

GUYANA

Follow-up - Jurisprudence Action by Treaty Bodies

CCPR A/54/40, vol. I (1999)

VII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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Guyana: One decision finding violations: 676/1996 - Yasseen and Thomas (A/53/40); no follow-up reply received.

CCPR A/55/40, vol. I (2000)

VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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Guyana: One decision finding violations: 676/1996 - Yasseen and Thomas (A/53/40); no follow-up reply received.

Chapter IV. Follow-up Activities under the Optional Protocol

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

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Guyana: Views in one case finding violations: 676/1996 - Yasseen and Thomas (A/53/40); no follow-up reply received. In several letters, the last dated 23 August 1998, the authors' legal representative expresses concern that the Legal Affairs Minister of Guyana has recommended to his Government not to comply with the Committee's decision. In a letter dated 14 June 2000, the father of Yasseen informs the Committee that its recommendations have not been fulfilled so far. In a letter dated 6 November 2000, the same information is provided by Interights, the authors' legal representative.

CCPR A/57/40, vol. I (2002)

Chapter VI. Follow-up activities under the optional protocol

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

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Guyana: Views in two cases with findings of violations:

676/1996 - Yasseen and Thomas (A/53/40); no follow-up reply received. In several letters, the last dated 23 August 1998, the authors' legal representative expresses concern that the Legal Affairs Minister of Guyana has recommended to his Government not to comply with the Committee's decision. In a letter dated 14 June 2000, the father of Yasseen informs the Committee that its recommendations have not been fulfilled so far. In a letter dated 6 November 2000, the same information is provided by Interights, the authors' legal representative;

728/1996 - Sahadeo (annex IX); no follow-up reply received.

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

CHAPTER VI. Follow-up activities under the Optional Protocol

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

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Guyana: Views in three cases with findings of violations:

676/1996 - *Yasseen and Thomas* (A/53/40); no follow-up reply received. In several letters, the last dated 23 August 1998, the authors' legal representative expresses concern that the Legal Affairs Minister of Guyana had recommended to his Government not to comply with the Committee's decision. In a letter dated 14 June 2000, the father of *Yasseen* informed the Committee that its recommendations had not been fulfilled. In a letter dated 6 November 2000, the same information is provided by the authors' legal representative;

728/1996 - *Sahadeo* (A/57/40); no follow-up reply received;

838/1998 - *Hendriks* (annex VI); no follow-up reply received.

Notes

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

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

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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Guyana: Views in five cases with findings of violations:

676/1996 - *Yasseen and Thomas* (A/53/40); no follow-up reply received. In several letters, the last dated 23 August 1998, the authors' legal representative expresses concern that the Legal Affairs Minister of Guyana had recommended to his Government not to comply with the Committee's decision. In a letter dated 14 June 2000, the father of Yasseen informed the Committee that its recommendations had not been fulfilled. In a letter dated 6 November 2000, the same information is provided by the authors' legal representative;

728/1996 - *Sahadeo* (A/57/40); no follow-up reply received;

838/1998 - *Hendriks* (A/58/40); no follow-up reply received;

811/1998 - *Mulai* (annex IX); follow-up reply not yet due;

867/1999 - *Smartt* (annex IX); follow-up reply not yet due.

Notes

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

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

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CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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

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

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

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

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

State party and number of cases with violation	Communication number, author and location ^a	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response	Follow-up dialogue ongoing
...						
Guyana (6)	676/1996, <i>Yasseen and Thomas</i> A/53/40				X A/60/40	X
	728/1996, <i>Sahadeo</i> A/57/40				X A/60/40	X
	838/1998, <i>Hendriks</i> A/58/40				X A/60/40	X
	811/1998, <i>Mulai</i> A/59/40				X A/60/40	X
	867/1999, <i>Smartt</i> A/59/40				X A/60/40	X
	912/2000, <i>Ganga</i> A/60/40				X A/60/40	X

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

CCPR, A/60/40 vol. II (2005)

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Annex VII

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

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

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State party	GUYANA
Cases	(1) Yasseem and Thomas, 676/1996; (2) Sahadeo, 728/1996; (3) Mulai, 811/1998; (4) Hendriks, 838/1998; and (5) Smartt, 867/1999.
Views adopted on	(1) 30 March 1998; (2) 1 November 2002; (3) 20 July 2004; (4) 28 October 2002; (5) 6 July 2004
Issues and violations found	<ol style="list-style-type: none">1. Death penalty case. Unfair trial, inhuman or degrading treatment resulting in forced confessions, conditions of detention - articles 10 paragraph 1, 14, paragraph 3 (b), (c), (e), in respect of both authors; 14, paragraph 3 (b), (d) in respect of Mr. Yasseen.2. Prolonged pretrial detention - articles 9, paragraph 3, 14, paragraph 3 (c).3. Death penalty after unfair trial - articles 6 and 14, paragraph 1.4. Death penalty following unfair trial and mistreatment - articles 9, paragraph 3 and 14, paragraph 3 (c), (d) and (e) and consequently of 6.5. Death penalty after unfair trial - articles 6, and 14, paragraph 3 (d)
Remedy recommended	<ol style="list-style-type: none">1. Under article 2, paragraph 3 (a), of the Covenant, Messrs. Abdool S. Yasseem and Noel Thomas are entitled to an effective remedy. The Committee considers that in the circumstances of their case, this should entail their release.2. The Committee is of the view that Mr. Sahadeo is entitled, under article 2, paragraph 3 (a), to an effective remedy, in view of the prolonged

pretrial detention in violation of article 9, paragraph 3, and the delay in the subsequent trial, in violation of article 14, paragraph 3 (c), entailing a commutation of the sentence of death and compensation under article 9, paragraph 5, of the Covenant.

3. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide Bharatraj and Lallman Mulai with an effective remedy, including commutation of their death sentences.

4. Effective remedy including commutation of sentence.

5. In accordance with article 2, paragraph 3, of the Covenant, the author's son is entitled to an effective remedy, including the commutation of his death sentence.

Due date for State party response (1) 3 September 1998; (2) 21 March 2002; (3) 1 November 2004; (4) 10 March 2003; (5) 10 October 2004

State party response No reply to any of these Views.

Further action taken/required Action taken: During the eighty-third session (29 March 2005) the Rapporteur met with the Deputy Permanent Representative of Guyana to the United Nations. The Rapporteur explained his mandate and provided the representative with copies of the Views adopted by the Committee in the following communications: 676/1996 (Yasseem and Thomas), 728/1996 (Sahadeo), 838/1998 (Hendriks), 811/1998 (Mulai) and 867/1999 (Smartt). The Views were also sent to the Permanent Mission of Guyana by e-mail to facilitate their transmittal to the capital. The Rapporteur expressed concern about the lack of information received from the State party regarding the implementation of the Committee's recommendations on these cases. The representative gave the Rapporteur assurances that he would inform his authorities in the capital about the Rapporteur's concerns.

Author's response With regard to communication No. 811/1998 (Mulai), the lawyer informed the Committee by letter dated 6 June 2005 that no measures had been taken by the State party to implement the Committee's recommendation.

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CHAPTER VI FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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

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

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

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

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

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

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

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
...						
Guyana (9)	<i>676/1996, Yasseen and Thomas</i> A/53/40				X A/60/40	X
	<i>728/1996, Sahadeo</i> A/57/40				X A/60/40	X
	<i>838/1998, Hendriks</i> A/58/40				X A/60/40	X
	<i>811/1998, Mulai</i> A/59/40				X A/60/40	X
	<i>812/1998, Persaud</i> A/61/40				X	X
	<i>862/1999, Hussain and Hussain</i> A/61/40				X	X
	<i>867/1999, Smartt</i> A/59/40				X A/60/40	X

	912/2000, <i>Ganga</i> A/60/40				X A/60/40	X
	913/2000, <i>Chan</i> A/61/40				X	
...						

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CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

214. In 1991, the Special Rapporteur began to request follow-up information from States parties. Such information has been systematically requested in respect of all Views with a finding of a violation of Covenant rights; 452 Views out of the 570 Views adopted since 1979 concluded that there had been a violation of the Covenant.

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

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

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

218. The present annual report adopts the same format for the presentation of follow-up information as the last annual report. The table below displays a complete picture of follow-up replies from States parties received up to 7 July 2007, in relation to Views in which the Committee found violations of the Covenant. Wherever possible, it indicates whether follow-up replies are or have been considered as satisfactory or unsatisfactory, in terms of their compliance with the Committee's Views, or whether the dialogue between the State party and the Special Rapporteur for follow-up to Views continues. The Notes following a number of case entries convey an idea of the difficulties in categorizing follow-up replies.

219. Follow-up information provided by States parties and by petitioners or their representatives subsequent to the last annual report (A/61/40, vol. I, chap. VI) is set out in annex VII to volume II of the present annual report.

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

State party and number of cases with violation	Communication number, author and location	Follow-up response received from State party and location	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue ongoing
...						
Guyana (9)	676/1996, <i>Yasseen and Thomas</i> A/53/40	A/60/40* A/62/40			X A/60/40	X
	728/1996, <i>Sahadeo</i> A/57/40	A/60/40* A/62/40			X A/60/40	X
	838/1998, <i>Hendriks</i> A/58/40	A/60/40* A/62/40			X A/60/40	X
	811/1998, <i>Mulai</i> A/59/40	A/60/40* A/62/40			X A/60/40	X
	812/1998, <i>Persaud</i> A/61/40	A/60/40* A/62/40			X	X
	862/1999, <i>Hussain and Hussain</i> A/61/40	A/60/40* A/62/40			X	X
	867/1999, <i>Smartt</i> A/59/40	A/60/40* A/62/40			X A/60/40	X
	912/2000, <i>Ganga</i> A/60/40	A/60/40* A/62/40			X A/60/40	X
	913/2000, <i>Chan</i> A/61/40	A/60/40* A/62/40			X	
* Although the State party has not responded, there have been several meetings between the State party and the Rapporteur.						
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CCPR, CCPR/C/SR.2480 (2007)

HUMAN RIGHTS COMMITTEE

Ninetieth session

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

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

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

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

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

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

...

12. With regard to the Yassen & Thomas v. Guyana case (communication No. 676/1996), according to information received from the authors' lawyers, Mr. Yassen had died of natural causes in prison, and Mr. Thomas was still on death row. In the light of the difficulties the Committee had faced in obtaining information from Guyanese authorities, he suggested arranging a meeting with representatives of the State party, either in Geneva during the Committee's October 2007 session, or, if Guyana did not have permanent representation in Geneva, in New York during its March 2008 session.

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

20. It was so decided.

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

Annex IX

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

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

...

State party	GUYANA
Case	Yassen and Thomas, 676/1996
Views adopted on	30 March 1998
Issues and violations found	Death penalty case - Unfair trial, prolonged pretrial detention, poor conditions of detention, ill-treatment, right to life - articles 6, 10, paragraph 1, and 14, paragraph 3 (b), (c) and (e), in respect of both authors; and of article 14, paragraph 3 (b) and (d), in respect of Mr. Abdool Yasseen.
Remedy recommended	An effective remedy ... this should entail their release.
Due date for State party response	3 September 1998
Date of reply	None
State party response	None
Author's response	On 30 May 2007, the authors' lawyers (Interights) called the OHCHR to inform it that they were again pursuing the follow-up in this case, in particular follow-up to Mr. Thomas' case as he remains under sentence of death and has been on death row since 1988. Mr. Yassen apparently died of natural causes in prison in 2002.
Further action taken	The Committee will recall that during the eighty-third session (29 March 2005) the Rapporteur met with the Deputy Permanent Representative of Guyana to the United Nations. The Rapporteur explained his mandate and provided the representative with copies

of the Views adopted by the Committee in the following communications: 676/1996 (Yasseem and Thomas), 728/1996 (Sahadeo), 838/1998 (Hendriks), 811/1998 (Mulai) and 867/1999 (Smartt). The Views were also sent to the Permanent Mission of Guyana by e-mail to facilitate their transmittal to the capital. The Rapporteur expressed concern about the lack of information received from the State party regarding the implementation of the Committee's recommendations on these cases. The representative gave the Rapporteur assurances that he would inform his authorities in the capital about the Rapporteur's concerns.

The Committee may wish to consider organizing a further meeting with the State party, to discuss all of the cases of violations found against it of which there are nine and to which the State party has continually failed to respond.

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VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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

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

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

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

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

193. Follow-up information provided by States parties and by petitioners or their representatives

subsequent to the last annual report (A/62/40) is set out in annex VII to volume II of the present annual report.

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
...						
Guyana (9)	676/1996, <i>Yasseen and Thomas</i> A/53/40	A/60/40* A/62/40			X A/60/40	X
	728/1996, <i>Sahadeo</i> A/57/40	A/60/40* A/62/40			X A/60/40	X
	838/1998, <i>Hendriks</i> A/58/40	A/60/40* A/62/40			X A/60/40	X
	811/1998, <i>Mulai</i> A/59/40	A/60/40* A/62/40			X A/60/40	X
	812/1998, <i>Persaud</i> A/61/40	A/60/40* A/62/40			X	X
	862/1999, <i>Hussain and Hussain</i> A/61/40	A/60/40* A/62/40			X	X
	867/1999, <i>Smartt</i> A/59/40	A/60/40* A/62/40			X A/60/40	X
Guyana (<i>cont'd</i>)	912/2000, <i>Ganga</i> A/60/40	A/60/40* A/62/40			X A/60/40	X
	913/2000, <i>Chan</i> A/61/40	A/60/40* A/62/40			X	
* The State party has not replied but it has met several times with the Rapporteur.						

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
...						

Annex VII

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

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

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State party	GUYANA
Cases	(1) Yasseem and Thomas, 676/1996; (2) Sahadeo, 728/1996; (3) Mulai, 811/1998; (4) Persaud, 812/1998; (5) Hussain et Hussain, 862/1999, (6) Hendriks, 838/1998; (7) Smartt, 867/1999; (8) Ganga, 912/2000; (9) Chan 913/2000
Views adopted on	(1) 30 March 1998; (2) 1 November 2002; (3) 20 July 2004; (4) 21 March 2006; (5) 25 October 2005; (6) 28 October 2002; (7) 6 July 2004; (8) 1 November 2004; (9) 25 October 2005.
Issues and violations found	<ol style="list-style-type: none">1. Death penalty case. Unfair trial, inhuman or degrading treatment resulting in forced confessions, conditions of detention - articles 10 paragraph 1, 14, paragraph 3 (b), (c), (e), in respect of both authors; 14, paragraph 3 (b), (d) in respect of Mr. Yasseen.2. Prolonged pretrial detention - articles 9, paragraph 3, 14, paragraph 3 ©.3. Death penalty after unfair trial - articles 6 and 14, paragraph 1.4. Death penalty, death row phenomenon - article 6, paragraph 1.5. Death penalty - mandatory nature - article 6, paragraph 1.6. Death penalty following unfair trial and mistreatment - articles 9, paragraph 3 and 14, paragraph 3 (c), (d) and (e) and consequently of 6.7. Death penalty after unfair trial - articles 6, and 14,

paragraph 3 (d).

8. Fair trial (compelled to testify against self) - articles 6, and 14, paragraphs 1, 3 (g).

9. Death penalty - article 6, paragraph 1.

Remedy recommended

1. Under article 2, paragraph 3 (a), of the Covenant, Messrs. Abdool S. Yasseen and Noel Thomas are entitled to an effective remedy. The Committee considers that in the circumstances of their case, this should entail their release.

2. The Committee is of the view that Mr. Sahadeo is entitled, under article 2, paragraph 3 (a), to an effective remedy, in view of the prolonged pretrial detention in violation of article 9, paragraph 3, and the delay in the subsequent trial, in violation of article 14, paragraph 3 (c), entailing a commutation of the sentence of death and compensation under article 9, paragraph 5, of the Covenant.

3. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide Bharatraj and Lallman Mulai with an effective remedy, including commutation of their death sentences.

4. Effective remedy, including commutation of his death sentence.

5. Effective remedy including commutation of sentence.

6. In accordance with article 2, paragraph 3, of the Covenant, the author's son is entitled to an effective remedy, including the commutation of his death sentence.

7. An effective remedy, including release or commutation.

8. An effective remedy, including commutation of their death sentence.

Due date for State party response

(1) 3 September 1998; (2) 21 March 2002; (3) 1 November 2004; (4) 6 November 2006; (5) 9 March 2006; (6) 10 March 2003; (7) 10 October 2004; (8) 10 March 2004; (9) 9 March 2006.

State party response

No reply to any of these Views.

Further action

Action taken: During the eighty-third session (29 March 2005) the

taken/required

Rapporteur met with the Deputy Permanent Representative of Guyana to the United Nations. The Rapporteur explained his mandate and provided the representative with copies of the Views adopted by the Committee in the following communications: 676/1996 (Yasseem and Thomas); 728/1996 (Sahadeo); 838/1998 (Hendriks); 811/1998 (Mulai); and 867/1999 (Smartt). The Views were also sent to the Permanent Mission of Guyana by e-mail to facilitate their transmittal to the capital. The Rapporteur expressed concern about the lack of information received from the State party regarding the implementation of the Committee's recommendations on these cases. The representative gave the Rapporteur assurances that he would inform his authorities in the capital about the Rapporteur's concerns.

On 31 March 2008, the Rapporteur on follow-up, Mr. I. Shearer, met with Ms. Donette Critchlow, member of the Permanent Mission of Guyana to the United Nations in New York. Mr. Shearer observed that, despite repeated requests, the Committee had never received information from the State party regarding follow-up to the nine cases on which Views had been adopted. Furthermore, the Committee was also concerned at alleged recent statements by the President of Guyana according to which he intends to resume signing death warrants and expediting execution dates.

Ms. Critchlow said she was not in a position to react to Mr. Shearer's concerns, but she would convey his message to the capital. She did not deny that the above-mentioned statements had been made. Rather, she said that there had never been an official moratorium on the death penalty and that executions might resume in view of the recent increase of murder cases. Despite several reminders sent on behalf of the Secretariat for information on follow-up to these cases, none has been forthcoming.

Author's response

With regard to communication No. 811/1998 (Mulai), the lawyer informed the Committee by letter dated 6 June 2005 that no measures had been taken by the State party to implement the Committee's recommendation.

Committee's Decision

The Committee considers the dialogue in all of these cases ongoing.

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VI. FOLLOW UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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

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

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

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

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

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

236. Follow-up information provided by States parties and by petitioners or their representatives

subsequent to the last annual report (A/63/40) is set out in annex IX to volume II of the present annual report.

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
...						
Guyana (9)	676/1996, <i>Yasseen and Thomas</i> A/53/40	A/60/40* A/62/40			X A/60/40	X
	728/1996, <i>Sahadeo</i> A/57/40	A/60/40* A/62/40			X A/60/40	X
	838/1998, <i>Hendriks</i> A/58/40	A/60/40* A/62/40			X A/60/40	X
	811/1998, <i>Mulai</i> A/59/40	A/60/40* A/62/40			X A/60/40	X
	812/1998, <i>Persaud</i> A/61/40	A/60/40* A/62/40			X	X
	862/1999, <i>Hussain and Hussain</i> A/61/40	A/60/40* A/62/40			X	X
	867/1999, <i>Smartt</i> A/59/40	A/60/40* A/62/40			X A/60/40	X

State party and number of cases with violation	Communication number, author and relevant Committee report	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No response	Follow-up dialogue ongoing
	912/2000, <i>Ganga</i> A/60/40	A/60/40* A/62/40			X A/60/40	X
	913/2000, <i>Chan</i> A/61/40	A/60/40* A/62/40			X	
* The State party has not replied but it has met several times with the Rapporteur.						
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