



**International covenant  
on civil and  
political rights**

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HUMAN RIGHTS COMMITTEE  
Ninetieth session  
9-27 July 2007

**VIEWS**

**Communication No. 1439/2005**

*Submitted by:* Sid Ahmed Aber (represented by counsel,  
Nassera Doutour)

*Alleged victim:* The author, his father Abdelkader Aber and his sister  
Zina Aber

*State party:* Algeria

*Date of communication:* 24 May 2005 (initial submission)

*Document references:* Special Rapporteur's rule 97 decision, transmitted to  
the State party on 23 November 2005 (not issued in  
document form)

*Date of adoption of Views:* 13 July 2007

*Subject matter:* Enforced disappearance, incommunicado detention,  
torture and cruel, inhuman or degrading treatment,  
inhumane detention conditions

*Procedural issues:* None

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\* Made public by decision of the Human Rights Committee.

*Substantive issues:* Prohibition of torture and cruel, inhuman or degrading treatment or punishment; right to liberty and security of person; arbitrary arrest and detention; respect for the inherent dignity of the human person; right to recognition as a person before the law

*Articles of the Covenant:* 7, 9, 10, 16 and 2, paragraph 3

*Articles of the Optional Protocol:* 5, paragraph 2 (a)

On 13 July 2007, 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. 1439/2005.

**[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**

**(Ninetieth session)**

**concerning**

**Communication No. 1439/2005\***

*Submitted by:* Sid Ahmed Aber (represented by counsel,  
Nassera Dutour)

*Alleged victim:* The author, his father Abdelkader Aber and his sister  
Zina Aber

*State party:* Algeria

*Date of communication:* 24 May 2005 (initial submission)

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

*Meeting on 13 July 2007,*

*Having concluded* its consideration of communication No. 1439/2005, submitted by  
Sid Ahmed Aber (represented by counsel, Nassera Dutour) on his own behalf and on behalf of  
his father Abdelkader Aber and his sister Zina Aber 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:

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\* The following members of the Committee participated in the examination of the  
present communication: Mr. Abdelfattah Amor, Mr. Prafullachandra Natwarlal Bhagwati,  
Ms. Christine Chanet, Mr. Yuji Iwasawa, Mr. Edwin Johnson, Mr. Walter Kälin,  
Mr. Ahmed Tawfik Khalil, Mr. Rajsoomer Lallah, Ms. Zonke Zanele Majodina,  
Mr. Michael O'Flaherty, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Ivan Shearer  
and Ms. Ruth Wedgwood.

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

1.1 The author of the communication, received on 24 May 2005, is Sid Ahmed Aber, an Algerian citizen born in Algeria in 1962 and currently living in France. He claims that he, his father Abdelkader Aber, who died in 1999, and his sister Zina Aber, a resident of Algeria, are victims of violations by Algeria of article 7, article 9, article 10, article 16 and article 2, paragraph 3, of the Covenant. The Covenant and the Optional Protocol entered into force for Algeria on 12 December 1989. The author is represented by counsel, Nassera Dutour.

1.2 On the basis of information received by the Committee, on 23 November 2005, the Special Rapporteur on new communications and interim measures drew the State party's attention to the right to submit individual communications to the Committee, under the Optional Protocol to the Covenant, and recalled that an individual and his relatives should not be subjected to intimidation for having submitted a communication to the Committee.

### **Factual background**

2.1 During the night of 9 February 1992, the author, a former General Secretary of the Bir el Djir mayor's office in Oran, was arrested at his home by plain clothes members of the military security forces. Shocked by the violent arrest that he witnessed, Abdelkader Aber, the author's father, had a heart attack. The author was taken to the Oran police station, where he was beaten and tortured for several hours to make him admit to belonging to armed groups. He eventually gave in and made a false confession. He signed the written statement of his testimony without even reading what was in it. He was then detained in a cell at the police station for three days without any legal grounds.

2.2 On 12 February 1992, the author was transferred to the Reggane detention camp in southern Algeria. There, he was detained in an 8 m<sup>2</sup> tent with a dozen other prisoners, in degrading and inhuman conditions. There were no sanitary facilities. On 27 June 1992, the author was transferred to the Oued Namous camp, in the south-west of the country, where the conditions of detention were also very difficult. In October 1993, the authorizations granted by prefects for detainees' families to visit the camp were suspended.

2.3 In February 1994, the author was transferred secretly to the Tamanrasset camp in Aïn M'Guel. The transfer took place in inhuman conditions, with prisoners shackled and handcuffed during their transport in a military aircraft. Again, the conditions of detention in this camp were degrading. The military authorities did not tell the author's family about his detention in the camp. It was only thanks to a telephone call from the relative of a detainee - a resident of Algiers who had permission to visit - that the author's family found out about his detention in that camp.

2.4 On 23 November 1995, after an amnesty decree by President Zerroual was announced, the author was released after three years and nine months in detention, without any judgement or judicial decision having been adopted. His detention left him with severe physical sequelae (acute back pain, deviated nasal septum and impaired vision). After his release, he was placed under judicial supervision, stripped of his civil rights and subjected to regular harassment by police officers from the Oran police station.

2.5 On 11 October 1997, the author was abducted in Oran by three members of the military security forces. He was taken to the Magenta detention centre belonging to the Military Security Directorate, known to be a torture centre. He was interrogated by Colonel Hamou and Commander Boudia about a terrorist attack that had taken place on 1 October 1997. During the interrogation, he was thrown to the ground, kicked and insulted. The next morning, he was interrogated again and beaten for several hours with wire, plastic tubing, clubs and electric cables. He was also given electric shocks. At the end of that first day of torture, the author could not talk or move. The next day, he endured another torture session. His torturers threatened to rape him, immersed his head in a bathtub of dirty water, strangled him with a rope and applied electric shocks to his genitals. For about three months, the author was regularly subjected to such torture. During the last two months, the pain was so severe that he was unable to sleep for more than 10 minutes at a time.

2.6 After his first three months of detention at the Magenta centre, he was transferred to a "dark room" as a punishment for having tried to communicate with the other detainees. He spent three months in this cell in complete darkness, isolated, surrounded by rats and infested with lice. During those three months, his only meal was a piece of bread or a ladle of soup every other day. After these three months of solitary confinement, the author was again interrogated and tortured. He was forced to drink several litres of bleach solution. He was also beaten and hung from the ceiling by his wrist. The conditions of detention were degrading and insanitary. Moreover, he was sometimes deprived of food for up to a week.

2.7 It was only 13 days after his abduction that the author's family found out where he was being held, thanks to the testimony of another Magenta centre detainee who was released on 24 October 1997. The author's family were intimidated by the authorities: Abdelkader Aber, his father, was summoned twice to the Oran police station, on 16 and 25 December 1997. Zina Aber, the author's sister, took several steps to find her brother. On 22 December 1997, she petitioned the general in command of Oran's second military region and the Chairman of the Algerian League for the Defence of Human Rights. On 3 January 1998, she also filed a petition with the principal State prosecutor of the Algiers Supreme Court and sent a letter to the Ministry of Justice. All these steps were in vain, as the authorities kept denying the author's detention at the Magenta centre, saying that he had escaped and that "State services are not responsible".

2.8 On 23 March 1998, the authorities released the author from the Magenta centre, on condition that he "not talk to the press, file a complaint or communicate with people", on pain of death. He was given a document that he signed without even taking the time to read it. Upon his release, he stayed with his sister, Zina Aber. When he saw his parents again, his father was so shocked by the author's physical state that he had a second heart attack, which left him paralysed. The author's father died a few months later, on 9 March 1999.

2.9 On 25 March 1998, the author and his sister, with whom he was staying, were summoned to the police station. The police officer who attended them suggested that, in order not to be bothered any more, the author should sign a written statement saying that he had been detained in good conditions at the Magenta centre and had not been tortured. The author signed the statement.

2.10 The author's family was summoned on 31 March 1998, 1 December 1998 and 22 December 1998 to the police station and the gendarmerie in Oran. Fearing for his

life, the only step that the author took was to send a letter to the principal State prosecutor of Oran's Department of Prosecutions on 15 April 1998, applying for "State protection and an end to his harassment by the security services". In reply, on 23 June 1998 he received an official notification from the principal State prosecutor of Oran's Department of Prosecutions inviting him to address his application to the Directorate-General of National Security in Algiers. In December 1998, the author was summoned to a meeting with a lawyer. Gendarmes questioned him about his detention in the Magenta centre. He then talked about the torture that he had suffered and signed a statement. However, no action was taken on the case.

2.11 In May 2002, having finally obtained a passport, the author left for France, where he was granted political asylum on 28 April 2003.

### **The complaint**

3.1 With regard to article 7, the author claims that conditions of detention in the Reggane and Oued Namous camps between 1992 and 1994, which were particularly harsh (see paragraph 2.2 above), were "on the borderline between cruel, inhuman or degrading treatment and torture". He also claims that his detention incommunicado at the Tamanrasset camp from 1994 to 1995, then his enforced disappearance and detention incommunicado at the Magenta centre in 1997, constitute a violation of article 7. He recalls that the Committee has recognized that being subjected to enforced disappearance may be regarded as inhuman or degrading treatment.<sup>1</sup> He emphasizes that at the Magenta centre he was subjected to grave acts of torture, inflicted by agents acting under the authority of the State, and that he now suffers from many physical and psychological sequelae: he had to have an operation on his nose and has had to get dentures and spectacles. Lastly, he believes that the death threats and physical intimidation to which he was subjected by agents of the State both before and after his release from the Magenta centre should be considered a violation of article 7.

3.2 Concerning the author's family, he claims that his father, Abdelkader Aber, was particularly affected by the abduction, long years of detention, torture, threats and intimidation suffered by his son. He had two heart attacks, both linked to those events. Zina Aber, the author's sister, took most of the steps to find her brother and it was she who therefore endured the most intimidation by soldiers and police. Under such pressure, she developed many health problems and had a miscarriage and a nervous breakdown. The author recalls that the Committee has acknowledged that the disappearance of a relative may constitute for the family a violation of article 7.<sup>2</sup>

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<sup>1</sup> See communication No. 449/1991, *Mojica v. Dominican Republic*, Views adopted on 15 July 1994, para. 5.7; communication No. 540/1993, *Celis Laureano v. Peru*, Views adopted on 25 March 1996, para. 8.5; and communication No. 542/1993, *Tshishimbi v. Zaire*, Views adopted on 25 March 1996, para. 5.5.

<sup>2</sup> See communication No. 107/1981, *Quinteros v. Uruguay*, Views adopted on 21 July 1983, para. 14; and the concluding observations on the second periodic report of Algeria, CCPR/C/79/Add.95, 18 August 1998, para. 10.

3.3 With regard to article 9, paragraph 3, the author recalls that between his arrest on 9 February 1992 and his release on 23 November 1995, he was never brought before a judge or other officer authorized by law to exercise judicial power. His abduction and his subsequent detention incommunicado at the Magenta centre from 1997 to 1998 also took place without a judgement, in violation of the guarantees set forth in article 9. He invokes the Committee's case law whereby any unacknowledged detention of a person constitutes a complete negation of the right to liberty and security guaranteed under article 9.<sup>3</sup>

3.4 The author considers that the conditions of detention (insalubrity, absence of sanitary facilities, lack of food and overcrowded cells) in the various centres in which he stayed constitute a violation of article 10.

3.5 With regard to article 16, the author believes that his enforced disappearance is inherently a negation of the right to recognition everywhere as a person before the law. He invokes the 18 December 1992 Declaration on the Protection of All Persons from Enforced Disappearance.<sup>4</sup>

3.6 With regard to article 2, paragraph 3, the author recalls that he was denied his rights under threat by agents acting on behalf of the State. To be released from the Magenta centre, he had to sign a document that required him to say that he had been well treated during his detention. Moreover, the incommunicado nature of his detention in the Oued Namous and Magenta centres did not allow either the author or his family access to an effective remedy.

3.7 With regard to the exhaustion of all available domestic remedies, the author recalls that under the Committee's consistent case law only effective, useful and available remedies within the meaning of article 2, paragraph 3, need to be exhausted.<sup>5</sup> In the case at hand, the conditions surrounding the author's various detentions show that he was unable to seek a judicial remedy without seriously risking his life and his family's safety. The author considers that at the time of his release from the Magenta centre, there were no "available" remedies within the meaning of article 2, paragraph 3, of the Covenant, article 5 of the Optional Protocol and the Committee's case law.

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<sup>3</sup> See communication No. 8/1977, *Weismann and Perdomo v. Uruguay*, Views adopted on 3 April 1980, para. 16; communication No. 139/1983, *Conteris v. Uruguay*, Views adopted on 17 July 1985, para. 10; communication No. 181/1984, *Arévalo v. Colombia*, Views adopted on 3 November 1989, para. 11; communication No. 563/1993, *Bautista v. Colombia*, Views adopted on 27 October 1995, para. 8.5; and communication No. 612/1995, *Chaparro et al. v. Colombia*, Views adopted on 29 July 1997, para. 8.6.

<sup>4</sup> See also the concluding observations on the second periodic report of Algeria, CCPR/C/79/Add.95, 18 August 1998, para. 10.

<sup>5</sup> See, for instance, communication No. 147/1983, *Arzuada Gilboa v. Uruguay*, Views adopted on 1 November 1985, para. 7.2.

3.8 The author asks the Committee to request the State party to order independent inquiries with a view to bringing the perpetrators of these crimes before the competent judicial authorities, in accordance with article 2, paragraph 3, of the Covenant. He also requests appropriate reparation for himself and his family.

### **State party's observations on the admissibility and merits of the communication**

4.1 By note verbale dated 19 April 2006, the State party notes that the author was prosecuted by Oran's Department of Prosecutions for having, along with other persons, caused a riot and pelted police cars with stones in February 1992. Along with his co-defendants, the author was tried before the Oran criminal court, which acquitted and discharged all the accused on 4 February 1992. After an appeal by the Public Prosecutor's Office, the Oran court upheld the decision on appeal.

4.2 Concerning the reference to the author's stay in administrative detention centres, the State party stresses that the fight against terrorism required that special measures be taken to tackle the insurrectionary and subversive situation that arose in 1992. Thus, article 5 of the decree proclaiming the state of emergency stipulated that the Minister of the Interior could order "the placing in security centres, in a specified place, of any adult whose activity threatens public order, public safety or the proper functioning of public services". All the people affected by this exceptional, temporary measure, which was enforced in accordance with the provisions of Algerian law, were released after their details had been taken. Families were regularly informed about the places and conditions of detention of their relatives. On 29 October 1995, all security centres were closed.

4.3 The State party asserts that the implementing regulations for the Charter for Peace and National Reconciliation adopted by referendum on 29 September 1995 make provision for all victims of the national tragedy and extend the State's social protection to their beneficiaries. As an example, it mentions the procedure for reinstating or compensating persons who were dismissed from their jobs as an administrative measure for reasons linked to the national tragedy.

### **Author's comments on the State party's observations**

5.1 In his comments dated 16 June 2006, the author notes that the State party invoked article 5 of decree No. 92/44 proclaiming the state of emergency in Algeria, but does not explain how the author posed a threat that could have justified his detention for almost four years. He recalls that he was cleared by the Oran criminal court on 4 February 1992 and was only free for a few days before being transferred for no reason to the Reggane detention camp on 12 February 1992. Thus, when in March 1992 the Oran court upheld the decision to acquit and discharge him, the author had already been transferred to a "security centre". The author disputes the State party's argument that his detention took place "in accordance with the provisions of Algerian law". He notes that the State party provides no evidence to support its claim that "families were regularly informed about the places and conditions of detention of their relatives". The author's family can testify that it never knew that the author had been transferred in February 1994 to the Tamanrasset camp, where he was detained incommunicado until 23 November 1995, and not until 29 October 1995, the date on which the State party claims that all security centres were closed.



5.2 With regard to the serious accusations concerning the author's enforced disappearance and the numerous acts of torture to which he was subjected at the Magenta centre, the author notes that the State party provides no explanations on the subject. He recalls that under the Committee's case law, the State party must furnish evidence to refute the author's allegations. In any case, denial, whether explicit or implicit, will not help the State party.<sup>6</sup>

5.3 With regard to the State party's response detailing the rehabilitation measures put in place by the implementing regulations for the Charter for Peace and National Reconciliation adopted by referendum on 29 September 1995, the author notes that the information given does not shed any light on the accusations against the State party.

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

### **Admissibility considerations**

6.1 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.

6.2 As required under article 5, paragraph 2 (a), of the Optional Protocol, the Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 As far as the author's family are concerned, the Committee recognizes that the incommunicado detentions and ill-treatment to which the author was subjected might have caused his family anguish and stress. Nevertheless it considers that a direct causal link between such suffering and the author's ill-treatment has not been adequately substantiated. In these circumstances, the Committee considers that the author has failed to substantiate, for the purposes of admissibility, the allegation that the facts before it disclose a violation of article 7 in respect of his family. This part of the communication is therefore inadmissible under article 2 of the Optional Protocol.

6.4 The Committee notes that the State party has not raised any objection to the admissibility of the remainder of the communication. On the basis of the information available to it, the Committee concludes that there is no obstacle to the admissibility of the communication and it therefore finds it admissible.

### **Consideration of the merits**

7.1 The Committee has considered the present communication in the light of all the written information communicated to it by the parties, in accordance with article 5, paragraph 1, of the Optional Protocol.

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<sup>6</sup> See communication No. 107/1981, *Quinteros v. Uruguay*, Views adopted on 21 July 1983, para. 11.

7.2 The Committee recalls that the burden of proof does not 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 frequently the State party alone has the relevant information.<sup>7</sup> 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 depends on information exclusively in the hands of the State party, the Committee may consider an author's allegations substantiated in the absence of satisfactory evidence or explanations to the contrary presented by the State party.

7.3 As to the alleged detention incommunicado, the Committee recognizes the degree of suffering involved in being held indefinitely without contact with the outside world. It recalls its general comment No. 20, on article 7, which recommends that States parties should make provision against detention incommunicado. It notes that the author says that he was transferred in February 1994 to the Tamanrasset camp, where he was detained incommunicado until 23 November 1995. The author also says that he was abducted on 11 October 1997 and detained incommunicado until 23 March 1998. The Committee notes that the State party simply invokes article 5 of the decree proclaiming the state of emergency, which authorized "the placing in security centres, in a specified place, of any adult whose activity threatens public order, public safety or the proper functioning of public services" and claims that the families of detainees were informed about the places and conditions of detention of their relatives. The Committee considers that the State party has not responded to the author's sufficiently detailed allegations. In the circumstances, the Committee concludes that keeping the author in captivity and preventing him from communicating with his family and the outside world constitutes a violation of article 7 of the Covenant.<sup>8</sup>

7.4 As to the alleged torture at the Magenta centre, the Committee notes that the State party has not responded to these allegations. It considers that in the absence of a reply from the State party, the circumstances surrounding the author's detention and his allegations that he was tortured several times at the Magenta centre strongly suggest that he was subjected to ill-treatment. The Committee has received nothing from the State party to counter these allegations. The Committee concludes that the treatment of the author at the Magenta centre amounts to a violation of article 7.

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<sup>7</sup> See communication No. 139/1983, *Conteris v. Uruguay*, Views adopted on 17 July 1985, para. 7.2; and communication No. 1297/2004, *Medjnoune v. Algeria*, Views adopted on 14 July 2006, para. 8.3.

<sup>8</sup> See communication No. 540/1993, *Celis Laureano v. Peru*, Views adopted on 25 March 1996, para. 8.5; and communication No. 458/1991, *Mukong v. Cameroon*, Views adopted on 21 July 1994, para. 9.4.

7.5 With regard to the alleged violation of article 9, the information before the Committee shows that the author was arrested on 11 October 1997 in Oran by agents of the State party. In the absence of adequate explanations by the State party concerning the author's allegations that his detention incommunicado until 23 March 1998 was arbitrary or unlawful, the Committee finds a violation of article 9, paragraph 1.<sup>9</sup>

7.6 With regard to the alleged violation of article 9, paragraph 3, the Committee recalls that the right to be brought "promptly" before a judicial authority means within a few days and that incommunicado detention per se may be a violation of article 9, paragraph 3.<sup>10</sup> It takes note of the State party's argument that the author was tried before the Oran criminal court, which acquitted him on 4 February 1992. According to the State party, this decision was upheld on appeal by the Oran court in March 1992. However, the Committee notes that the author was meanwhile arrested on 9 February 1992, despite his acquittal, and kept in detention until 23 November 1995. The Committee also notes the author was never brought before a judge during his second period of detention from 11 October 1997 to 23 March 1998. The Committee considers that these two periods of detention, of three years and eight months and of five months respectively, constitute, in the author's case and in the absence of satisfactory explanations from the State party or any other justification in the file, a violation of the right set forth in article 9, paragraph 3.

7.7 With regard to the alleged violation of article 10, the Committee takes note of the author's allegations that the conditions of detention in the various centres in which he was detained were inhuman. In the Reggane detention camp where the author was detained from February to June 1992, he was held in an 8 m<sup>2</sup> tent with a dozen other prisoners, in degrading and inhuman conditions. There were no sanitary facilities. From June 1992 to February 1994, the author was held at the Oued Namous camp where the detention conditions were also very difficult. In October 1993, authorizations for visits were suspended. In February 1994, the author was transferred to the Tamanrasset camp in inhuman conditions, with prisoners shackled and handcuffed during their transport in a military aircraft. During his second period of detention at the Magenta centre from October 1997 to March 1998, he spent three months in a cell in complete darkness, isolated, surrounded by rats and infested with lice. During those three months, his only meal was a piece of bread or a ladle of soup every other day. The Committee reiterates that persons deprived of their liberty may not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty and that they must be

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<sup>9</sup> See communication No. 1297/2004, *Medjnoune v. Algeria*, Views adopted on 14 July 2006, para. 8.5.

<sup>10</sup> See communication No. 1128/2002, *Marques de Morais v. Angola*, Views adopted on 29 March 2005, para. 6.3; and communication No. 992/2001, *Bousroual v. Algeria*, Views adopted on 30 March 2006, para. 9.6.

treated with humanity and respect for their dignity.<sup>11</sup> In the absence of information from the State party on the author's conditions of detention in the various centres in which he stayed, the Committee finds a violation of article 10, paragraph 1.<sup>12</sup>

7.8 The author invokes article 2, paragraph 3, of the Covenant, which requires States parties to ensure that individuals have accessible, effective and enforceable remedies for asserting the rights enshrined in the Covenant. The Committee attaches importance to States parties' establishment of appropriate judicial and administrative mechanisms for addressing alleged violations of rights under domestic law. It refers to its general comment No. 31, which states that failure by a State party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant.<sup>13</sup> In the present case, the information before it indicates that the author did not have access to such effective remedies, and the Committee concludes that the facts before it reveal a violation of article 2, paragraph 3, of the Covenant in conjunction with articles 7 and 9.

7.9 In the 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.

8. 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 of article 7 and of article 9, paragraphs 1 and 3, read alone and in conjunction with article 2, paragraph 3, and of article 10, paragraph 1, of the Covenant.

9. The Committee considers that the author is entitled, in accordance with article 2, paragraph 3 (a), of the Covenant, to an effective remedy. The State party is under an obligation to take appropriate steps to (a) institute criminal proceedings, in view of the facts of the case, for the immediate prosecution and punishment of the persons responsible for the ill-treatment to which the author was subjected, and (b) provide the author with appropriate reparation, including compensation. The State party is, further, required to take measures to prevent similar violations in the future.

10. Bearing in mind that, by becoming a State 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

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<sup>11</sup> See general comment No. 21, on article 10, paras. 3 and 4.

<sup>12</sup> See communication No. 1134/2002, *Gorji-Dinka v. Cameroon*, Views adopted on 17 March 2005, para. 5.2.

<sup>13</sup> See para. 15.

recognized in the Covenant and to provide an effective and enforceable remedy where 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 present Views. The State party is also requested to publish the present 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.]

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