

JAMAICA

Follow-up - Jurisprudence Action by Treaty Bodies

CCPR CCPR/C/SR.1439 (1995)

COMITE DES DROITS DE L'HOMME

Cinquante-quatrième session

COMPTE RENDU ANALYTIQUE DE LA PREMIERE PARTIE (PUBLIQUE)*

DE LA 1439ème SEANCE

SUIVI DES CONSTATATIONS ADOPTEES AU TITRE DU PARAGRAPHE 4 DE L'ARTICLE 5 DU PROTOCOLE FACULTATIF SE RAPPORTANT AU PACTE (point 6 de l'ordre du jour)

Rapport du Rapporteur spécial chargé du suivi des constatations concernant la mission qu'il a effectuée à la Jamaïque (CCPR/C/54/R.8)

1. Le PRESIDENT invite M. Mavrommatis, Rapporteur spécial chargé du suivi des constatations, à présenter son rapport (CCPR/C/54/R.8).
2. M. MAVROMMATIS rappelle que le Comité a décidé, à sa cinquante-deuxième session, d'envoyer une mission à la Jamaïque. Cette mission a eu lieu du 24 au 30 juin 1995. M. Mavrommatis saisit l'occasion pour remercier tous les membres du Secrétariat qui ont participé à sa préparation et contribué à son bon déroulement, et il adresse des remerciements tout particuliers à M. de Zayas, qui l'a accompagné à la Jamaïque. Il remercie également M. Francis, membre du Comité, qui lui a apporté une aide précieuse dans plusieurs domaines. Enfin, M. Mavrommatis tient à exprimer sa reconnaissance au représentant permanent de la Jamaïque auprès de l'Office des Nations Unies, dont les conseils judicieux ont contribué au bon accomplissement de la mission. Cela étant dit, M. Mavrommatis fait observer que la principale difficulté à laquelle se sont heurtés les organisateurs a été d'obtenir un financement adéquat de la part de l'Organisation des Nations Unies.
3. L'objectif premier de la mission était de faire en sorte que toutes les peines capitales qui ont été prononcées à la Jamaïque soient commuées le plus rapidement possible.
4. Il semble que l'un des problèmes les plus graves auxquels sont confrontées les autorités jamaïquaines soit le surpeuplement des établissements pénitentiaires. Toutefois, il paraîtrait qu'à la date de la fin de la mission, le nombre des personnes détenues dans le quartier des condamnés à mort était le plus faible qui ait été enregistré depuis plusieurs années. La mission avait également pour objectif de veiller à ce que les détenus obtiennent réparation, le cas échéant. D'une façon plus générale, le Rapporteur spécial estime qu'il était essentiel de saisir l'occasion afin de mieux connaître non seulement la procédure judiciaire, mais également tous les mécanismes et structures qui sont en place dans le pays, ainsi que les méthodes qui y sont appliquées et leur degré d'efficacité. Enfin, il était aussi très important de déterminer dans quel

contexte social et économique s'inscrit la protection des droits de l'homme à la Jamaïque.

5. M. Mavrommatis s'est d'abord penché sur la situation pénitentiaire. A ce propos, il salue l'attitude des autorités jamaïquaines, qui ont coopéré de façon exemplaire avec la mission et ont accédé à toutes ses demandes. Cette coopération est d'autant plus remarquable que, dans de très nombreuses communications émanant de Jamaïquains, les autorités s'étaient abstenues de coopérer avec le Comité des droits de l'homme. M. Mavrommatis espère que les autorités jamaïquaines maintiendront à l'avenir l'attitude positive qu'elles ont manifestée à son égard. Cela est d'autant plus important qu'à un moment ou à un autre le Comité sera vraisemblablement saisi du cas de chacun des détenus qui se trouvent dans le quartier des condamnés à mort à la Jamaïque.

6. M. Mavrommatis souligne également que le Ministre d'Etat aux affaires étrangères a fait preuve d'une grande courtoisie et a prêté une oreille attentive à ses demandes et observations. En particulier, il a donné aux fonctionnaires jamaïquains compétents des instructions qui visaient à favoriser le dialogue avec le Comité et à ce qu'il soit davantage tenu compte des constatations de ce dernier.

7. Pour ce qui est du Ministère de la sécurité nationale et de la justice, il ressort des entretiens que M. Mavrommatis a eus avec les différents responsables qu'il existe au sein de la population jamaïquaine un courant favorable au maintien de la peine de mort et au renforcement des sanctions. Il en va d'ailleurs de même dans un certain nombre d'autres pays. Le Ministère de la sécurité nationale et de la justice est à l'évidence sensible à cette tendance; M. Mavrommatis n'a pas manqué de rappeler à ses interlocuteurs que les gouvernements avaient pour mission d'éclairer la population et devaient jouer un rôle d'avant-garde dans la protection des droits de l'homme, sans céder aux pressions populaires en faveur de l'aggravation des peines. M. Mavrommatis fait observer que les responsables du bureau de l'Attorney General étaient d'avis que les constatations du Comité n'étaient que de simples recommandations et n'avaient aucun caractère contraignant. Cela n'a pas empêché toutefois une discussion intéressante à propos de certaines communications jamaïquaines, et M. Mavrommatis s'est vu assurer que la plupart des constatations dans lesquelles le Comité demande aux autorités d'accorder une réparation seraient suivies d'effet.

8. M. Mavrommatis a constaté avec satisfaction que le Président de la Cour d'appel, M. Rattray, ne partageait pas les vues de l'Attorney General quant aux obligations internationales de la Jamaïque, en particulier pour ce qui est de la suite à donner aux constatations du Comité. M. Mavrommatis estime que, en ce qui concerne cette juridiction tout au moins, les accusés seront selon toute vraisemblance systématiquement défendus par un conseil à l'avenir.

9. M. Mavrommatis se félicite également du dialogue qui a eu lieu avec le médiateur parlementaire (ombudsman). M. Mavrommatis a eu librement accès à ses dossiers et, d'après ce qu'il a pu en juger, le médiateur exerce un rôle utile. Toutefois, là encore, le problème le plus aigu est celui de la pénurie de ressources financières. C'est d'ailleurs ce qui explique également que le dernier rapport publié par le médiateur remonte à cinq ou six ans.

10. M. Mavrommatis conclut en disant que la mission a permis d'obtenir une foule d'informations sur la procédure judiciaire, l'aide judiciaire, les conditions de retrait d'une

demande de recours, et bien d'autres questions. En ce sens, la mission a été un succès. Elle a aussi, et peut-être surtout, montré combien il y a intérêt à nouer des contacts directs et personnels avec les responsables en se rendant directement dans le pays concerné.

11. M. Mavrommatis rappelle enfin que le Comité a décidé que les débats relatifs à la procédure de suivi de ses constatations se dérouleraient dans le cadre de séances publiques, à moins qu'il n'en dispose autrement. Toutefois, M. Mavrommatis suggère dans son rapport (CCPR/C/54/R.8) de ne pas diffuser largement ce rapport pour le moment, et de lui conserver un caractère confidentiel.

12. M. BRUNI CELLI félicite M. Mavrommatis pour son rapport (CCPR/C/54/R.8), dont il voudrait toutefois connaître le statut exact : sera-t-il porté à la connaissance des autorités jamaïquaines ou s'agit-il d'un document du Comité à usage interne ? Cette question revêt une certaine importance, compte tenu en particulier du fait que le rapport expose une série de considérations "objectives", comme l'insuffisance des ressources financières de l'administration pénitentiaire. M. Bruni Celli se demande si un document dans lequel des difficultés financières sont invoquées pour expliquer l'inobservation des obligations internationales d'un l'Etat partie devrait constituer un document officiel du Comité. Il rappelle en outre que, dans la plupart des communications jamaïquaines, il est fait état de mauvais traitements infligés aux détenus par le personnel pénitentiaire. Or le rapport de M. Mavrommatis ne fait aucune allusion à la torture et aux mauvais traitements. S'il doit constituer une analyse du fonctionnement du système pénitentiaire jamaïquain, il conviendrait alors qu'y soit traitée la question relative à ces pratiques.

13. En ce qui concerne la "vox populi" favorable à l'aggravation des peines, M. Bruni Celli rappelle que des membres du Comité ont exprimé une position claire sur cette question dans le cadre de l'examen du quatrième rapport périodique de l'Ukraine (CCPR/C/95/Add.2; voir le CCPR/C/SR.1419).

14. Plus généralement, M. Bruni Celli relève un écart important entre les propos des responsables du bureau de l'Attorney General et ceux du Président de la Cour d'appel. A ce sujet, il est surpris de constater que M. Patrick Robinson, Deputy Solicitor General de la Jamaïque mais également membre de la Commission interaméricaine des droits de l'homme, considère que les constatations du Comité ne sont que de simples recommandations n'ayant aucun caractère contraignant.

15. M. MAVROMMATIS insiste sur le fait que, à son sens, le rapport sur la mission qu'il a effectuée à la Jamaïque devrait garder pour l'heure un caractère confidentiel. Ce rapport a été établi à l'intention des seuls membres du Comité. M. Mavrommatis rappelle par ailleurs que le jugement que le Comité portera sur sa mission apparaîtra dans le texte du rapport annuel de ce dernier, et plus précisément dans la partie consacrée aux activités de suivi.

16. M. LALLAH convient avec M. Mavrommatis que la teneur du rapport ne devrait pas être divulguée à l'extérieur pour le moment. Toutefois, il tient à replacer le rapport dans le contexte plus général des activités du Comité relatives au Protocole facultatif. A ce propos, il considère que la mission effectuée par M. Mavrommatis reflète un net progrès. Il fait observer par ailleurs que le Comité pourrait fort bien se trouver à nouveau saisi d'une multitude de communications mettant en cause un Etat partie qui s'abstiendrait de coopération avec lui, et il serait alors

contraint d'effectuer la même démarche que dans le cas de la Jamaïque. M. Lallah félicite M. Mavrommatis pour son rapport, qui permet de mieux comprendre la situation à la Jamaïque, et qui contribuera sans nul doute à faire en sorte que les recommandations du Comité soient mieux appliquées par l'Etat partie. Le secrétariat doit également être vivement remercié, ainsi que M. Francis, dont l'assistance a été à l'évidence fort précieuse. M. Lallah conclut en suggérant que le Comité adresse une lettre aux autorités jamaïquaines pour les remercier de la façon extrêmement satisfaisante dont elles ont coopéré avec le Rapporteur spécial.

17. M. Aguilar Urbina prend la présidence.

18. Mme EVATT estime, elle aussi, que le rapport de M. Mavrommatis permet de mieux comprendre la situation jamaïquaine. Elle est également d'avis que ledit rapport devrait rester confidentiel et, contrairement à ce que suggère M. Mavrommatis dans le dernier paragraphe, ne pas être communiqué à l'Etat partie, car certains éléments d'évaluation sont formulés de telle manière qu'ils pourraient compromettre l'évolution des relations avec les autorités jamaïquaines.

19. Le PRESIDENT croit comprendre que l'ensemble des membres du Comité considère le rapport de M. Mavrommatis comme un document à usage strictement interne, qui ne devrait pas être communiqué à l'Etat partie pour le moment. Il croit comprendre également que les membres du Comité souhaitent poursuivre l'examen dudit rapport dans le cadre d'une séance privée.

20. Il en est ainsi décidé.

IX. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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Follow-up mission by the Special Rapporteur to Jamaica, June 1995

557. In accordance with his mandate under rule 95 of the rules of procedure, the Special Rapporteur conducted his first mission in the context of the follow-up procedure. From 24 to 30 June 1995, he visited Jamaica and held discussions with the Jamaican Government, judicial authorities, and non-governmental organizations.

558. During his mission, the Special Rapporteur had the opportunity to meet many government officials and representatives of the judiciary and the penitentiary system, as well as the Governor-General of Jamaica. He appreciates the spirit of cooperation and the frankness of the exchanges which characterized the entire mission.

559. The Special Rapporteur thoroughly discussed the status of implementation of the Committee's Views adopted in respect of Jamaica with the authorities. He was informed of the constitutional and legal constraints which have tended to make it difficult for the State party to implement fully the Committee's Views. None the less, many death sentences had recently been commuted, and the Minister for Foreign Affairs pledged full cooperation with the Committee and the Special Rapporteur under the follow-up procedure.

560. At other levels, the Special Rapporteur was told that the Jamaican Government considers the Committee's Views to be mere recommendations, thereby implying a reluctance to comply with the Views. The Special Rapporteur did indicate, while acknowledging the State party's readiness to "consider" the Committee's Views, that compliance with its Views still left much to be desired.

561. Finally, the Special Rapporteur was able to ascertain the efforts undertaken by the Jamaican Government to improve certain aspects of the administration of justice. He was informed about efforts to improve prison facilities in general and sanitary conditions in particular; about improvements in the examination of allegations of prisoner abuse by wardens and the payment of compensation to inmates, where appropriate; about improvements relating to the availability of written judgements of the Court of Appeal of Jamaica; about better medical care in the penitentiary system; and about draft legislation currently under consideration which would greatly improve the system of legal aid in capital cases. The Special Rapporteur expresses his hope that these reforms or improvements will be implemented and effected with all due speed.

562. On 25 July 1995, the Special Rapporteur reported to the Committee on his mission to Jamaica. Following its discussion on the mission, the Committee, noting the improved compliance by Jamaica with its Views, requested the Special Rapporteur to continue his contacts with the Government of Jamaica, with a view to ensuring that Jamaica achieves a greater degree of compliance with the Committee's decisions. In this context, the Special Rapporteur recalled

that formal follow-up replies remained outstanding in respect of 18 Views, and noted that the State party had promised to forward the outstanding replies with all due speed.

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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429. A country-by-country breakdown of follow-up replies received or requested and outstanding as at 26 July 1996 provides the following picture:

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Jamaica: Thirty-six views finding violations; 12 detailed follow-up replies received, all indicating that the State party would not implement the Committee's recommendations; no follow-up replies, or "standardized" replies, indicating merely that the author's death sentence had been commuted on the basis of reclassification of the offence or as a result of the Privy Council judgment of 2 November 1993 in Pratt and Morgan in 22 cases. Follow-up consultations with the State party's representatives to the United Nations were conducted during the fifty-third, fifty-fifth and fifty-sixth sessions (see paras. 446-448). Prior to the Committee's fifty-fourth session, the Special Rapporteur for the Follow-Up on Views conducted a follow-up fact-finding mission to Jamaica

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Overview of the Special Rapporteur's follow up consultations

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446. Both during the fifty-fifth and the fifty-sixth sessions, the Special Rapporteur held detailed consultations with the Permanent Representatives of Jamaica to the United Nations Office at Geneva and to the United Nations in New York. In Geneva, the Special Rapporteur thanked the Permanent Representative for his assistance and cooperation in the preparation and conduct of the follow-up mission to Jamaica in June 1995. He expressed appreciation for two detailed submissions dated 27 July and 11 September 1995, in which the Government had provided him with a list of inmates whose death sentences had been commuted. He noted, however, that those replies could not be deemed to constitute the "detailed follow-up replies" in respect of every case which the authorities had promised to prepare during his visit to Jamaica. Furthermore, the lists that had been provided were incomplete in that they had omitted a number of cases in respect of which the Committee had adopted views and found violations of the Covenant.

447. In New York, during the fifty-sixth session, the Special Rapporteur inquired whether compensation had already been granted to victims of ill-treatment on death row or in detention in all the views in which the Committee had found violations of articles 7 and 10 of the Covenant. The Permanent Representative replied that the issue was still under discussion and review and that no official reply had been received. As to the follow-up on cases in which the Committee had recommended release of the victim or commutation of the death sentence, she indicated that some review of the Committee's recommendations had taken place in the Jamaican Privy

Council but that no recommendation for release had yet been made.

448. The Special Rapporteur suggested, inter alia, that the Committee's recommendations for release should be taken into account when deciding on a prisoner's eligibility for parole. All those cases in which the Committee had recommended release should be kept under review by the Office of the Governor-General of Jamaica or by the State party's Parole Board. Concerning the recent "standardization" of follow-up replies - a development regretted by the Special Rapporteur - the Permanent Representative observed that the standardization was largely a function of lack of personnel in the Jamaican Foreign Ministry. Finally, the Special Rapporteur requested a written update in respect of at least all the cases concerning ill-treatment of prisoners on death row or in detention. Those replies had not been received by 26 July 1996.

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Concern over instances of non-cooperation under the follow-up mandate

463. In spite of the progress in collecting follow-up information since the adoption of the last annual report, the Committee and the Special Rapporteur note with concern that a number of countries did not provide any follow-up information within the deadlines established by the Committee or have not replied to reminders or requests for information from the Special Rapporteur. The States that have not replied to requests for follow-up information are the following:

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Jamaica (no reply in respect of five cases);

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464. The Special Rapporteur urges these States parties to reply to his requests for follow-up information within the imparted deadlines.

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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524. A country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1997 provides the following picture (Views in which the deadline for receipt of follow-up information had not yet expired have not been included):

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Jamaica: 48 Views finding violations: 9 detailed follow-up replies received, all indicating that State party will not implement the Committee's recommendations; 26 follow-up replies, or "standardized" replies, indicating merely that author's death sentence has been commuted on the basis of reclassification of the offence or as a result of the Privy Council judgement of 2 November 1993 in Pratt and Morgan. No follow-up replies in 13 cases. Follow-up consultations with the State party's representatives to the United Nations were conducted during the fifty-third, fifty-fifth, fifty-sixth and sixtieth sessions. Prior to the Committee's fifty-fourth session, the Special Rapporteur for the Follow-up on Views conducted a follow-up fact-finding mission to Jamaica (see 1995 Report, 16/ paras. 557-562).

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

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541. Jamaica: On 25 July 1997, the Special Rapporteur met with the Minister Counsellor of the Permanent Mission of Jamaica to the United Nations Office at Geneva to discuss the State party's failure to follow up on the Committee's recommendations in a large number of Views adopted in respect of Jamaica. He pointed out that while Jamaica had made progress insofar as submission of information on cases pending under the Optional Protocol was concerned, it had failed to reply to numerous requests for follow-up information formulated in Views adopted since the fifty-sixth session (March-April 1996). The Special Rapporteur explained that the Views adopted in respect of Jamaica could be divided into two categories: those with findings of violations of article 14 of the Covenant, because of procedural deficiencies, and those with findings of a violation of articles 7 and 10, on the grounds of inhuman conditions of detention or ill-treatment of detainees on death row. It was regrettable that the State party had failed to take any measures to effect compensation to the victims in the latter category of cases: it was incumbent upon Jamaica to grant some form of compensation to the victim(s) of violations of articles 7 and 10, even if nominal, and to so inform _____

16/ [Official Record of the General Assembly], Fiftieth Session, Supplement No. 40 (A/50/40).

the Committee. At the same time, while it was understandable that the recommended remedy of

release of the victim(s) might be difficult for the Government to implement, the State party should nonetheless provide the Committee with some information about which type of remedy, if any, had been granted to the victim(s).

542. The Minister Counsellor noted that the overwhelming support of the Jamaican population for capital punishment made it difficult for the Jamaican Government to implement the Committee's recommendation(s) asking for release of the victim(s) sentenced to death upon the conclusion of trials considered to have been unfair. She promised to convey the Special Rapporteur's concern regarding the lack of compensation for victims of violations of articles 7 and 10 to the Attorney-General's Office in Kingston; in the latter respect, she considered some positive action on the part of the Government to be possible.

Concern over instances of non-cooperation under the follow-up mandate

554. In spite of some progress in collecting follow-up information since the adoption of its 1996 Report, the Committee and the Special Rapporteur note with concern that a number of countries did not provide any follow-up information within the deadlines established by the Committee or have not replied to reminders or requests for information from the Special Rapporteur. Those States which have not replied to requests for follow-up information are the following (in alphabetical order):

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Jamaica: 13 cases;

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555. The Committee urges those States parties to reply to the Special Rapporteur's requests for follow-up information within the deadlines that have been set.

VIII. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

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486. The Committee's previous report (A/52/40) contained a detailed country-by-country breakdown of follow-up replies received or requested and outstanding as of 30 June 1997. 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 previous report. This is because the resources available for the Committee's work were considerably reduced in the current year, preventing it from undertaking a comprehensive systematic follow-up programme.

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Jamaica: 57 Views finding violations: 9 detailed follow-up replies received, all indicating that State party will not implement the Committee's recommendations; 26 follow-up replies, or "standardized" replies, indicating merely that author's death sentence has been commuted on the basis of reclassification of the offence or as a result of the Privy Council judgement of 2 November 1993 in the Pratt and Morgan case. No follow-up replies in 22 cases. Follow-up consultations with the State party's representatives to the United Nations were conducted during the fifty-third, fifty-fifth, fifty-sixth and sixtieth sessions. Prior to the Committee's fifty-fourth session, the Special Rapporteur for the Follow-up on Views conducted a follow-up fact-finding mission to Jamaica (see 1995 Report (A/50/40), paras. 557-562).

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Concern over the follow-up mandate

510. The Committee again expresses its regret that its recommendations, formulated in its 1995, 1996 and 1997 Reports, to the effect that at least one follow-up mission per year be budgeted by the Office of the United Nations High Commissioner for Human Rights, have still not been implemented. Similarly, the Committee considers that staff resources to service the follow-up mandate remain inadequate, despite the Committee's repeated requests, and that this prevents the proper and timely conduct of follow-up activities, including follow-up missions. In this context, the Committee expresses serious concern that, because of the lack of staff, no follow-up consultations could be organized during its sixty-second session or at its sixty-third session. It is for this reason that the Committee is unable to include in the present report a complete list of States which have failed to cooperate under the follow-up procedure. States listed in the previous year's report for which replies are still outstanding are ... Jamaica ...

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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Jamaica: Eighty Views finding violations: 19 detailed follow-up replies received, of which 17 indicate that State party will not implement the Committee's recommendations; one promised to investigate, and one announced the author's release (see below); 35 general replies, indicating merely that authors' death sentences had been commuted. No follow-up replies in 26 cases. Follow-up consultations with the State party's Permanent Representatives to the United Nations and to the United Nations Office at Geneva were conducted during the fifty-third, fifty-fifth, fifty-sixth and sixtieth sessions. Prior to the Committee's fifty-fourth session, the Special Rapporteur for the follow-up on Views conducted a follow-up fact-finding mission to Jamaica (A/50/40, paras. 557-562).

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

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470. Jamaica. Several follow-up replies from the Government of Jamaica were received in the reporting period, most of them indicating that it could not follow the Committee's recommendation. In case No. 592/1994 - Clive Johnson, the State party, by submission of 26 March 1999, informed the Committee that its Privy Council had supported the Committee's Views and that the author's release was imminent.

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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Jamaica: Ninety-one Views finding violations: 24 detailed follow-up replies received, of which 19 indicate that the State party will not implement the Committee's recommendations, two promised to investigate, and one announced the author's release (see A/54/40, para. 470); 36 general replies, indicating merely that the authors' death sentences had been commuted. No follow-up replies in 32 cases. Follow-up consultations with the State party's Permanent Representatives to the United Nations and to the United Nations Office at Geneva were conducted during the fifty-third, fifty-fifth, fifty-sixth and sixtieth sessions. Prior to the Committee's fifty-fourth session, the Special Rapporteur for the follow-up on Views conducted a follow-up fact-finding mission to Jamaica (A/50/40, paras. 557-562). See further below.

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

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

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.

...

Jamaica: Ninety-one Views finding violations: 25 detailed follow-up replies received, of which 19 indicate that the State party will not implement the Committee's recommendations, two promise to investigate and one announces the author's release (see A/54/40, para. 470); 36 general replies, indicating merely that the authors' death sentences had been commuted. No follow-up replies in 30 cases. Follow-up consultations with the State party's Permanent Representatives to the United Nations and to the United Nations Office at Geneva were conducted during the fifty-third, fifty-fifth, fifty-sixth and sixtieth sessions. Prior to the Committee's fifty-fourth session, the Special Rapporteur for the follow-up on Views conducted a follow-up fact-finding mission to Jamaica (A/50/40, paras. 557-562). See further A/55/40, paragraph 611, and below. Note verbale of 4 July 2001 concerning case No. 668/1995, see below.

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

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189. Jamaica: With regard to case No. 680/1996 - Gallimore, the Committee received a note verbale dated 27 November 2000, informing the Committee that a Court of Appeal Judge has reheard the case (with the benefit of submissions made by Counsel) and has ruled that the author must serve 20 years as of 18 February 1988 before being eligible to apply for parole.

190. With regard to case No. 759/1997, Osbourne, the Committee received a note verbale, dated 24 November 2000, to the effect that the sentence of whipping had been remitted. By note verbale of 4 July 2001 concerning case No. 668/1995 - Smith and Stewart, the State party indicates that Mr. Smith is now eligible to apply for parole and that the date of eligibility was advanced by six years.

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.

...

Jamaica: Views in 93 cases with findings of violations:

25 detailed follow-up replies received, of which 19 indicate that the State party will not implement the Committee's recommendations, two promise to investigate and one announces the author's release (see A/54/40, paragraph 470); 36 general replies, indicating merely that the authors' death sentences had been commuted. No follow-up replies in 31 cases. Follow-up consultations with the State party's Permanent Representatives to the United Nations and to the United Nations Office at Geneva were conducted during the fifty-third, fifty-fifth, fifty-sixth and sixtieth sessions. Prior to the Committee's fifty-fourth session, the Special Rapporteur for the follow-up on Views conducted a follow-up fact-finding mission to Jamaica (A/50/40, paras. 557-562). See further A/55/40, paragraph 611, and below. Note verbale of 4 July 2001 concerning case Smith & Stewart v. Jamaica, No. 668/1995, see A/56/40, paragraph 190;

792/1998 - Higginson (annex IX); follow-up reply not yet due.

...

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.

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

230. The Committee welcomes the follow-up replies that have been received during the reporting period and expresses its appreciation for all the measures taken or envisaged to provide victims of violations of the Covenant with an effective remedy. It encourages all States parties

which have addressed preliminary follow-up replies to the Special Rapporteur to conclude their investigations in as expeditious a manner as possible and to inform the Special Rapporteur of their results. The follow-up replies received during the period under review and other developments are summarized below.

...

242. Jamaica: With regard to case No. 695/1996 - Simpson (annex IX), the author's counsel informed the Committee by letter of 18 February 2002 that his death sentence had been commuted in 1998, but that his non-parole period had still not been determined by the Jamaican Court of Appeal, leaving him still (after seven years of imprisonment) ineligible for parole. The author is also suffering from worsening health conditions, which the State party had not taken steps to alleviate.

...

CHAPTER VI. Follow-up activities under the Optional Protocol

...

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.*

...

Jamaica: Views in 93 cases with findings of violations:

Twenty-five detailed follow-up replies received, of which 19 indicate that the State party will not implement the Committee's recommendations, two promise to investigate and one announces the author's release (see A/54/40, para.470); 36 general replies, indicating merely that the authors' death sentences had been commuted. No follow-up replies in 31 cases. Follow-up consultations with the State party's Permanent Representatives to the United Nations and to the United Nations Office at Geneva were conducted during the fifty-third, fifty-fifth, fifty-sixth and sixtieth sessions.

Prior to the Committee's fifty-fourth session, the Special Rapporteur for the follow-up on Views conducted a follow-up fact-finding mission to Jamaica (see A/50/40, paras. 557-562). See further A/55/40, paragraph 611 and below. Note verbale of 4 July 2001 concerning case No. 668/1995 (*Smith and Stewart v. Jamaica*); see A/56/40, paragraph 190;

695/1996 - *Simpson* (A/57/40); follow-up reply received on 18 June 2003, see paragraph 241 below; for counsel's submission, see A/57/40, paragraph 241.

792/1998 - *Higginson* (A/57/40); follow-up reply not yet received.

...

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

224. The Committee welcomes the follow-up replies that have been received during the reporting period and expresses its appreciation for all the measures taken or envisaged to provide victims of violations of the Covenant with an effective remedy. It encourages all States parties that have addressed preliminary follow-up replies to the Special Rapporteur to conclude their

investigations in as expeditious a manner as possible and to inform the Special Rapporteur of their results. The follow-up replies received during the period under review and other developments are summarized below.

...

241. **Jamaica:** case No. 695/1996 - *Devon Simpson* (A/57/40): by note verbale of 18 June 2003, the State party informed the Committee that Mr. Simpson had complained to the prison authorities about health problems and had received medical attention. To date he had had 25 medical appointments, which was consistent with prison regulations and the United Nations Standard Minimum Rules for the Treatment of Prisoners; his conditions of detention were improved, and he was removed from the St. Catherine District Prison to the South Camp Road Correctional Centre - allegedly the best facility on the island - in September 2002. The State party contended that it was for the local courts to decide on Mr. Simpson's parole eligibility.

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.

CCPR CCPR/C/80/FU/1 (2004)

Follow-Up Progress Report submitted by The Special Rapporteur for Follow-Up on Views

Follow-up progress report

1. The current report updates the previous Follow-up Progress Report, (CCPR/C/71/R.13) [*Ed. Note: CCPR/C/71/R.13 is not publicly available*] which focused on cases in which, by the end of February 2001, no or only incomplete follow-up information had been received from States parties, or where follow-up information challenged the findings and recommendations of the Committee. In an effort to reduce the size of the follow-up report, this current report only reflects cases in which information was received from either the author or the State party from 1 March 2001 to 2 April 2004. It is the intention of the Special Rapporteur to update this report on an annual basis.

...

JAMAICA:

Smith & Stewart v. Jamaica, Case no. 668/1995, Views adopted on 8 April 1999

Violations found: Articles 14, paragraphs 3 (c), (d), and 5, 7, 10, paragraph 1 and 14, paragraph 3 (c).

Issues of case: no effective representation on appeal (Mr. Smith only); delay in hearing the appeal; conditions of detention and lack of medical treatment (Mr. Stewart only)

Remedy recommended: Compensation to both authors; release of Mr. Smith

Deadline for State party follow-up information: 15 August 1999

Follow-up information received from State party: By note verbale of 4 July 2001, the State party indicated that Mr. Smith is now eligible to apply for parole, and that the date of eligibility has been advanced by six years.

Follow-up information received from author: None

Special Rapporteur's recommendation: Further information should be requested from the State party on the issue of compensation.

Simpson v. Jamaica, Case no. 695/1996, Views adopted on 31 October 2001

Violations found: Articles 10, and 14, paragraph 3(d)

Issues of case: Conditions of detention and absence of lawyer during the hearing of witnesses

Remedy recommended: Compensation, an improvement in the present conditions of detention and due consideration of early release.

Deadline for State party follow-up information: 5 February 2002

Follow-up information received from State party: By note verbale of 18 June 2003, the State party informed the Committee that the author's conditions of detention have improved since he was removed from St. Catherine Adult Correctional Centre to the South Camp Road Adult Correctional Centre in September 2002, which is a better facility. He has been receiving regular medical attention and has had 25 medical appointments. The Registrar of the Court of Appeal is in the process of making arrangements to have the question of the author's eligibility for parole to be heard before a single judge of that court. He is awaiting the assignment of legal aid to the author.

Follow-up information received from author: By letters of 18 February 2002 and 10 November 2003, author's counsel informed the Committee that the Court of Appeal had still not reviewed the author's non-parole period, leaving him still ineligible for parole. To counsel's knowledge, the State party has not taken steps towards finding a remedy for the author's medical problems.

Special Rapporteur's recommendations: Updated information is to be requested of the State party, including information on his current state of health.

...

CHAPTER VI. FOLLOW-UP ACTIVITIES UNDER THE OPTIONAL PROTOCOL

...

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.*

...

Jamaica: Views in 97 cases with findings of violations:

Twenty-five detailed follow-up replies received, of which 19 indicate that the State party will not implement the Committee's recommendations, two promise to investigate and one announces the author's release (see A/54/40, para. 470); 36 general replies, indicating merely that the authors' death sentences had been commuted. No follow-up replies in 31 cases. Follow-up consultations with the State party's Permanent Representatives to the United Nations and to the United Nations Office at Geneva were conducted during the fifty-third, fifty-fifth, fifty-sixth and sixtieth sessions. Prior to the Committee's fifty-fourth session, the Special Rapporteur for the follow-up on Views conducted a follow-up fact-finding mission to Jamaica (see A/50/40, paras. 557-562). See further A/55/40, paragraph 611. Concerning the note verbale of 4 July 2001 regarding case No. 668/1995 (*Smith and Stewart v. Jamaica*), see A/56/40, paragraph 190. In the follow-up report (CCPR/C/80/FU1), adopted by the Committee during its eightieth session, the Special Rapporteur recommended that further information should be requested of the State party on the issue of compensation;

695/1996 - *Simpson* (A/57/40); follow-up reply received on 18 June 2003, see A/58/40, paragraph 241; for counsel's submission, see A/57/40, paragraph 241 and paragraph 242 below; in the follow-up report (CCPR/C/80/FU1), adopted by the Committee during its eightieth session, the Special Rapporteur recommended that updated information be requested of the State party, including information on the author's health;

792/1998 - *Higginson* (A/57/40); follow-up reply not yet received;

793/1998 - *Pryce* (annex IX); follow-up not yet due;

796/1998 - *Reece* (A/58/40); follow-up reply not yet received;

797/1998 - *Lobban* (annex IX); follow-up not yet due;

798/1998 - *Howell* (annex IX); follow-up reply not yet received.

...

OVERVIEW OF FOLLOW-UP REPLIES RECEIVED DURING THE REPORTING PERIOD,
SPECIAL RAPPORTEUR'S FOLLOW-UP CONSULTATIONS AND OTHER
DEVELOPMENTS

231. The Committee welcomes the follow-up replies that have been received during the reporting period and expresses its appreciation for all the measures taken or envisaged to provide victims of violations of the Covenant with an effective remedy. It encourages all States parties which have addressed preliminary follow-up replies to the Special Rapporteur to conclude their investigations in as expeditious a manner as possible and to inform the Special Rapporteur of their results. The follow-up replies received during the period under review and other developments are summarized below.

...

245. Jamaica: as to case No. 695/1996 - *Simpson* (A/57/40 and A/58/40): on 10 November 2003, author's counsel informed the Committee that the Court of Appeal had still not reviewed the author's non-parole period, leaving him still ineligible for parole. To counsel's knowledge, the State party had not taken steps towards finding a remedy for the author's medical problems.

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.

...

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
...						
Jamaica (97)	92 cases*					X
	*Note: See A/59/40. Twenty-five detailed replies were received, of which 19 indicated that the State party would not implement the Committee's recommendations; in two cases it promised to investigate; in one case, 592/1994, <i>Clive Johnson</i> , it announced the author's release (see A/54/40). There were 36 general replies indicating that death sentences had been commuted. No follow-up replies were received in 31 cases.					
	695/1996, <i>Simpson</i> A/57/40	X A/57/40, A/58/40, A/59/40				X
	792/1998, <i>Higginson</i> A/57/40				X	X
	793/1998, <i>Pryce</i> A/59/40				X	X
	796/1998, <i>Reece</i> A/58/40				X	X
	797/1998, <i>Loban</i> A/59/40				X	X
	798/1998, <i>Howell</i> A/59/40				X	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.

...

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
...						
Jamaica (97)	92 cases*					
	*Note: See A/59/40. Twenty-five detailed replies were received, of which 19 indicated that the State party would not implement the Committee's recommendations; in two it promises to investigate; in one it announces the author's release (592/1994 - Clive Johnson - see A/54/40). There were 36 general replies indicating that death sentences have been commuted. No follow-up replies in 31 cases.					
	695/1996, <i>Simpson</i> A/57/40	X A/57/40, A/58/40, A/59/40				X
	792/1998, <i>Higginson</i> A/57/40				X	X
	793/1998, <i>Pryce</i> A/59/40				X	X
	796/1998, <i>Reece</i> A/58/40				X	X
	797/1998, <i>Loban</i> A/59/40				X	X

	798/1998, <i>Howell</i> A/59/40	X A/61/40				
...						

...

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/60/40).

...

<i>State party</i>	<i>JAMAICA</i>
<i>Case</i>	Howell, 798/1998
<i>Views adopted on</i>	21 October 2003
<i>Issues and violations found</i>	Death row phenomenon, beatings after escape, inhuman treatment – articles 7 and 10, paragraph 1
<i>Remedy recommended</i>	In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy, including compensation. The State party is also under an obligation to prevent similar violations in the future.
<i>Due date for State party response</i>	4 February 2004
<i>Date of State party's response</i>	21 November 2005
<i>State party response</i>	The Committee will recall that the State party did not respond on admissibility and merits of this communication prior to consideration. It submits that, as to article 7, the Superintendent's Diary of the prison noted that on 5 March 1997 at about 5:10 am, five inmates, including Mr. Howell, were caught by the authorities cutting the bars in their cells in a bid to escape. The bid was foiled by the Correctional Officers on duty. An injury report dated 5 March 1997, indicated that the author was subdued while trying to escape and that he suffered injuries to his chin, left arm and back. As a result of a thorough and

impartial investigation, the State party is satisfied that reasonable force was used to subdue the author on that day. The State points out that officials involved in the prison system are provided with appropriate training concerning the standards of humane treatment of such persons, including the use of force. This training is periodically reviewed and covers United Nations treaties, and resolutions as well as Jamaican legislation.

As to article 10, paragraph 1, the State party submits that information extracted from the institution's hospital escort book reveals that for the period under review, the author attended the following external facilities for treatment: Spanish Town Dental Surgery (29 September 1997), Spanish Town Hospital (4 October 1997), Dental Office, Burke Road, Spanish Town (5 November 1997). Thus, as far as the State is concerned, the author received adequate dental and medical care.

As to the conditions of detention, it submits that there continue to be several mechanisms in place for investigating and monitoring such conditions. These mechanisms, which are periodically reviewed, are both internal and external. Internally, investigations are first of all carried out by the Superintendent of the Correctional Centre where the inmate is housed, then by the Department of Correctional Services' Inspectorate Unit. Externally, there are various avenues. The Inspectorate Unit has the responsibility of inspecting cells, the interior and exterior of the buildings, staff restrooms, trade areas and all other facilities, records and equipment at every correctional institution. The Unit continues to monitor conformity to the requisite standards of order, cleanliness, adequacy of space, bedding, lighting, ventilation along with the impact of morale and programmes. As necessary, the Inspectorate also makes recommendations for improvements. The Corrections Act also provides for Boards of Visiting Justices and Boards of Visitors to visit the various Correctional Centres, interview inmates, observe conditions and to make recommendations to the Commissioner of Corrections and/or the responsible Minister for corrective actions to be taken.

The State party maintains its position that the authors' rights were not violated and its view that he could have sought redress through the Jamaican courts. If he could not have afforded legal representation he could have applied for legal aid.

Author's response

None

Committee's Decision The Committee notes that the State party's response is essentially its comments on admissibility and merits which should have been provided prior to consideration of the Views. It notes that the State party was reminded to provide its submission on two occasions. As is the jurisprudence of the Committee, in the event that a State party fails to provide any observations on the matter before it, due weight must be given to the author's allegations, to the extent that they have been substantiated.

The Committee regards the State party's response as unsatisfactory and considers the follow-up dialogue ongoing.

...

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

<i>State party and number of cases with violation</i>	<i>Communication number, author and location</i>	<i>Follow-up response received from State party and location</i>	<i>Satisfactory response</i>	<i>Unsatisfactory response</i>	<i>No follow-up response received</i>	<i>Follow-up dialogue ongoing</i>
...						
Jamaica (98)	92 cases*					X
	* <i>Note.</i> See A/59/40. Twenty-five detailed replies were received, of which 19 indicated that the State party would not implement the Committee's recommendations; in two it promises to investigate; in one it announces the author's release (592/1994 - Clive Johnson - see A/54/40). There were 36 general replies indicating that death sentences have been commuted. No follow-up replies in 31 cases.					
	695/1996, <i>Simpson</i> A/57/40	X A/57/40, A/58/40, A/59/40				X
	792/1998, <i>Higginson</i> A/57/40				X	X
	793/1998, <i>Pryce</i> A/59/40				X	X
	796/1998, <i>Reece</i> A/58/40				X	X
	797/1998, <i>Lobban</i> A/59/40				X	X
	798/1998, <i>Howell</i> A/59/40	X A/61/40				
...						

CCPR, CCPR/C/SR.2564/Add.1 (2008)

HUMAN RIGHTS COMMITTEE

Ninety-third session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 2564th MEETING

Held at the Palais Wilson, Geneva,

on Wednesday, 23 July 2008 at 11.25 a.m.

...

FOLLOW-UP TO CONCLUDING OBSERVATIONS ON STATE REPORTS AND TO
VIEWS UNDER THE OPTIONAL PROTOCOL

...

Follow-up progress report of the Human Rights Committee on individual communications
(CCPR/C/93/R.5)

40. Mr. SHEARER, Special Rapporteur for follow-up on communications, introduced the Committee's progress report on individual communications.

...

46. The next case involved inhuman conditions of detention and absence of legal representation in Jamaica. The Committee had recommended that adequate compensation should be granted and detention conditions improved. The author had informed the Committee that his detention conditions had worsened. His letter had been transmitted to the State party with a two month deadline for comments but as yet no response had been received. The situation was unsatisfactory, and the Committee should decide how to proceed.

...

54. Ms. CHANET proposed that the Committee should put pressure on Jamaica and send the Government a reminder before its next session in October 2008.

...

The meeting rose at 1.05 p.m.

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.

...						
Jamaica (98)	92 cases*					X
	* <i>Note.</i> See A/59/40. Twenty-five detailed replies were received, of which 19 indicated that the State party would not implement the Committee's recommendations; in 2, it promises to investigate; in 1, it announces the author's release (592/1994 - Clive Johnson - see A/54/40). There were 36 general replies indicating that death sentences have been commuted. No follow-up replies in 31 cases.					
Jamaica (<i>cont'd</i>)	695/1996, <i>Simpson</i> A/57/40	X A/57/40, A/58/40, A/59/40, A/63/40				X
	792/1998, <i>Higginson</i> A/57/40				X	X
	793/1998, <i>Pryce</i> A/59/40				X	X
	796/1998, <i>Reece</i> A/58/40				X	X
	797/1998, <i>Lobban</i> A/59/40				X	X
	798/1998, <i>Howell</i> A/59/40	X A/61/40				
...						

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).

...

<i>State party</i>	<i>JAMAICA</i>
<i>Case</i>	<i>Simpson, 695/1996</i>
<i>Views adopted on</i>	23 October 2001
<i>Issues and violations found</i>	Inhuman conditions of detention and absence of legal representation - articles 10, paragraph 1, 14, paragraph 3 (d).
<i>Remedy recommended</i>	An appropriate remedy, including adequate compensation, an improvement in the present conditions of detention and due consideration of early release.
<i>Due date for State party response</i>	5 February 2002
<i>Date of reply</i>	18 June 2003
<i>State party response</i>	On 18 June 2003, State party advised that the author had complained to prison authorities about testicular, eye and shoulder problems. He has been receiving medical attention, keeping to date 25 medical appointments, consistent with international standards. His detention conditions have improved significantly since being moved from St Catherines to Sth Camp Rd Adult Correctional Centre in September 2002, the best facility on the island. The Courts will need to decide on his parole eligibility - the Registrar of the Court of Appeal is making arrangements for the matter to be placed before a judge of the

court. The assignment of legal representation is being awaited.

Author's comments

On 18 February 2002, counsel asked whether the State party had responded with follow-up information. He noted that the author's non-parole period had still not been reviewed as required by law since the commutation of his death sentence in 1998, rendering him ineligible for parole. The State party has also not taken steps to address the author's medical problems.

On 26 March 2008, the author informed the Committee that his conditions of detention had worsened and that he had not been considered for release.

Committee's Decision

The Committee considers the dialogue ongoing.

...

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.

...						
Jamaica (98)	92 cases*					X
	<p>*<i>Note.</i> See A/59/40. Twenty-five detailed replies were received, of which 19 indicated that the State party would not implement the Committee's recommendations; in 2, it promises to investigate; in 1, it announces the author's release (592/1994, Clive Johnson - see A/54/40). There were 36 general replies indicating that death sentences have been commuted. No follow-up replies in 31 cases.</p>					
	695/1996, <i>Simpson</i> A/57/40	X A/57/40, A/58/40, A/59/40, A/63/40, A/64/40				X
	792/1998, <i>Higginson</i> A/57/40				X	X
Jamaica (<i>cont'd</i>)	793/1998, <i>Pryce</i> A/59/40				X	X
	796/1998, <i>Reece</i> A/58/40				X	X
	797/1998, <i>Lobban</i> A/59/40				X	X
	798/1998, <i>Howell</i> A/59/40	X A/61/40				

...						
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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/63/40).

...

<i>State party</i>	<i>Jamaica</i>
<i>Case</i>	<i>Simpson, 695/1996</i>
<i>Views adopted on</i>	23 October 2001
<i>Issues and violations found</i>	Inhuman conditions of detention and absence of legal representation - article 10, paragraph 1, 14, paragraph 3 (d).
<i>Remedy recommended</i>	An appropriate remedy, including adequate compensation, an improvement in the present conditions of detention and due consideration of early release.
<i>Due date for State party response</i>	5 February 2002
<i>Date of State party response</i>	18 June 2003
<i>State party response</i>	On 18 June 2003, the State party had advised that the author had received medical attention and that his detention conditions had improved. The Courts would need to decide on his parole eligibility - the Registrar of the Court of Appeal was making arrangements for the matter to be placed before a judge of the court. The assignment of legal representation was being awaited.

Author's comments

On 18 February 2002, counsel had asked whether the State party had responded with follow-up information. He noted that the author's non-parole period had still not been reviewed as required by law since the commutation of his death sentence in 1998, rendering him ineligible for parole. In addition the State party had taken no steps to address the author's medical problems. On 26 March 2008, the author informed the Committee that his conditions of detention had worsened and that he had not been considered for release.

On 1 September 2008, the author informed the Committee that his lawyer had lodged an application for parole on the basis of the Mc Cordie Morrison judgement delivered on 2 March 2004, which decided that an automatic right to apply for parole arises where a case has not been reviewed by a judge of the Court of Appeal within seven years from the imposition of a life sentence commuted from a death sentence. As the author's death sentence was commuted on 22 December 1997, he should have been eligible for parole in December 2005 but was not informed by his lawyer until 2006. An application was made on his behalf on 18 October 2006.

Committee's Decision

The follow-up dialogue is ongoing.

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