes which jeopardize, or may jeopardize, compliance with article 3, and indicate what measures they have taken or intend to take to overcome such factors.

6. In order to fulfil the obligation set forth in article 3, States parties should take account of the factors which impede the equal enjoyment by women and men of each right specified in the Covenant. To enable the Committee to obtain a complete picture of the situation of women in each State party as regards the implementation of the rights in the Covenant, this general

comment identifies some of the factors affecting the equal enjoyment by women of the rights under the Covenant and spells out the type of information that is required with regard to these rights.

7. The equal enjoyment of human rights by women must be protected during a state of emergency (art. 4). States parties which take measures derogating from their obligations under the Covenant in time of public emergency, as provided in article 4, should provide information to the Committee with respect to the impact on the situation of women of such measures and should demonstrate that they are non-discriminatory.

8. Women are particularly vulnerable in times of internal or international armed conflicts. States parties should inform the Committee of all measures taken during these situations to protect women from rape, abduction and other forms of gender-based violence.

9. In becoming parties to the Covenant, States undertake, in accordance with article 3, to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the Covenant, and in accordance with article 5, nothing in the Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights provided for in article 3, or at limitations not covered by the Covenant. Moreover, there shall be no restriction upon or derogation from the equal enjoyment by women of all fundamental human rights recognized or existing pursuant to law, conventions, regulations or customs, on the pretext that the Covenant does not recognize such rights or that it recognizes them to a lesser extent.

10. When reporting on the right to life protected by article 6, States parties should provide data on birth rates and on pregnancy- and childbirth-related deaths of women. Gender-disaggregated data should be provided on infant mortality rates. States parties should give information on any measures taken by the State to help women prevent unwanted pregnancies, and to ensure that they do not have to undergo life-threatening clandestine abortions. States parties should also report on measures to protect women from practices that violate their right to life, such as female infanticide, the burning of widows and dowry killings. The Committee also wishes to have information on the particular impact on women of poverty and deprivation that may pose a threat to their lives.

11. To assess compliance with article 7 of the Covenant, as well as with article 24, which mandates special protection for children, the Committee needs to be provided information on national laws and practice with regard to domestic and other types of violence against women, including rape. It also needs to know whether the State party gives access to safe abortion to women who have become pregnant as a result of rape. The States parties should also provide the Committee with information on measures to prevent forced abortion or forced sterilization. In States parties where the practice of genital mutilation exists information on its extent and on measures to eliminate it should be provided. The information provided by States parties on all these issues should include measures of protection, including legal remedies, for women whose rights under article 7 have been violated.

12. Having regard to their obligations under article 8, States parties should inform the Committee of measures taken to eliminate trafficking of women and children, within the country or across borders, and forced prostitution. They must also provide information on measures

taken to protect women and children, including foreign women and children, from slavery, disguised, inter alia, as domestic or other kinds of personal service. States parties where women and children are recruited, and from which they are taken, and States parties where they are received should provide information on measures, national or international, which have been taken in order to prevent the violation of women's and children's rights.

13. States parties should provide information on any specific regulation of clothing to be worn by women in public. The Committee stresses that such regulations may involve a violation of a number of rights guaranteed by the Covenant, such as: article 26, on non-discrimination; article 7, if corporal punishment is imposed in order to enforce such a regulation; article 9, when failure to comply with the regulation is punished by arrest; article 12, if liberty of movement is subject to such a constraint; article 17, which guarantees all persons the right to privacy without arbitrary or unlawful interference; articles 18 and 19, when women are subjected to clothing requirements that are not in keeping with their religion or their right of self-expression; and, lastly, article 27, when the clothing requirements conflict with the culture to which the woman can lay a claim.

14. With regard to article 9, States parties should provide information on any laws or practices which may deprive women of their liberty on an arbitrary or unequal basis, such as by confinement within the house (see General Comment No. 8, para. 1).

15. As regards articles 7 and 10, States parties must provide all information relevant to ensuring that the rights of persons deprived of their liberty are protected on equal terms for men and women. In particular, States parties should report on whether men and women are separated in prisons and whether women are guarded only by female guards. States parties should also report about compliance with the rule that accused juvenile females shall be separated from adults and on any difference in treatment between male and female persons deprived of liberty, such as access to rehabilitation and education programmes and to conjugal and family visits. Pregnant women who are deprived of their liberty should receive humane treatment and respect for their inherent dignity at all times, and in particular during the birth and while caring for their newborn children; States parties should report on facilities to ensure this and on medical and health care for such mothers and their babies.

16. As regards article 12, States parties should provide information on any legal provision or any practice which restricts women's right to freedom of movement, for example the exercise of marital powers over the wife or of parental powers over adult daughters; legal or de facto requirements which prevent women from travelling, such as the requirement of consent of a third party to the issuance of a passport or other type of travel documents to an adult woman. States parties should also report on measures taken to eliminate such laws and practices and to protect women against them, including reference to available domestic remedies (see General Comment No. 27, paras. 6 and 18).

17. States parties should ensure that alien women are accorded on an equal basis the right to submit arguments against their expulsion and to have their case reviewed, as provided in article 13. In this regard, they should be entitled to submit arguments based on gender-specific violations of the Covenant such as those mentioned in paragraphs 10 and 11 above.

18. States parties should provide information to enable the Committee to ascertain whether access to justice and the right to a fair trial, provided for in article 14, are enjoyed by women on equal terms with men. In particular, States parties should inform the Committee whether there are legal provisions preventing women from direct and autonomous access to the courts (see communication No. 202/1986, Ato del Avellanal v. Peru, Views of 28 October 1988); whether women may give evidence as witnesses on the same terms as men; and whether measures are taken to ensure women equal access to legal aid, in particular in family matters. States parties should report on whether certain categories of women are denied the enjoyment of the presumption of innocence under article 14, paragraph 2, and on the measures which have been taken to put an end to this situation.

19. The right of everyone under article 16 to be recognized everywhere as a person before the law is particularly pertinent for women, who often see it curtailed by reason of sex or marital status. This right implies that the capacity of women to own property, to enter into a contract or to exercise other civil rights may not be restricted on the basis of marital status or any other discriminatory ground. It also implies that women may not be treated as objects to be given, together with the property of the deceased husband, to his family. States must provide information on laws or practices that prevent women from being treated or from functioning as full legal persons and the measures taken to eradicate laws or practices that allow such treatment.

20. States parties must provide information to enable the Committee to assess the effect of any laws and practices that may interfere with women's right to enjoy privacy and other rights protected by article 17 on the basis of equality with men. An example of such interference arises where the sexual life of a woman is taken into consideration in deciding the extent of her legal rights and protections, including protection against rape. Another area where States may fail to respect women's privacy relates to their reproductive functions, for example, where there is a requirement for the husband's authorization to make a decision in regard to sterilization; where general requirements are imposed for the sterilization of women, such as having a certain number of children or being of a certain age, or where States impose a legal duty upon doctors and other health personnel to report cases of women who have undergone abortion. In these instances, other rights in the Covenant, such as those of articles 6 and 7, might also be at stake. Women's privacy may also be interfered with by private actors, such as employers who request a pregnancy test before hiring a woman. States parties should report on any laws and public or private actions that interfere with the equal enjoyment by women of the rights under article 17, and on the measures taken to eliminate such interference and to afford women protection from any such interference.

21. States parties must take measures to ensure that freedom of thought, conscience and religion, and the freedom to adopt the religion or belief of one's choice - including the freedom to change religion or belief and to express one's religion or belief - will be guaranteed and protected in law and in practice for both men and women, on the same terms and without discrimination. These freedoms, protected by article 18, must not be subject to restrictions other than those authorized by the Covenant and must not be constrained by, inter alia, rules requiring permission from third parties, or by interference from fathers, husbands, brothers or others. Article 18 may not be relied upon to justify discrimination against women by reference to freedom of thought, conscience and religion; States parties should therefore provide information

on the status of women as regards their freedom of thought, conscience and religion, and indicate what steps they have taken or intend to take both to eliminate and prevent infringements of these freedoms in respect of women and to protect their right not to be discriminated against.

22. In relation to article 19, States parties should inform the Committee of any laws or other factors which may impede women from exercising the rights protected under this provision on an equal basis. As the publication and dissemination of obscene and pornographic material which portrays women and girls as objects of violence or degrading or inhuman treatment is likely to promote these kinds of treatment of women and girls, States parties should provide information about legal measures to restrict the publication or dissemination of such material.

23. States are required to treat men and women equally in regard to marriage in accordance with article 23, which has been elaborated further by General Comment No. 19 (1990). Men and women have the right to enter into marriage only with their free and full consent, and States have an obligation to protect the enjoyment of this right on an equal basis. Many factors may prevent women from being able to make the decision to marry freely. One factor relates to the minimum age for marriage. That age should be set by the State on the basis of equal criteria for men and women. These criteria should ensure women's capacity to make an informed and uncoerced decision. A second factor in some States may be that either by statutory or customary law a guardian, who is generally male, consents to the marriage instead of the woman herself, thereby preventing women from exercising a free choice.

24. Another factor that may affect women's right to marry only when they have given free and full consent is the existence of social attitudes which tend to marginalize women victims of rape and put pressure on them to agree to marriage. A woman's free and full consent to marriage may also be undermined by laws which allow the rapist to have his criminal responsibility extinguished or mitigated if he marries the victim. States parties should indicate whether marrying the victim extinguishes or mitigates criminal responsibility and, in the case in which the victim is a minor, whether the rape reduces the marriageable age of the victim, particularly in societies where rape victims have to endure marginalization from society. A different aspect of the right to marry may be affected when States impose restrictions on remarriage by women that are not imposed on men. Also, the right to choose one's spouse may be restricted by laws or practices that prevent the marriage of a woman of a particular religion to a man who professes no religion or a different religion. States should provide information on these laws and practices and on the measures taken to abolish the laws and eradicate the practices which undermine the right of women to marry only when they have given free and full consent. It should also be noted that equality of treatment with regard to the right to marry implies that polygamy is incompatible with this principle. Polygamy violates the dignity of women. It is an inadmissible discrimination against women. Consequently, it should be definitely abolished wherever it continues to exist.

25. To fulfil their obligations under article 23, paragraph 4, States parties must ensure that the matrimonial regime contains equal rights and obligations for both spouses with regard to the custody and care of children, the children's religious and moral education, the capacity to transmit to children the parent's nationality, and the ownership or administration of property, whether common property or property in the sole ownership of either spouse. States parties should review their legislation to ensure that married women have equal rights in regard to the ownership and administration of such property, where necessary. Also, States parties should

ensure that no sex-based discrimination occurs in respect of the acquisition or loss of nationality by reason of marriage, of residence rights, and of the right of each spouse to retain the use of his or her original family name or to participate on an equal basis in the choice of a new family name. Equality during marriage implies that husband and wife should participate equally in responsibility and authority within the family.

26. States parties must also ensure equality in regard to the dissolution of marriage, which excludes the possibility of repudiation. The grounds for divorce and annulment should be the same for men and women, as well as decisions with regard to property distribution, alimony and the custody of children. Determination of the need to maintain contact between children and the non-custodial parent should be based on equal considerations. Women should also have equal inheritance rights to those of men when the dissolution of marriage is caused by the death of one of the spouses.

27. In giving effect to recognition of the family in the context of article 23, it is important to accept the concept of the various forms of family, including unmarried couples and their children and single parents and their children, and to ensure the equal treatment of women in these contexts (see General Comment No. 19, para. 2). Single-parent families frequently consist of a single woman caring for one or more children, and States parties should describe what measures of support are in place to enable her to discharge her parental functions on the basis of equality with a man in a similar position.

28. The obligation of States parties to protect children (art. 24) should be carried out equally for boys and girls. States parties should report on measures taken to ensure that girls are treated equally to boys in education, in feeding and in health care, and provide the Committee with disaggregated data in this respect. States parties should eradicate, both through legislation and any other appropriate measures, all cultural or religious practices which jeopardize the freedom and well-being of female children.

29. The right to participate in the conduct of public affairs is not fully implemented everywhere on an equal basis. States parties must ensure that the law guarantees to women the rights contained in article 25 on equal terms with men and take effective and positive measures to promote and ensure women's participation in the conduct of public affairs and in public office, including appropriate affirmative action. Effective measures taken by States parties to ensure that all persons entitled to vote are able to exercise that right should not be discriminatory on the grounds of sex. The Committee requires States parties to provide statistical information on the percentage of women in publicly elected office, including the legislature, as well as in high-ranking civil service positions and the judiciary.

30. Discrimination against women is often intertwined with discrimination on other grounds such as race, colour, language, religion, political or other opinion, national or social origin, property, birth or other status. States parties should address the ways in which any instances of discrimination on other grounds affect women in a particular way, and include information on the measures taken to counter these effects.

31. The right to equality before the law and freedom from discrimination, protected by article 26, requires States to act against discrimination by public and private agencies in all fields. Discrimination against women in areas such as social security laws (communications

Nos. 172/84, Broeks v. Netherlands, Views of 9 April 1987; 182/84, Zwaan de Vries v. the Netherlands, Views of 9 April 1987; 218/1986, Vos v. the Netherlands, Views of 29 March 1989) as well as in the area of citizenship or rights of non-citizens in a country (communication No. 035/1978, Aumeeruddy-Cziffra et al. v. Mauritius, Views adopted 9 April 1981) violates article 26. The commission of so-called "honour crimes" which remain unpunished constitutes a serious violation of the Covenant and in particular of articles 6, 14 and 26. Laws which impose more severe penalties on women than on men for adultery or other offences also violate the requirement of equal treatment. The Committee has also often observed in reviewing States parties reports that a large proportion of women are employed in areas which are not protected by labour laws and that prevailing customs and traditions discriminate against women, particularly with regard to access to better paid employment and to equal pay for work of equal value. States parties should review their legislation and practices and take the lead in implementing all measures necessary to eliminate discrimination against women in all fields, for example by prohibiting discrimination by private actors in areas such as employment, education, political activities and the provision of accommodation, goods and services. States parties should report on all these measures and provide information on the remedies available to victims of such discrimination.

32. The rights which persons belonging to minorities enjoy under article 27 of the Covenant in respect of their language, culture and religion do not authorize any State, group or person to violate the right to the equal enjoyment by women of any Covenant rights, including the right to equal protection of the law. States should report on any legislation or administrative practices related to membership in a minority community that might constitute an infringement of the equal rights of women under the Covenant (communication No. 24/1977, Lovelace v. Canada, Views adopted July 1981) and on measures taken or envisaged to ensure the equal right of men and women to enjoy all civil and political rights in the Covenant. Likewise, States should report on measures taken to discharge their responsibilities in relation to cultural or religious practices within minority communities that affect the rights of women. In their reports, States parties should pay attention to the contribution made by women to the cultural life of their communities.

Note

[a] Adopted by the Committee at its 1834th meeting (sixty-eighth session), on 29 March 2000.

Annex VII

LIST OF STATES PARTIES' DELEGATIONS THAT PARTICIPATED IN THE CONSIDERATION OF THEIR RESPECTIVE REPORTS BY THE HUMAN RIGHTS COMMITTEE AT ITS SIXTY-SEVENTH, SIXTY-EIGHTH AND SIXTY-NINTH SESSIONS

(Listed in order in which their reports were considered)

NORWAY

Representative	Mr. Petter Wille, Deputy Director General, Ministry of Foreign Affairs
Advisers	Ms. Hilde Indreberg, Ministry of Justice Ms. Birgit Vinnes, Ministry of Foreign Affairs

MOROCCO

Representative	M. Nacer Benjelloun-Touimi, Ambassadeur, Représentant permanent du Maroc auprès de l'Office des Nations Unies à Genève
Advisers	M. Mohamed Lididi, Directeur de l'administration pénitentiaire et de la réinsertion M. Driss Belmahi, Directeur par intérim de la concertation et de la défense des droits de l´homme au Ministre chargé des droits de l´homme M. Habib Belkouch, Expert consultant au Ministère chargé des droits de l´homme M. Mohamed Majdi, Conseiller, Mission permanente du Maroc auprès de l'Office des Nations Unies à Genève

REPUBLIC OF KOREA

Representative	Mr. Man-Soon Chang, Ambassador, Permanent Representative of the Republic of Korea to the United Nations Office at Geneva
Alternative representative	Mr. Jong Hoon Kim, Minister
Advisers	Mr. Ho-Young Ahn, Counsellor Mr. Yun-Sung Hwang, Counsellor Mr. Kang-Il Huh, Deputy Director, Human Rights and Social Affairs Division, Ministry of Foreign Affairs and Trade Mr. Sung-Wook Lee, Deputy Director, Human Rights Division, Ministry of Justice Mr. Jae-Hoon Lim, Second Secretary

PORTUGAL

Representative	M. Jorge Costa Oliveira, Coordinnateur pour les Affaires législatives de Macao
Advisers	M. Teodódio Jacinto, Procureur général adjoint M. Luis Filipe Faro Ramos, Chef adjoint de la Représentant permanente du Groupe de liaison avec la Chine à Macao M. Cheong Weng Chon, Directeur des Services de justice de Macao Mme Patricia Albuquerque Ferreira, Coordinatrice adjointe du Cabinet pour les affaires législatives de Macao Mme Tou Wai Fong, Sous-directrice du Cabinet de traduction juridique M. Paulo Marrecas Ferreira, Cabinet de documentation et de droit comparé, Cabinet du Procureur général de la République

CAMEROON

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HONG KONG SPECIAL ADMINISTRATIVE REGION (China)[a]	
Representative	Mr. David Lan, Secretary for Home Affairs
Deputy representative	Mr. R. C. Allcock, Acting Solicitor General
Advisers	Mr. Stephen Wong, Deputy Solicitor General Miss Diana Lam, Senior Government Counsel Mr. John Dean, Principal Assistant Secretary (Home Affairs) Mr. Bassanio So, Principal Assistant Secretary (Constitutional Affairs) Miss Cathy Chu, Principal Assistant Secretary (Security) Miss Eliza Yau, Principal Assistant Secretary (Security) Mrs. Jenny Chan, Chief Labour Officer Mr. Patrick Wong, Chief Information Officer
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UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND (CHANNEL ISLANDS)	
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Advisers	Mrs. Sally Evans, Deputy Legal Adviser, Home Office Mr. Philip Stevens, Head of International Human Rights Branch, Human Rights Unit, Home Office Mr. William Bailhache, Her Britannic Majesty's Attorney-General, Jersey Mr. John Mills, Chief Executive, Policy and Resources Department, Jersey (Head of the Jersey Civil Service)

	Ms. Nisha Bismillah, Policy and Resources Department, Jersey Mr. Geoff Rowland, QC, Her Britannic Majesty's Procureur (Attorney-General), Guernsey Mr. Mike Brown, States Supervisor, States of Guernsey (Head of the Guernsey Civil Service) Mr. Chris Hookway, Crown Advocate, Law Officers' Chambers, Guernsey Mr. John Corlett, QC, Her Britannic Majesty's Attorney-General, Isle of Man Mr. Fred Kissack, Chief Secretary, Isle of Man (Head of the Isle of Man Civil Service)
MONGOLIA	
Representative	Mr. Dash Ganbold, Minister of Justice
Advisers	Mr. Jargalsaikhan Enkhsaikhan, Ambassador, Permanent Representative of Mongolia to the United Nations Mr. Bazar Erdenebayar, Senior Expert, Foreign Relations and Cooperation Division, Ministry of Justice Mrs. Tsogt Nyamsuren, First Secretary, Permanent Mission of Monglia to the United Nations
GUYANA	
Representative	Mr. Roger Luncheon
Advisers	Mr. Samuel R. Isanally, Ambassador, Permanent Representative of Guyana to the United Nations Ms. S. Elliot
KYRGYZSTAN	
Representative	Mrs. C. Baekiva, President of the Constitutional Court of the Kyrgyz Republic
Advisers	Mr. C. Abyshkaev, General Prosecutor of the Kyrgyz Republic Mr. Tursunbai Bakir uulu, member of Parliament, Chairman of the Committee on Human Rights under the President of the Kyrgyz Republic Mr. O. Sultanov, Ambassador, Permanent Representative of the Kyrgyz Republic to the United Nations Office at Geneva Mr. M. Jurnaliev, First Secretary of the Permanent Mission of the Kyrgyz Republic to the United Nations Office at Geneva

IRELAND

Representative	Mr. Michael McDowell, Attorney General of Ireland
Advisers	Ms. Anne Anderson, Permanent Representative of Ireland to the United Nations Office at Geneva Mr. Richard Barret, Second Legal Assistant, Office of the Attorney General Mr. Micheal Flahive, Principal Officer, Department of Justice, Equality and Law Reform Mr. Brian Ingoldsby, Principal Officer, Department of Justice, Equality and Law Reform Mr. John Rowan, Director, Human Rights Unit, Department of Foreign Affairs Ms. Sinead McSweeney, Special Assistant to the Attorney General, Office of the Attorney General Mr. Seamus Hanrahan, Assistant Principal Officer, Department of Justice, Equality and Law Reform Mr. Eamonn MacAodha, First Secretary, Permanent Mission of Ireland to the United Nations Office at Geneva

KUWAIT

Representative	Mr. Dharar A.R. Razzooqi, Ambassador, Permanent Mission of Kuwait to the United Nations Office at Geneva
Advisers	Mr. Adnan A. Al-Omar, Director, External Relations Department, Ministry of Social Affairs and Labour Mr. Khalid A. Al-Osaimi, Director, Public Department of Legal Affairs, Ministry of the Interior Mr. Mohammed A. Al-Babtain, Assistant Director, External Relations Department, Ministry of the Interior Mr. Waal S. Al-Saleh, Judge, Ministry of Justice Mr. Jamal Kh. Al-Reesh, Executive Committee on Illegal Residents in the Country, Ministry of the Interior Mr. Abdullah Al-Askar, First Secretary, Permanent Mission of Kuwait to the United Nations Office at Geneva Mr. Najeeb Al-Bader, Second Secretary, Permanent Mission of Kuwait to the United Nations Office at Geneva Mr. Sadiq Marafi, Third Secretary, Permanent Mission of Kuwait to the United Nations Office at Geneva Ms. Aisha Al-Adsani, Attaché, Permanent Mission of Kuwait to the United Nations Office at Geneva

AUSTRALIA

Representative	Mr. Leslie Duck, Permanent Representative of Australia to the United Nations Office at Geneva
Advisers	Mr. Bill Campbell, First Assistant Secretary, Office of International Law, Attorney General's Department Ms. Renee Leon, Assistant Secretary, Office of International Law, Attorney General's Department Mr. Robyn Bicket, Counsellor (Immigration), Permanent Mission of Australia to the United Nations Office at Geneva

[a] The delegation was introduced by the Ambassador, Permanent Representative of the People's Republic of China, to the United Nations Office at Geneva, Qiao Zoughuai.

Annex VIII

LIST OF DOCUMENTS ISSUED DURING THE REPORTING PERIOD

A. Reports of States parties considered (in the order of examination)

CCPR/C/115/Add.2	Fourth periodic report of Norway
CCPR/C/115/Add.1	Fourth periodic report of Morocco
CCPR/C/114/Add.1	Second periodic report of the Republic of Korea
CCPR/C/POR/99/4	Fourth periodic report of Portugal (Macau)
CCPR/C/102/Add.2	Third periodic report of Cameroon
CCPR/C/HKSAR/99/1	Fifth periodic report of Hong Kong Special Administrative Region (China)
CCPR/C/63/Add.5	Second periodic report of the Republic of the Congo
CCPR/C/95/Add.10 and CCPR/C/UKCD/99/5	Fourth and fifth periodic reports of the United Kingdom of Great Britain and Northern Ireland regarding the Crown Dependencies of Jersey, Guernsey and the Isle of Man
CCPR/C/103/Add.7	Fourth periodic report of Mongolia
CCPR/C/GUY/99/2	Second periodic report of Guyana
CCPR/C/113/Add.1	Initial report of Kyrgyzstan
CCPR/C/IRE/98/2	Second periodic report of Ireland
CCPR/C/120/Add.1	Initial report of Kuwait
CCPR/C/AUS/98/3 and CCPR/C/AUS/98/4	Third and fourth periodic reports of Australia

B. Reports of States parties issued but not yet considered

CCPR/C/AZE/99/2	Second periodic report of Azerbaijan
CCPR/C/HRV/99/1	Initial report of Croatia
CCPR/C/CZE/2000/1	Initial report of the Czech Republic
CCPR/C/ERK/2000/2	Second periodic report of the Democratic People’s Republic of Korea

CCPR/C/DOM/99/4	Fourth periodic report of the Dominican Republic
CCPR/C/GTM/99/2	Second periodic report of Guatemala
CCPR/C/MCO/99/1	Initial report of Monaco
CCPR/C/NET/99/3	Third periodic report of the Netherlands
CCPR/C/SYR/2000/2	Second periodic report of the Syrian Arab Republic
CCPR/C/TTO/99/3	Third periodic report of Trinidad and Tobago
CCPR/C/UKR/99/5	Fifth periodic report of Ukraine
CCPR/C/UKOT/99/5	Fifth periodic report of the United Kingdom of Great Britain and Northern Ireland
CCPR/C/UZB/99/1	Initial report of Uzbekistan
CCPR/C/VEN/98/3	Third periodic report of Venezuela[a]
CCPR/C/YUG/99/4	Fourth periodic report of the Federal Republic of Yugoslavia

C. Addenda to reports by States parties

CCPR/C/HKSAR/99/1/Add.1	Additional information supplied by China in regard to the Hong Kong Special Administrative Region

D. Concluding observations of the Human Rights Committee on the States parties' reports

CCPR/C/79/Add.112	Concluding observations on the fourth periodic report of Norway
CCPR/C/79/Add.113	Concluding observations on the fourth periodic report of Morocco
CCPR/C/79/Add.114	Concluding observations on the second periodic report of the Republic of Korea
CCPR/C/79/Add.115	Concluding observations on the fourth periodic report of Portugal (Macau)
CCPR/C/79/Add.116	Concluding observations on the third periodic report of Cameroon
CCPR/C/79/Add.117	Concluding observations on the fifth periodic report of

	Hong Kong Special Administrative Region
CCPR/C/79/Add.118	Concluding observations on the second periodic report of the Republic of the Congo
CCPR/C/79/Add.119	Concluding observations on the fourth and fifth periodic reports of the United Kingdom of Great Britain and Northern Ireland regarding the Crown Dependencies of Jersey, Guernsey and the Isle of Man
CCPR/C/79/Add.120	Concluding observations on the fourth periodic report of Mongolia
CCPR/C/79/Add.121	Concluding observations on the second periodic report of Guyana
CCPR/C/CO/69/KGZ	Concluding observations on the initial report of Kyrgyzstan
CCPR/C/CO/69/IRE	Concluding observations on the second periodic report of Ireland
CCPR/C/CO/69/KWT	Concluding observations on the initial report of Kuwait
CCPR/C/CO/69/AUS	Concluding observations on the third and fourth periodic reports of Australia

E. Comments by States parties on the concluding observations

CCPR/C/79/Add.122	Comments by the Republic of Korea on the concluding observations of the Human Rights Committee
CCPR/C/79/Add.123	Comments by Mexico on the concluding observations of the Human Rights Committee

F. General comments

CCPR/C/21/Rev.1/Add.9	General Comment No. 27, article 12
CCPR/C/21/Rev.1/Add.10	General Comment No. 28, article 3

G. Provisional agendas and annotations

CCPR/C/139	Provisional agenda and annotations (sixty-seventh session)
CCPR/C/140	Provisional agenda and annotations (sixty-eighth session)
CCPR/C/141	Provisional agenda and annotations (sixty-ninth session)

H. Meetings of States parties

CCPR/SP/56 and Add.1-2	Elections, in accordance with articles 28 to 32 of the International Covenant on Civil and Political Rights, of nine members of the Human Rights Committee to replace those whose terms are due to expire on 31 December 2000
CCPR/SP/57	Provisional agenda for the Twentieth Meeting of States Parties

I. Summary records

CCPR/C/SR.1783-1811	Summary records of the sixty-seventh session
CCPR/C/SR.1812-1838	Summary records of the sixty-eighth session
CCPR/C/SR.1839-1867	Summary records of the sixty-ninth session

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[a] Mentioned in the previous report.

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