



**International covenant
on civil and
political rights**

Distr.
RESTRICTED*

CCPR/C/86/D/1196/2003**
27 April 2006

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE
Eighty-sixth session
13-31 March 2006

VIEWS

Communication No. 1196/2003

Submitted by: Fatma Zohra Boucherf (represented by counsel)

Alleged victim: Riad Boucherf and the author

State party: Algeria

Date of communication: 30 June 2003 (initial submission)

Document references: Special Rapporteur's rule 97 decision, transmitted to the State party on 30 July 2003 (not issued in document form)

Date of adoption of Views: 30 March 2006

Subject matter: Disappearances, incommunicado detention, trial in absentia

Procedural issues: None

* Made public by decision of the Human Rights Committee.

** Reissued for technical reasons.

Substantive issues: Right to liberty and security of person; arbitrary arrest and detention; right to counsel; prohibition of torture, and cruel, inhuman or degrading treatment or punishment; trial in absentia; right to recognition before the law

Articles of the Covenant: 2, paragraph 3; 7; 9; 14; 16

Articles of the Optional Protocol: 2 and 5

On 30 March 2006, the Human Rights Committee adopted the annexed draft as the Committee's Views, under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 1196/2003. The text of the Views is appended to the present document

[ANNEX]

Annex

**VIEWS OF THE HUMAN RIGHTS COMMITTEE UNDER ARTICLE 5,
PARAGRAPH 4, OF THE OPTIONAL PROTOCOL TO THE
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS**

Eighty-sixth session

concerning

Communication No. 1196/2003*

Submitted by: Fatma Zohra Boucherf (represented by counsel)
Alleged victim: Riad Boucherf and the author
State party: Algeria
Date of communication: 30 June 2003 (initial submission)

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

Meeting on 30 March 2006,

Having concluded its consideration of communication No. 1196/2003, submitted to the Human Rights Committee on behalf of Fatma Zohra Boucherf and Riad Boucherf under the Optional Protocol to the International Covenant on Civil and Political Rights,

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

Adopts the following:

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

1.1 The author of the communication, dated 30 June 2003, is Mrs. Fatma Zohra Boucherf, an Algerian national residing in Algeria. She submits the communication on behalf of her son, Mr. Riad Boucherf, an Algerian national born on 12 January 1974 in Kouba (Algeria), who has

* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Nisuke Ando, Ms. Christine Chanut, Mr. Maurice Glèlè Ahanhanzo, Mr. Edwin Johnson, Mr. Walter Kälin, Mr. Ahmed Tawfik Khalil, Mr. Rajsoomer Lallah, Mr. Michael O'Flaherty, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Ivan Shearer, Mr. Hipólito Solari-Yrigoyen and Mr. Roman Wieruszewski.

been missing since 25 July 1995. The author claims that her son is a victim of violations by Algeria of articles 2, paragraph 3, 7, 9, 14 and 16 of the International Covenant on Civil and Political Rights (the “Covenant”) and that she is herself a victim of a violation by Algeria of article 7 of the Covenant. The author is represented by counsel. The Covenant and the Optional Protocol to the Covenant entered into force for the State party on 12 December 1989.

1.2 On 11 July and 23 August 2005, counsel requested interim measures, relating to the State party’s draft amnesty law (*Projet de Charte pour la Paix et la Reconciliation Nationale*), which was submitted to a referendum on 29 September 2005. For counsel, the draft law was likely to cause irreparable harm to the victims of disappearances, putting at risk those persons who are still disappeared, and deprive victims of an effective remedy as well as render the views of the Human Rights Committee ineffective. Counsel therefore requested that the Committee invite the State party to suspend its referendum until the Committee issued views in three cases, including the present case. The request for interim measures was transmitted to the State party on 27 July 2005 for comments. No comments were received. On 23 September 2005, the Special Rapporteur on new communications and interim measures requested the State party not to invoke against individuals who have submitted or may submit, communications to the Committee, the provisions of the law affirming “that no-one, in Algeria or abroad, has the right to use, or make use of, the wounds caused by the national tragedy in order to undermine the institutions of the People’s Democratic Republic of Algeria, render the State fragile, question the integrity of all the agents who served it with dignity, or tarnish the image of Algeria abroad,” and rejecting “all allegations aiming at rendering the State responsible for deliberate disappearances. They [the Algerian people] consider that reprehensible acts on the part of State agents, which have been punished by law each time they have been proved, cannot be used as a pretext to discredit the whole of the security forces who were doing their duty for their country and received public backing”.

The facts as presented by the author

2.1 Mr. Boucherf was arrested, together with Bourdib Farid and Benani Kamel, on 25 July 1995 at 11 a.m. in his neighbourhood by five plainclothes policemen from the 17th arrondissement of Algiers. They were handcuffed, put into the trunk of the cars (the author mentions a white car and a Daewoo) and driven away to the 17th arrondissement police station. The author was alerted by neighbours who had witnessed the arrest. She began making enquiries about the whereabouts of her son the next day. She claims that the arrest is linked to the death of a policeman, Yadel Halim, on 13 July 1995. The fiancé of Yadel Halim’s sister (nicknamed “Sâad”) was allegedly one of the plainclothes policemen who conducted the arrest on 25 July 1995.

2.2 On 30 July 1995 the same white car returned and the author’s other son, Amine Boucherf, was arrested by a policeman nicknamed “Rambo”. The author claims that Amine, Bourdib Farid and Benani Kamel were released on 5 August 1995 from the central police station. Amine Boucherf reported that on 30 July 1995, while in detention at the 17th arrondissement police station, he spoke to another detainee, Tabelout [Tablot] Mohamed, who confirmed that Riad Boucherf was being held there. In December 1996, the author was asked by the police of Aïn-Wâadja to find Tabelout Mohamed so that they could take his

testimony. She accompanied him to the police station on 21 December 1996, where he stated that he had been tortured with Riad Boucherf and that they had been taken to the Garidi cemetery by a policeman of the 17th arrondissement and told that they would be buried there. Tabetout Mohamed testified that he would be able to identify the torturers.

2.3 The author submits a written testimony by Bourdib Farid corroborating her version of events. As to the arrest, Bourdib Farid identifies a police officer called "Boukraa" and a driver called Kamel (known as "Tiger"), both of whom are from Birkhadem. He also confirms that he and Riad Boucherf were held together for two days in the central police station before being separated. He testifies to having been tortured with Riad Boucherf by drunk and hooded policemen. On 27 July 1995, they were taken to the police station of Bourouba with their hands tied behind their backs with wire. There, they were tied to a tree in the courtyard, and left there until the next day. They were subsequently returned to the central police station, separated, and tortured using a hand drill (*chignole*) on their chest. On the sixth day, Bourdib Farid contends that Riad Boucherf and four others were driven, hands tied, to a forest near Ben Aknoun zoological park. There, they were forced to kneel, heads facing downwards, while policemen pointed guns at their heads. Riad told the policemen that he was innocent and didn't know what they wanted. Bourdib Farid contends that Riad and himself were then driven back to the central police station and separated. He does not know what happened to the other four men. Bourdib Farid claims that this happened two days before he was released, and that the policemen tried to make him believe that Riad had managed to escape out of the trunk of the car. Bourdib Farid contends that this is untrue as he saw Riad return to the central police station with him.

2.4 In October 1995, the author was informed by mothers of other detainees that her son had been transferred from the central police station to Serkadji prison (Algiers). She went to the prison the next day and was informed that her son was being held in cell 15. Another policeman, after enquiring about the age of her son, stated that the occupant of cell 15 was not her son since he was an old man. She returned to the prison after a relative of a detainee confirmed in November 1995 that Riad Boucherf was held in Serkadji prison. The author went to the prison with that detainee's mother, who, after visiting her own son in Serkadji, stated that the prisoner held there named Riad was not in fact Riad Boucherf.

2.5 In January 1996, the parent of a neighbour, a nurse in the Châteauneuf centre, informed the author that her son was being held there, as he had been transferred to Mustapha Bacha hospital for 21 days with four broken ribs. Another eye witness reported having seen Riad Boucherf in a detention centre in Boughar, where he was held for three days. Finally, in May 1996, three other men from the neighbourhood were arrested, detained in the 17th arrondissement police station, and sentenced to three years' imprisonment. On leaving prison, they told the author that they had been tortured by the same policemen who had tortured her son, as one of them had threatened to kill them "just like Riad ...".

2.6 The author further claims that three men were tried at the Tribunal of Abane Ramdane Street (Algiers) and acquitted on 31 December 1996. Their absent co-defendants, including Riad Boucherf, were sentenced in absentia and in camera to life imprisonment. Although a legal representative, one Maître Tahri, was at the trial, the author never obtained a copy of the judgement.

2.7 The author contends that she has endured numerous house visits (including on 11 August 1995, 6 June, 16 November and 25 November 1996) and intimidation by the security forces, questioning her on the whereabouts of her son. The author recalls that on 6 June 1995 policemen from Aïn-Wâadja obtained the names of the other men arrested with her son, and a week later took their testimony.

2.8 As of 1995 and every two to three months thereafter, the author has written to the Director of Public Prosecutions of the Tribunal of Hussein Dey and of the Court of Algiers (*Procureur Général du Tribunal d'Hussein Dey et de la Cour d'Alger*), the President of the Republic, the Head of Government, the Ombudsman of the Republic (*Médiateur de la République*), the President of the National Observatory for Human Rights (*Observatoire National des Droits de l'Homme*) and the ministries of defence, justice and the interior, requesting an investigation into the whereabouts of her son. She submitted a total of 14 complaints between 13 November 1995 and 17 February 1998.

2.9 In this regard, she has been summoned by various bodies (including the Ministry of Defence; the police services of Aïn-Wâadja, the 17th arrondissement of Algiers, Kouba and Hussein Dey; the investigating magistrate of the Tribunal of Hussein Dey; and the Director of Public Prosecutions of the Court of Algiers) for enquiries. During these meetings, she was repeatedly told that the authorities had no information on the whereabouts of her son, and that he was in fact sought by the police. This version was confirmed to her in writing by the Director of Public Prosecutions of the Tribunal of Hussein Dey on 13 July, 12 October and 23 October 1996, 29 March, 25 September and 15 October 1997, as well as by the Director of Public Prosecutions of the Court of Algiers on 4 March 1997.

2.10 On 23 February 1997, the author received a letter from the Ombudsman, acknowledging receipt of her complaint and stating the matter was being investigated. On 9 September 1997, the police issued a statement denying that her son had ever been arrested or was in their custody. By letter of 6 September 1999, the President of the National Observatory for Human Rights informed the author that her son was not sought, nor had he been arrested. He also noted that the matter had been investigated by the police under case file No. 1990 of 6 September 1998.

2.11 Finally, the author was summoned by the investigating magistrate of the Tribunal of Hussein Dey on 30 April 2000 and in February 2002 (when she was told her son was a "terrorist"), and informed on 29 April 2003 of its decision of 26 April 2003 that there were no grounds for prosecution (*non-lieu*). On 6 May 2003 the Director of Public Prosecutions of the Court of Algiers informed the author that the decision not to prosecute had been referred to the Indictment Division (*Chambre d'Accusation*) of the Court of Algiers for review.

2.12 The author also submits reports by the Collectif des Familles de Disparu(e)s en Algérie and Human Rights Watch highlighting the widespread concerns about disappearances in Algeria, the intimidation suffered by family members, and the lack of adequate response and investigation on the part of the authorities.

2.13 The author claims to have exhausted all domestic remedies: remedies before judicial authorities and before independent administrative bodies responsible for human rights (the Ombudsman and the National Observatory for Human Rights), as well as the highest State

authorities. She argues that any non-exhaustion lies in the authorities' refusal to accede to her request to investigate the arrest, detention and disappearance of her son, and their simple denial that he was ever arrested. She claims that all the domestic remedies which she initiated proved ineffective and futile. Although she could have challenged the investigating magistrate's decision of 26 April 2003 that there were no grounds for prosecution (*non-lieu*), under Algerian law she needed to do this within three days. As she only received notice of the decision on 29 April 2003, she was precluded from challenging the decision.

2.14 The author notes that the case was submitted to the Working Group on Enforced or Involuntary Disappearances, but that the Committee has stated that this Working Group does not "constitute a procedure of international investigation or settlement within the meaning of article 5, paragraph 2 (a), of the Optional Protocol".¹

The complaint

3.1 The author claims that Riad Boucherf is a victim of a violation of articles 2, paragraph 3, 7, 9, 14 and 16 of the Covenant, in view of his alleged arbitrary arrest, detention and disappearance, and credible reports that he was tortured or subjected to cruel, inhuman or degrading treatment; and because the Algerian authorities did not conduct a thorough and in-depth investigation or instigate any proceedings, despite the author's numerous requests. The author's son was judged in camera and in absentia, without the assistance of a lawyer, and he had no access to an effective remedy. The author also claims that Riad Boucherf was denied recognition before the law by being held incommunicado and therefore removed from the protection of the law.²

3.2 The author also claims that she is a victim of a violation of article 7 of the Covenant because of the failure of the authorities to inform her as to the fate and whereabouts of her son, and because of the continued intimidation which she has suffered at the hands of the authorities.

The State party's submission on the admissibility and merits of the communication and author's comments

4.1 By note verbale of 26 January 2004, the State party contests the admissibility of the communication for non-exhaustion of domestic remedies. It clarifies that pursuant to one of the author's complaints the Director of Public Prosecutions of the Tribunal of Hussein Dey opened a preliminary investigation and seized the investigating magistrate of the First Chamber of the Tribunal. After hearing several witnesses, the investigating magistrate decided on 26 April 2003 that there were no grounds to initiate a prosecution. As the Director of Public Prosecutions disagreed with the decision, he appealed it on 27 April 2003. The matter was therefore sent back to the Indictment Division of the Court of Algiers, which annulled the contested decision on 13 May 2003 and ordered further investigations and hearing of the witnesses. As this procedure is still pending, the author has not exhausted domestic remedies. The State party concludes that the fact the contested decision was annulled proves that the remedy is effective.

4.2 Further, the State party clarifies that the author could have appealed the decision of the investigating magistrate herself, as article 173 of the Code of Criminal Procedure states that the appeal must be lodged within three days of the notification of the judgement. Further,

article 726 of the same Code explains that the three-day time frame does not include the first day (*jour initial*) or the last day (*échéance*). As such, the author could have brought an appeal as late as 3 May 2003.

4.3 Subsidiarily, the State party denies that the author's son was arrested on 25 July 1995, that he was sentenced on 31 December 1995 or that he was detained at Serkadji prison.

5.1 By letter of 23 March 2004, counsel highlights the State party's challenge to her version of the facts, despite numerous corroborating testimonies, and that in such circumstances the Committee may consider such allegations as substantiated. Counsel also contends that the remedies highlighted by the State party are ineffective, given that the author's complaints all resulted in the same "official version" of the facts, namely a denial of the arrest and disappearance of her son.

5.2 As to the appeal of the decision not to initiate a prosecution (*non-lieu*) of 26 April 2003, the author was not aware of how to calculate the time limits, and had been told by a civil servant at the Tribunal that she had to appeal "within three days". According to article 168, paragraph 1, of the Code of Criminal Procedure, the author should have received a recorded delivery notice of the decision within 24 hours, instead of the two days it took in this instance. Regarding the decision of the Indictment Division, counsel highlights that the author was not able to attend the hearing as she received notice of it on the day it took place (13 May 2003), nor did she receive notice of its decision of 13 May 2003.

5.3 In any event, in view of the protracted investigations and complete denial by the authorities, the author need not continue to wait for a decision which, in all likelihood, will simply find that her son joined an "underground terrorist group". Counsel highlights that the authorities continue to criminalize victims, as Bourdib Farid was once again summoned to give the same testimony, and the author's home was searched again on 28 November 2003. Finally, counsel refers to the Committee's jurisprudence that for a remedy to be effective, it should be judicial in nature, and lead to an effective investigation, judgement and punishment of those responsible, and reparation.³ Counsel also refers to the excessive length of procedures in Algeria, in this case nine years since the disappearance of the author's son, without any proper investigation, identification of those responsible, judgement or reparation.⁴

Further State party observations and author's comments

6. In a letter dated 18 June 2004 the State party reiterates its denial that Riad Boucherf was ever held at Serkadji or El Harrach prisons, or indeed at any detention centre on its territory. It also contends that the communication shows numerous inconsistencies, which lead it to believe that the author was unfortunately misled in her legitimate search for the truth. In particular, the State party highlights that although the author claims that a lawyer attended her son's trial in 1996, she did not specify any further details as to his identity.

7. By letter of 15 November 2004 counsel highlights that although the State party contends there are numerous inconsistencies, it does not specify any, beyond the point about the lawyer attending the trial. Counsel clarifies that no lawyer attended Riad Boucherf's trial. Maître Mohammed Tahri saw Riad Boucherf's name on a list of persons awaiting sentence and

attempted to attend the hearing, but was prevented from doing so. Finally, counsel notes that the author was notified on 19 September 2004 that the Tribunal of Hussein Dey handed down a judgement on 8 September 2004 in the outstanding appeal, ruling that there were no grounds for prosecution (*non-lieu*). Therefore, all domestic remedies have been exhausted.

Issues and proceedings before the Committee

Admissibility considerations

8.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 93 of its rules of procedure, decide whether or not the communication is admissible under the Optional Protocol to the Covenant.

8.2 The Committee notes that the same matter is not being examined under any other international procedure, in line with the requirements of article 5, paragraph 2 (a), of the Optional Protocol. The Committee also notes that the State party maintains that the author has not exhausted available domestic remedies. On this point, the Committee takes note of the author's claim that the Tribunal of Hussein Dey handed down a judgement on 8 September 2004, confirming that there were no grounds for initiating prosecution (*non-lieu*). The Committee notes that the State party has not responded to this point. The Committee also considers that the application of domestic remedies has been unduly prolonged in relation to the author's other complaints introduced since 1995. Therefore, the Committee considers that the author met the requirements of article 5, paragraph 2 (b), of the Optional Protocol.

8.3 As to the alleged violation of article 14, the Committee considers that the author's allegations have been insufficiently substantiated for purposes of admissibility. On the question of the complaints under articles 2, paragraph 3, 7, 9 and 16, the Committee considers that these allegations have been sufficiently substantiated. The Committee therefore concludes that the communication is admissible under articles 2, paragraph 3, 7, 9 and 16 of the Covenant and proceeds to their consideration on the merits.

Consideration of the merits

9.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it by the parties, as provided for in article 5, paragraph 1, of the Optional Protocol.

9.2 The Committee recalls the definition of enforced disappearance in article 7, paragraph 2 (i), of the Rome Statute of the International Criminal Court: "Enforced disappearance of persons means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time." Any act of such disappearance constitutes a violation of many of the rights enshrined in the Covenant, including the right to liberty and security of the person (art. 9), the right not to be subjected to torture or to cruel, inhuman or degrading treatment

or punishment (art. 7), and the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person (art. 10). It also violates or constitutes a grave threat to the right to life (art. 6).⁵ In the present case, the author invoked articles 7 and 9.

9.3 With regard to the author's claim regarding the disappearance of her son, the Committee notes that the author and the State party have submitted different versions of the events in question. While the author contends that her son was arrested on 25 July 1995 and sentenced in absentia on 31 December 1996 by the Tribunal of Abane Ramdane Street (Algiers), the State party categorically denies that Riad Boucherf was ever arrested, detained or sentenced. The Committee also recalls that according to the National Observatory for Human Rights, the author's son was never sought or arrested by the security services. The Committee notes that the State party has not responded to the sufficiently detailed allegations exposed by the author.

9.4 The Committee has consistently maintained⁶ that the burden of proof cannot rest on the author of the communication alone, especially considering that the author and the State party do not always have equal access to the evidence and that frequently the State party alone has access to the relevant information. It is implicit in article 4, paragraph 2, of the Optional Protocol that the State party has the duty to investigate in good faith all allegations of violations of the Covenant made against it and its representatives and to furnish to the Committee the information available to it. In cases where the allegations are corroborated by credible evidence submitted by the author and where further clarification of the cases depends on information exclusively in the hands of the State party, the Committee may consider the author's allegations as adequately substantiated, in the absence of satisfactory evidence and explanation to the contrary submitted by the State party. In the present case, the Committee has been provided with statements of eyewitnesses who were detained together with Riad Boucherf and who were later released, concerning his detention and treatment in prison and later "disappearance".

9.5 As to the alleged violation of article 9, the information before the Committee reveals that Riad Boucherf was removed from his home by State agents. The State party has not addressed the author's claims that her son's arrest and detention was arbitrary or illegal, or that he has been unaccounted for since 25 July 1995, other than submitting a general denial to the Committee. Under these circumstances, due regard must be given to the detailed information provided by the author. The Committee recalls that incommunicado detention as such may violate article 9,⁷ and again notes the author's claim that her son has been held incommunicado since 25 July 1995, without any possibility of access to a lawyer, or of challenging the lawfulness of his detention. In the absence of any pertinent clarification on this point from the State party, the Committee concludes that article 9 has been violated.

9.6 As to the alleged violation of article 7 of the Covenant, the Committee recognizes the degree of suffering involved in being held indefinitely without contact with the outside world. In this context, the Committee recalls its general comment No. 20, on article 7, which recommends that States parties should make provision against incommunicado detention. In the circumstances, the Committee concludes that the disappearance of the author's son and the prevention of contact with his family and with the outside world constitute a violation of article 7

of the Covenant.⁸ Further, the circumstances surrounding Riad Boucherf's disappearance and the several concordant testimonies that he was repeatedly tortured give rise to a strong inference that he was so treated. Nothing has been submitted to the Committee by the State party to dispel or counter such an inference. The Committee concludes that the treatment of Riad Boucherf amounts to a violation of article 7.⁹

9.7 The Committee also notes the anguish and stress caused to the author by the disappearance of her son and the continued uncertainty concerning his fate and whereabouts. The Committee is therefore of the opinion that the facts before it reveal a violation of article 7 of the Covenant with regard to the author herself.¹⁰

9.8 In light of the above findings, the Committee does not consider it necessary to deal with the complaint in respect of article 16 of the Covenant.

9.9 The author has invoked article 2, paragraph 3, of the Covenant, which requires State parties to ensure that individuals have accessible, effective and enforceable remedies to vindicate the rights enshrined in the Covenant. The Committee attaches importance to State parties' establishing appropriate judicial and administrative mechanisms for addressing claims of rights violations under domestic law. It refers to its general comment No. 31 on the nature of the general legal obligation imposed on States parties to the Covenant, which provides inter alia that a failure by a State party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant.¹¹ In the present case, the information before the Committee indicates that the author did not have access to such effective remedies, and concludes that the facts before it disclose a violation of article 2, paragraph 3, of the Covenant in conjunction with articles 7 and 9.

10 The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it reveal violations by the State party of articles 7 and 9 of the Covenant in relation to the author's son, and article 7 in relation to the author, in conjunction with a violation of article 2, paragraph 3, of the Covenant.

11. In accordance with article 2, paragraph 3, of the Covenant, the State party is under an obligation to provide the author with an effective remedy, including a thorough and effective investigation into the disappearance and fate of the author's son, his immediate release if he is still alive, adequate information resulting from its investigation, and adequate compensation for the author and her family for the violations suffered by the author's son. The State party is also under a duty to prosecute criminally, try and punish those held responsible for such violations. The State party is also under an obligation to take measures to prevent similar violations in the future. The Committee associates itself with the request made by the Special Rapporteur on new communications and interim measures dated 23 September 2005 (see paragraph 1.2) and reiterates that the State party should not invoke the provisions of the draft amnesty law (*Projet de Charte pour la Paix et la Réconciliation Nationale*) against individuals who invoke the provisions of the Covenant or have submitted or may submit communications to the Committee.

12. 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, that State party has undertaken to ensure all individuals within its territory or 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. The State party is also requested to publish the Committee's Views.

[Adopted in English, French and Spanish, the French text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

Notes

¹ Communication No. 540/1993, *Celis Laureano v. Peru*, Views adopted on 25 March 1996, para. 7.1.

² Counsel refers to the concluding observations of the Human Rights Committee on the second periodic report of Algeria (CCPR/C/79/Add.95, 18 August 1998, para. 10).

³ Referring to communication No. 612/1995, *José Vicenté et al. v. Colombia*, Views adopted on 19 August 1997, para. 5.2; communication No. 563/1993, *Bautista de Arellana v. Colombia*, Views adopted on 27 October 1995, para. 8.2; communication No. 4/1977, *William Torres Ramirez v. Uruguay*, Views adopted on 23 July 1980, para. 5. Counsel also refers to general comment No. 26.

⁴ Counsel refers to communication No. 563/1993, *Bautista de Arellana v. Colombia*, Views adopted on 27 October 1995, where the Committee found that a seven-year delay exceeded reasonable delays for the purposes of article 5, paragraph 2 (b), of the Optional Protocol; communication No. 612/1995, *José Vicenté et al. v. Colombia*, Views adopted on 19 August 1997 (5 years of procedure); and communication No. 859/1999, *Jiménez Vaca v. Colombia*, Views adopted on 25 March 2002, para. 6.4 (9 years of procedure).

⁵ See communication No. 950/2000, *Sarma v. Sri Lanka*, Views adopted on 31 July 2003, para. 9.3.

⁶ Communication No. 146/1983, *Baboeram-Adhin and others v. Suriname*, Views adopted on 4 April 1985, para. 14.2; communication No. 139/1983, *Conteris v. Uruguay*, Views adopted on 17 July 1985, para. 7.2; communication No. 202/1986, *Graciela Ato del Avellanal v. Peru*, Views adopted on 31 October 1988, para. 9.2; communication No. 30/1978, *Bleier v. Uruguay*, Views adopted on 29 March 1982, para. 13.3; communication No. 107/1981, *Elena Quinteros Almeida v. Uruguay*, Views adopted on 21 July 1983, para. 11.

⁷ Communication No. 1128/2002, *Rafael Marques de Morais v. Angola*, Views adopted on 29 March 2005, para. 6.3. See also general comment No. 8, para. 2.

⁸ Communication No. 540/1993, *Celis Laureano v. Peru*, Views adopted on 25 March 1996, para. 8.5; communication No. 458/1991, *Mukong v. Cameroon*, Views adopted on 24 July 1994, para. 9.4; communication No. 440/1990, *El-Megreisi v. Libyan Arab Jamahiriya*, Views adopted on 23 March 1994, para. 5.

⁹ Communication No. 449/1991, *Mójica v. Dominican Republic*, Views adopted on 10 August 1994, para. 5.7.

¹⁰ Communication No. 107/1981, *Quinteros v. Uruguay*, Views adopted on 21 July 1983, para. 14; communication No. 950/2000, *Sarma v. Sri Lanka*, Views adopted on 31 July 2003, para. 9.5.

¹¹ General comment No. 31, para. 15.
