

TAJIKISTAN

Follow-up - Jurisprudence Action by Treaty Bodies

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.

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TAJIKISTAN:

Kurbanov v. Tajikistan, Case no.1096/2002, Views adopted on 6 November 2003.

Violations found: Articles 6, 7, 9, paragraph 2, and 3, 10, 14, paragraph 1, 3 (a) and (g)

Issues of case: Arbitrary arrest and detention, torture, unfair trial, no/inadequate legal representation, no right to appeal, no interpretation, inhuman conditions, death sentence following unfair trial

Remedy recommended: Compensation and a new trial before an ordinary court and with all the guarantees of article 14, or, should this not be possible, release.

Deadline for State party follow-up information: 10 February 2003

Follow-up information received from State party: None

Follow-up information received from author: On 9 February 2004, the Secretariat received information from the author's mother that the State party intended to execute her son despite the Committee Views. On 12 February, a reminder was immediately sent to the State party to provide information on how it had or intended to implement its Views and reminded the State party of its obligations under article 2 of the Covenant. On 13 February, the Acting High Commissioner, requested the Minister for Foreign Affairs of Tajikistan not to execute the author,

reiterated the State party's obligations under article 2 and requested information on the current situation of Mr. Kurbanov. On 10 March 2004, the Secretariat received information that the President of Tajikistan had agreed to grant Mr. Kurbanov a pardon.

Special Rapporteur's recommendations: The State party should be requested to confirm the information received from the author's representative.

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CCPR, CCPR/C/SR.2194 (2004)

Human Rights Committee
Eightieth session

Summary record of the second part (public) of the 2194th meeting
Held at Headquarters, New York, on
Friday, 2 April 2004, at 10 a.m.

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Follow-up on Views under the Optional Protocol

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3. **Mr. Scheinin** said that, with regard to reconsideration, if the State party complained that the Committee was mistaken as to the facts, the answer should be that the Committee's decision was made only on the basis of the facts provided by the parties. The Special Rapporteur for follow-up on Views under the Optional Protocol could discuss with the State party and with the Committee the possible effect of the corrected facts with respect to the remedy, but the Views would stand nonetheless. If, on the other hand, the State party was contesting the interpretation of the law, the Special Rapporteur should stand firm, since the interpretation had been arrived at through an adversarial proceeding between the parties. However, he might suggest to the State party that it could raise such issues of law in a general way in its next periodic report.

4. In the face of a failure or refusal to implement the Views, it must be admitted that the Committee itself had little power to induce compliance and would need to call for political support from the United Nations and the other States parties to the Protocol. The Organization as a whole should discuss what mechanisms could be developed.

5. The two cases in the progress report in which the State parties had given a clear indication of their intention not to comply, case No. 716/1996 (*Pauger v. Austria*) and case No. 852/1999 (*Borisenko v. Hungary*), should be the subject of further follow-up and should be published in the Committee's next report... In case No. 1077/2002 (*Campo v. Philippines*), since the author was still on death row, the Committee should have a meeting with the State party rather than merely sending a reminder. Although the author in case No. 1096/2002 (*Kurbanov v. Tajikistan*), also facing the death penalty, had reportedly been pardoned, the Committee's information did not come from the State party itself, which should be asked to respond directly.

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8. **Mr. Wieruszewski** said that he endorsed Mr. Scheinin's proposal on mustering political support when a State party refused to comply. The topic could be discussed at the meeting of States parties in the autumn and elsewhere. With regard to case No. 1096/2002 (*Kurbanov v. Tajikistan*), a pardon alone was not sufficient compliance with the Committee's Views, so that

further follow-up was needed...

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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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Tajikistan: Views in three cases with findings of violations:
964/2001 - *Saidov* (annex IX); follow-up not yet due;

1096/2002 - *Kurbanov* (annex IX); for the follow-up reply from the author see paragraph 252 below. In the follow-up report (CCPR/C/80/FU1), adopted by the Committee during its eightieth session, the Special Rapporteur recommended that the State party be requested to confirm the information provided by the author;

1117/2002 - *Khomidov* (annex IX); follow-up not yet due.

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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.

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255. Tajikistan: as to case No. 1096/2002 - *Kurbanov* (annex IX): on 9 February 2004 the Secretariat received information from the author's mother that the State party intended to execute her son despite the Committee's Views. On 12 February, a reminder was immediately sent to the State party to provide information on how it implemented, or intended to implement, the Committee's Views and reminded the State party of its obligations under article 2 of the Covenant. On 13 February, the Acting High Commissioner requested the Minister for Foreign Affairs of Tajikistan State party not to execute the author, reiterated the State party's obligations under article 2 and requested information on the current situation of Mr. Kurbanov. On 10 March 2004, the Secretariat received information that the President of Tajikistan had agreed to grant Mr. Kurbanov a pardon.

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.

CCPR, CCPR/C/SR.2280 (2005)

Human Rights Committee
Eighty-third session

Summary record of the 2280th meeting
Held at Headquarters, New York, on
Friday, 1 April 2005, at 10 a.m.

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Follow-up on views under the Optional Protocol

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2. **Mr. Ando**, speaking as Special Rapporteur for follow-up on Views under the Optional Protocol, presented the Follow-up Progress Report (CCPR/C/83/FU1 and FU2), which updated the Committee's previous annual report (CCPR/C/81/CRP.1/Add.6) on follow-up activities and included information received between the eighty-first and eighty-third sessions. It dealt with 20 different States parties and covered 18 cases...

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4. ... With regard to cases Nos. 964/2001 and 1096/2002 involving Tajikistan, he had met with the representative of the State party on 29 March 2005, who had undertaken to relay the Committee's views to his capital...

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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
...						
Tajikistan (4)	964/2001, <i>Saidov</i> A/59/40	X A/60/40 (annex VII)				X
	973/2001, <i>Khalilov</i> A/60/40	X A/60/40 (annex VII)				X
	1096/2002, <i>Kurbanov</i> A/59/40	X A/59/40, A/60/40 (annex VII)				X
	1117/2002, <i>Khomidov</i> A/59/40	X A/60/40 (annex VII)				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	TAJIKISTAN
Case	Saidova, 964/2001
Views adopted on	38175
Issues and violations found	Death penalty, unfair trial and torture - articles 6, 7, 10, paragraph 1, 14, paragraphs 1, 2, 3 (b), (d), and 5.
Remedy recommended	Under article 2, paragraph 3 (a), of the Covenant, the author is entitled to an effective remedy, including compensation.
Due date for State party response	38279
Date of reply	38258
State party response	The State party informed the Committee that Mr. Saidov's execution had been carried out in the spring of 2001. The Ministry of Foreign Affairs of Tajikistan claim not to have received any information on the registration of this case or subsequent information from the Secretariat between 2001 and 2003, and no record was found in the Ministry's Registry or Archives in this respect.
Further action taken/required	In October 2004 the Secretariat met with a Tajik delegation in the context of individual complaints, at which the issue of follow-up to Views was considered. The delegation confirmed that up to 2002, information sent to the Mission in New York was not forwarded to its capital. From now on all information with respect to individual complaints will be sent to the Permanent Representative in New

York, the Foreign Ministry and the OSCE in Tashkent.

During the eighty-third session (29 March 2005) the Rapporteur met with a member of the Permanent Mission of Tajikistan 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: 1096/2002 (Kurbanov), 964/2001 (Saidov) and 1117/2002 (Khomidov). The Rapporteur expressed concern about the lack of information or unsatisfactory replies received from the State party regarding the implementation of the Committee's recommendations on these cases.

He suggested that the State party provide information about the measures taken to comply with such recommendations during the examination of the Tajikistan periodic report, in July 2005.

The State representative gave the Rapporteur assurances that he would inform his authorities in the capital about the Rapporteur's request.

On 21 April 2005, the State party forwarded information on the following communications: 1096/2002 (Kurbanov), 964/2001 (Saidov) and 1117/2002 (Khomidov), in which it reiterated information previously provided.

State party	TAJIKISTAN
Case	Khalilov, 973/2001
Views adopted on	38440
Issues and violations found	The victim was tortured to force him to confess guilt. His father was beaten and tortured in front of him and, as a consequence, died in the police premises; the judgement by which he was sentenced to death could not be appealed. The sentence of death was passed and carried out, in violation of the right to a fair trial. The authorities' failure to notify the author of the execution of the victim amounted to a violation of article 7. The Committee concluded that articles 6, paragraph 1, 7; 10, paragraph 1; 14, paragraphs 2, 3 (g) and 5 had been violated.
Remedy recommended	Effective remedy, including information on the location where the victim is buried and compensation.
Due date for State party response	38532
Date of reply	Note verbale dated 24 May 2005, received on 11 July 2005

State party response The Ministry of Foreign Affairs received neither the Committee's request not to execute the victim nor the subsequent notes from the Committee asking the State party to provide comments. The State party claims that it had no information on the fact that the communication was being examined by the Committee.

State party **TAJIKISTAN**

Case Kurbanov, 1096/2002

Views adopted on 37930

Issues and violations found Arbitrary arrest and detention, torture, unfair trial, no/inadequate legal representation, no right to appeal, no interpretation, inhuman conditions, death sentence following unfair trial - articles 6, 7, 9, paragraph 2, and 3, 10, 14, paragraphs 1, and 3 (a) and (g).

Remedy recommended Compensation and a new trial before an ordinary court and with all the guarantees of article 14, or, should this not be possible, release.

Due date for State party response 37661

Date of reply 38258

State party response The State party confirmed that following the Committee's Views, the author's death sentence was commuted to a "long term" of imprisonment. Subsequently, the State party informed the Committee that this was 25 years. The State party provides a copy of the joint reply of the Office of the General Prosecutor and the Supreme Court addressed to the Deputy Prime Minister. The General Prosecutor and the Supreme Court re-examined the author's case. He was arrested on 12 May 2001 suspected of fraud and was kept in detention since 15 May 2001. According to the authorities, the case file did not contain any information that the author had been subjected to torture or ill-treatment, and he presented no complaint on this issue during the investigation or in court. The authorities concluded that his conviction of different crimes (including murders) was proved, that the judgement was grounded, and found no reason to challenge it.

Further action taken/required During the eighty-third session (29 March 2005) the Rapporteur met with a representative of the State party. The Rapporteur explained his mandate and provided the representative with copies of the Views adopted by the Committee in the following communications:

1096/2002 (Kurbanov), 964/2001 (Saidov) and 1117/2002 (Khomidov). The Rapporteur expressed concern about the lack of information or unsatisfactory replies received from the State party regarding the implementation of the Committee's recommendations on these cases. He suggested that the State party provide information about the measures taken to comply with such recommendations during the examination of Tajikistan periodic report, in July 2005.

The State representative gave the Rapporteur assurances that he would inform his authorities in the capital about the Rapporteur's request.

On 21 April 2005, the State party forwarded information on the following communications: 1096/2002 (Kurbanov), 964/2001 (Saidov) and 1117/2002 (Khomidov), in which it reiterated information previously provided.

State party	TAJIKISTAN
Case	Khomidov, 1117/2002
Views adopted on	29 July 2004
Issues and violations found	Death penalty, unfair trial, torture, arbitrary detention - articles 6, 7, 9, paragraph 1, 2, 14, paragraphs 1, 3 (b), (e), (g).
Remedy recommended	In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide Mr. Khomidov with an effective remedy, entailing commutation of his sentence to death, a compensation, and a new trial with all the guarantees of article 14, or, should this not be possible, release.
Due date for State party response	38293
Date of reply	13 December 2004 (received March 2005)
State party response	The State party provides copies of the replies of the Office of the General Prosecutor and the Supreme Court. The General Prosecutor and the Supreme Court considered whether the author's case should be re-examined following the Committee's finding of violations of the Covenant. Having made a substantial examination of the merits of the case, the Supreme Court considered that the conviction was grounded and lawful and found no reason for a re-examination of the case. The Prosecutor came to the same

conclusion. However, in light of the moratorium on the death penalty, dated 15 June 2004, the author's death sentence was commuted to 25 years of imprisonment, the first five in prison and the rest in a "prison colony". On 21 April 2005, the State party forwarded information on the following communications: 1096/2002 (Kurbanov), 964/2001 (Saidov) and 1117/2002 (Khomidov), in which it reiterated information previously provided.

**Further action
taken/required**

During the eighty-third session (29 March 2005) the Rapporteur met with a representative of the State party. The Rapporteur explained his mandate and provided the representative with copies of the Views adopted by the Committee in the following communications: 1096/2002 (Kurbanov), 964/2001 (Saidov) and 1117/2002 (Khomidov). The Rapporteur expressed concern about the lack of information or unsatisfactory replies received from the State party regarding the implementation of the Committee's recommendations on these cases. He suggested that the State party provide information about the measures taken to comply with such recommendations during the examination of Tajikistan periodic report, in July 2005.

The State representative gave the Rapporteur assurances that he would inform his authorities in the capital about the Rapporteur's request.

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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
...						
Tajikistan (8)	964/2001, <i>Saidov</i> A/59/40	X A/60/40				X
	973/2001, <i>Khalilov</i> A/60/40	X A/60/40 (annex V to this report)				X
	985/2001, <i>Aliboev</i> A/61/40				X A/61/40	X
	1096/2002, <i>Kurbanov</i> A/59/40	X A/59/40, A/60/40				X
	1117/2002, <i>Khomidov</i> A/59/40	X A/60/40				X
	1042/2002, <i>Boymurudov</i> A/61/40				X A/61/40	X
	1044/2002, <i>Nazriev</i> A/61/40				X	
	1208/2003, <i>Kurbanov</i>				X	

	A/61/40					
...						

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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/60/40).

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State party	TAJIKISTAN
Case	Aliboev, 985/2002
Views adopted on	18 October 2005
Issues and violations found	Death penalty, unfair procedure - Articles 6, paragraph 2, 7, 14, paragraph 1, 3 (d), (g), and 14, paragraph 5.
Remedy recommended	Under article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an appropriate remedy, including appropriate compensation. The State party is also under an obligation to prevent similar violations in the future.
Due date for State party response	1 February 2006
Date of State party's response	2 February 2006
State party response	<p>The Committee will recall that, as set out in its 84th report, on October 2004 the Secretariat had met with a Tajik delegation in the context of individual complaints, during which the issue of follow-up to Views was considered. The delegation confirmed that up to 2002, information sent to the Mission in New York was not forwarded to its capital.</p> <p>By note verbale of 2 February 2006, the State party affirmed that the OHCHR notes verbales mentioned in the Committee's decision (dated respectively 11 July 2001, 5 November 2001, 19 December 2002, and 10 November 2004) had never been received by the State party's</p>

Ministry of Foreign Affairs.

Author's response

None

Case

Boymurodov, 1042/2001

Views adopted on

20 October 2005

Issues and violations found

Unfair trial resulting in death penalty, denial of legal access, torture, uneven criminal procedure - Articles 7, 9, paragraph 3, 14, paragraph 3, (a) and (g).

Remedy recommended

Pursuant to article 2, paragraph 3 (a), of the Covenant, the Committee considers that the author's son is entitled to an appropriate remedy, including adequate compensation.

Due date for State party response

1 February 2006

Date of State party's response

None

State party response

None

Author's response

By letter of 1 February 2006, Mr. Abdulkarim Boymumodov, the father of Mustafakul Boymurodov, recalls the facts of the case - his son was initially sentenced to death following an unfair trial, with use of torture during the preliminary investigation - and claims that nothing has happened since the adoption of the Committee's Views.

He affirms that he had filed a complaint with the Supreme Court, which is still pending. The Supreme Court informed him that it had received the Committee's Views.

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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
...						
Tajikistan (12)	964/2001, <i>Saidov</i> A/59/40	X A/60/40, A/62/40*				X
	973/2001, <i>Khalilov</i> A/60/40	X A/60/40 (annex V to this report) A/62/40*				X
	985/2001, <i>Aliboeva</i> A/61/40	A/62/40*			X A/61/40	X
	1096/2002, <i>Kurbanov</i> A/59/40	X A/59/40, 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.						
	1108 and 1121/2002, <i>Karimov and Nursatov</i> A/62/40	Not yet due				
	1117/2002, <i>Khomidov</i> A/59/40	X A/60/40				X
	1042/2002, <i>Boymurudov</i> A/61/40	A/62/40			X A/61/40	X
	1044/2002, <i>Nazriev</i> A/61/40	A/62/40			X	
	1208/2003, <i>Kurbanov</i> A/61/40	X A/62/40		X A/62/40		X
	1348/2005, <i>Ashurov</i> A/62/40	Not yet due				

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
...						

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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/61/40).

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State party	TAJIKISTAN
Case	Kurbanov, 1208/2003
Views adopted on	16 March 2006
Issues and violations found	Torture, forced confession, unfair trial, arbitrary arrest and detention, not informed promptly of charges - Articles 7; 9, paragraphs 1, and 2; 14, paragraphs 1, and 3 (g).
Remedy recommended	In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide Mr. Kurbanov with an effective remedy, which should include a retrial with the guarantees enshrined in the Covenant or immediate release, as well as adequate reparation. The State party is also under an obligation to prevent similar violations in the future.
Due date for State party response	9 July 2006
Date of reply	11 July 2006
State party response	<p>The State party affirms that its Ministry of Foreign Affairs did not receive two Notes Verbales from OHCHR (22 October 2003 and 22 November 2005), and thus was unaware of the registration of the case and had no possibility to submit a reply.</p> <p>The State party submits two letters, one from the Supreme Court and one from the Office of the Prosecutor General, and informs the Committee that both institutions examined the Committee's Views and gave their opinion to the Governmental Commission on the State party's compliance with its international human rights</p>

obligations.(a) "Conclusions" of the President of the Supreme Court of Tajikistan in relation to the case.

On 29 June 2006, the President of the Supreme Court recalled the facts of and procedure in the case and contended that the author's guilt was established on the basis of corroborating evidence, and his conviction fitted the crimes committed. His arrest, on 28 October 2001, as well as all subsequent criminal-procedure acts, was lawful. There were no major procedural violations during the preliminary investigation or during the court trial. He concludes that the Committee's findings were thus not confirmed. He admits that on 6 January 2001, Kurbanov was arrested unlawfully, but that the officers responsible received disciplinary sanctions for this. He contends that the author's affirmation that his son's subsequent arrest was due to the fact that they were disciplined is groundless. His son was arrested in relation to a criminal case that was opened on 28 October 2001, with the sanction of the First Deputy Prosecutor-General.

(b) Letter from the Prosecutor General's Office, dated 30 June 2006 The Prosecutor's Office extensively reiterates the facts of the criminal case and confirms the author's guilt. It affirms the author's allegations of unlawful detention in the beginning of 2006, but submits that those responsible were disciplined (names of 5 responsible given). A criminal case against them was initiated on 9 November 2001, and an inquiry was conducted into the author's allegations that during his unlawful detention he was tortured and forced to confess guilt and that his family was persecuted to force them to withdraw their complaints. The investigation concluded that these allegations were groundless. In particular, as to the alleged torture, a medical examination was conducted and no marks of torture were revealed on the author's body. This investigation was therefore closed, on 30 November 2002.

On 28 November 2001, Kurbanov was arrested on suspicion of robbery, and the same day he was interrogated as a suspect, in his lawyer's presence. He was placed in custody on 29 November 2001 (this decision was sanctioned by the First deputy Prosecutor General). All subsequent procedural acts were held in his lawyer's presence, and in the lawyer's presence he confessed his guilt. During his detention, he did not make any complaint about the use of unlawful methods of investigation against him. In court, Kurbanov retracted his confession. His new version was examined and evaluated, and his guilt was confirmed by corroborating evidence. The court concluded that this was a defence strategy,

aimed at limiting his liability.

Author's response

Sent to the author on 26 September 2006 with a deadline of 26 November 2006 for comments.

Further action taken

A follow-up meeting was held between the Special Rapporteur, State party representatives (Ambassador Aslov, First Secretary Isomatov) and the secretariat on 28 March 2007.

On the question of execution of complainants *after* registration of complaints and dispatch of interim measures requests, the Ambassador responded that the cases in question related to the situation obtaining prior to pronouncement of a moratorium on executions. There had been no executions since the moratorium, and the current moratorium on executions applied to ALL death penalty cases (exact date of announcement and entry into effect of moratorium to be communicated to the Rapporteur as soon as possible). There have been many instances of commutations of death sentences in the last two years, and according to the ambassador, the process of drafting legislation that would abolish capital punishment is ongoing.

On the question relating to the disclosure of burial sites of executed prisoners, the Ambassador noted that work was still ongoing on a change to the relevant legislation. The Rapporteur conveyed the importance for the government to respond fully on ALL registered cases, and noted that insufficiency of responses would lead to the complainants' allegations being taken as true. His delegation replied that this concern would be forwarded to Dushanbe and to the Inter-Ministerial Committee responsible for the implementation of Tajikistan's international obligations, including cooperation with human rights bodies. The Rapporteur suggested sending a model of a comprehensive State party reply to the head of the inter-ministerial committee. The delegation noted, in reply, that the government was already cooperating with the human rights component of UNTOP and would cooperate with any other United Nations agency designated as focal point for human rights matters after UNTOP's departure. Future training courses on complaints procedures would also be welcomed by the government.

The ambassador promised to solicit more detailed information from the capital on specific implementation details on each of the eight Views against Tajikistan finding violations of the Covenant. In that context, earlier availability of the Russian translations of Views would be an advantage. The ambassador pledged

cooperation with the Committee and the Rapporteur for follow-up, and indicated that the Government would be prepared to accept a follow-up visit from the Rapporteur.

Committee's Decision	The Committee regards the State party's submission as unsatisfactory and considers the dialogue ongoing.
Case	Boymurodov, 1042/2001
Views adopted on	20 October 2005
Issues and violations found	Torture, forced confession, incommunicado detention, right to counsel - Article 7, 9, paragraph 3, 14, paragraph 3 (b), and (g).
Remedy recommended	Pursuant to article 2, paragraph 3 (a), of the Covenant, the Committee considers that the author's son is entitled to an appropriate remedy, including adequate compensation.
Due date for State party response	1 February 2006
Date of reply	14 April 2006
State party response	The State party submits two letters, one from the Supreme Court and one from the Office of the Prosecutor General, and informs the Committee that both institutions have examined the Committee's Views and gave their opinion, at the request of the Governmental Commission on the State party's compliance with its international human rights obligations.

The State party provides the decision of the Supreme Court which examined the Views. It studied the materials from the criminal case and established that during the preliminary investigation and court expertise no gross violations occurred of criminal or procedural legislation of Tajikistan concerning the facts of his illegal detention and violation of right to defence, mentioned in article 9 and 14 paragraph 3 (b) of the Covenant. It submits that in a statement on 10 October 2000, the author said that at present time he was not in need of a defence lawyer. From 9 November 2000, defence lawyer Yatimova K. participated in the preliminary investigation and trial and defended Boimudov at court.

Concerning the alleged violations of articles 7 and 14 paragraph 3 (g), the Supreme Court concluded the following: the facts as set out in the State party's response to the Views; that the case file contains a power of attorney with the name of the

author's lawyer, who represented the author during the investigation and trial, dated 9 November 2000; that with respect to the allegation of torture, a criminal case was opened by the Supreme Court on 31 July 2001, and was sent to the Prosecutor General's office, which opened a criminal case. This was closed on 5 November 2001. It concluded that the author's conviction was lawful and well-founded, and his conviction and sentence fair.

The letter from the Prosecutor General, made similar arguments to that of the Supreme Court. However, he also stated that the criminal case on the torture allegation referred to above was re-opened (it is assumed since the Views).

Author's response	State party's response was sent to the author on 26 September 2006 with a deadline of 26 November 2006 for comments.
Further action taken	See above for information on a follow-up meeting that took place in March 2007.
Case	Dovud and Sherali Nazriev, 1044/2002
Views adopted on	17 March 2006
Issues and violations found	Torture, forced confession, unlawful detention, no legal representation at initial stages of the investigation, no notification of execution or burial site - Articles 6; 7; 9, paragraph 1; 14, paragraphs 1, 3 (b), (d), and (g) and breach of the Optional Protocol.
Remedy recommended	In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide Mrs. Shukurova with an effective remedy, including appropriate compensation, and to disclose to her the burial site of her husband and her husband's brother. The State party is also under an obligation to prevent similar violations in the future.
Due date for State party response	2 July 2006
Date of reply	13 July 2006
State party response	The State party submits two letters, one from the Supreme Court and one from the Office of the Prosecutor General, and informs the Committee that both institutions have examined the

Committee's Views and gave their opinion, at the request of the Governmental Commission on the State party's compliance with its international human rights obligations.

(a) Letter of the Chairman of the Supreme Court of Tajikistan.

The Chairman of the Supreme Court recalls *in extenso* the facts/procedure of the case. It submits information provided by the State party prior to consideration of the case, including the fact that their requests for Presidential pardon were denied in March 2002, and that the death sentences were carried out on 23 June 2002 (NB: the case was registered in January 2002). Thus, the executions took place when the judgment became executory and all domestic judicial remedies were exhausted.

The examination of the criminal case file showed that the Nazrievs' guilt was established by much corroborating evidence (an extensive list of that evidence is provided, for example witnesses' testimonies, material evidence, and several experts' conclusions that were examined and evaluated by the court). According to the Chairman of the Supreme Court, the author's allegations about the use of torture by the investigators to force the brothers to confess guilt are groundless and contradict the content of the criminal case file and the rest of the evidence. There is no record in the criminal case file about any requests or complaints in relation to the assigned lawyers, no request to change the lawyers, and no complaints or requests from Nazrievs' lawyers about the impossibility to meet with their clients.

The Chairman of the Supreme Court rejects as groundless the author's allegations that both brothers were subjected to torture during the preliminary investigation, and that the court ignored their statements in this regard. He notes that according to the criminal case file, neither during the preliminary investigation nor in court did the brothers or their representatives make any torture claims (it is noted that the court trial was public and held in presence of the accused, their representatives, relatives, and other individuals). In addition, the brothers "did not confess guilt either during the preliminary investigation or in court and their confessions" were not used as evidence when establishing their guilt. Notwithstanding, the court has requested from the Detention Centre of the Ministry of Security (where the brothers were kept) to provide their medical records, and according to a response of 18 April 2001, it transpired that both brothers have requested different medical care during their stay, in relation to the diseases of hypertonia, "acute respiratory virus infection", grippe, caries, depressive syndrome. The brothers were examined on several

occasions by medical doctors and have been given appropriate medical care. No marks of torture or ill-treatment were revealed during these examinations, nor have they complained about torture/ill-treatment during the medical examinations.

Finally, in relation to the author's allegation that she was not informed either of the date of execution nor of the burial place of authors, the Chairman refers the Committee to its law on the Execution of Criminal Penalties. He states that when the Supreme Court learnt that the brothers' had been executed, it informed the relatives.

(b) Letter dated 14 June 2006, signed by the Deputy Prosecutor General.

The content of this letter is very much similar to the information received from the Supreme Court, as summarized above, with identical conclusions.

Author's response

State party's response was sent to the author on 26 September 2006 with a deadline of 26 November 2006 for comments.

Further action taken

See above for information on a follow-up meeting that took place in March 2007.

Committee's Decision

The Committee regards the State party's submission as unsatisfactory and considers the dialogue ongoing.

...

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.

...

49. On the case involving Tajikistan, he said that the State party had referred the Committee's Views to the Procurator General and the Supreme Court. The author had informed the Committee that, following the recent re-examination of his case, he had been found guilty on only one charge rather than the original three. His punishment, however, had remained unchanged and his situation had not improved. The Special Rapporteur had met with a representative of the State party, who had discussed the case in a positive manner and suggested that the Special Rapporteur would receive an invitation to conduct a follow-up mission to Tajikistan. Such an invitation had never been received, despite a note verbale on the issue having been sent to the State party. The Committee should consider the State party's response unsatisfactory and the dialogue ongoing.

...

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.

...						
Tajikistan (15)	964/2001, <i>Saidov</i> A/59/40	X A/60/40, A/62/40*				X
	973/2001, <i>Khalilov</i> A/60/40	X A/60/40, A/62/40*				X
	985/2001, <i>Aliboeva</i> A/61/40	A/62/40*			X A/61/40	X
	1096/2002, <i>Kurbanov</i> A/59/40	X A/59/40, A/60/40				X
	1108 and 1121/2002, <i>Karimov and Nursatov</i> A/62/40	X A/63/40				X
	1117/2002, <i>Khomidov</i> A/59/40	X A/60/40				X
Tajikistan (<i>cont'd</i>)	1042/2002, <i>Boymurudov</i> A/61/40	X A/62/40, A/63/40				X
	1044/2002, <i>Nazriev</i> A/61/40	X A/62/40, A/63/40				X
	1096/2002, <i>Abdulali</i> <i>Ismatovich Kurbanov</i>	A/62/40*				
* The State party has not replied but it has met several times with the Rapporteur.						

	1208/2003, <i>Kurbanov</i> A/61/40	XA/62/40		XA/62/40		X
	1348/2005, <i>Ashurov</i> A/62/40				X	
	1209/2003, 1231/2003 and 1241/2004, <i>Rakhmatov, Safarovs &</i> <i>Mukhammadiev</i> A/63/40	Not due				
...						

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).

...

State party	TAJIKISTAN
Case	Boymurodov, 1042/2001
Views adopted on	20 October 2005
Issues and violations found	Torture, forced confession, incommunicado detention, right to counsel - article 7, 9, paragraph 3, 14, paragraph 3 (b), and (g).
Remedy recommended	Pursuant to article 2, paragraph 3 (a), of the Covenant, the Committee considers that the author's son is entitled to an appropriate remedy, including adequate compensation.
Due date for State party response	1 February 2006
Date of reply	5 December 2007 (the State party had responded on 14 April 2006)
State party response	<p>On 14 April 2006, the State party submitted two letters, one from the Supreme Court and one from the Office of the Prosecutor General, and informed the Committee that both institutions had examined the Committee's Views, at the request of the Governmental Commission on the State party's compliance with its international human rights obligations.</p> <p>The Supreme Court, which had studied the materials from the criminal case, established that there had been no gross violations of the State party's criminal or procedural legislation during the preliminary investigation and court consideration, on the basis of which the Committee found violations of article 9 and 14, paragraph 3 (b) of the Covenant. Despite the author's statement</p>

on 10 October 2000, that he did not need a defence lawyer, from 9 November 2000 a defence lawyer participated in his preliminary investigation and trial.

Concerning the alleged violations of articles 7 and 14, paragraph 3 (g), the Supreme Court concluded the following: the facts as set out in the State party's response to the Views; that the case file contains a power of attorney with the name of the author's lawyer, who represented the author during the investigation and trial, dated 9 November 2000; that with respect to the allegation of torture, a criminal case was opened by the Supreme Court on 31 July 2001, and was sent to the Prosecutor General's office, which opened a criminal case. This was closed on 5 November 2001, having found that the author had not been subjected to any form of coercion and neither he nor his lawyer made any complaint in this regard either during the preliminary investigation or court hearings. It concluded that the author's conviction was lawful and well-founded, and his conviction and sentence fair.

The letter from the Prosecutor General, made similar arguments to that of the Supreme Court.

On 5 December 2007, the State party provided further decisions from the Supreme Court and the Prosecutor General, dated 5 October 2007 and 28 May 2007, respectively, which reviewed the matter for a second time. After consideration of the cases, they arrive at similar conclusions to their earlier decisions provided to the Committee on 29 September 2004.

Author's response

The author responded to the State party's submission and notes that the State party maintains that Mr. Boyumorodv's guilt was established but does not indicate what measures have been taken to remedy the violation of his rights in the context of the Committee's Views. According to the author, during the examination of the Committee's case, he had asked different national authorities on the steps he should take to have those responsible for his son's ill-treatment punished. He and his lawyer received only limited answers. Even though a criminal case was opened against the officials in question, they are still working in the law enforcement agencies and received new posts. In the meantime, the author and his lawyer have requested to have Mr. Boymurodov's criminal case re-examined. According to him, his son's guilt was established on three counts and he was sentenced to 25 years' imprisonment. After the recent re-examination of the case (exact dates or Court name not

provided), Boyumurodov was found guilty on only one count, but his punishment was confirmed and remained 25 years' of imprisonment.

**Further action taken
or required**

The Special Rapporteur met with the State party during the ninety-second session and received confirmation from the State party that it would accept a follow-up mission to the State party.

A meeting between the Committee's Special Rapporteur on follow-up to Views and representatives of Tajikistan (H.E. the Ambassador and a Secretary) took place during the Committee's ninety-second session in New York, on 3 April 2008.

The Special Rapporteur had submitted an aide memoire to the State party's representatives. He noted, inter alia, the amelioration in the communication between the State party and the Committee. He raised a number of questions in relation to the moratorium on death penalty and the State party's intention to permanently abolish recourse to capital punishment; the structure and functions of the State party's Commission on the execution of Tajikistan's international obligations; on the existence of an institution which deals specifically with the individual communications submitted under the Optional Protocol to the Covenant; on the introduction of the institution of Ombudsman.

The Special Rapporteur further asked the State party on the measures taken in order to give effect to the Committee's Views in respect to relatives (that were found to be victims of a violation of article 7 of the Covenant) of individuals who were sentenced to death and were executed and whose burial site was never revealed to the family.

The State party's representatives provided a number of clarifications in particular to the effect that the death penalty would be excluded from the legislation after the necessary legislative changes; to the work of an Inter-Ministerial (Inter-Agency) Commission on human rights, and the Department on Constitutional (human) rights of Tajik citizens. The State party's representatives noted that recently Tajikistan was visited by the United Nations High Commissioner for Human Rights; the Special Rapporteur on freedom of religion and belief, and the Special Rapporteur on violence against women, its causes and consequences.

The State party's representatives expressed their agreement to receiving a visit, in Tajikistan, of the Committee's Special

Rapporteur. The purpose of the visit would be to facilitate better cooperation with officials concerned and to contribute to yet better understanding of the work/procedure. They have asked for a note verbale to that effect, in order to check for available dates for the visit with their capital.

A note verbale was sent to the State party in May 2008 requesting available dates for the mission. To date no response has been received from the State party.

Committee's Decision The Committee considers the State party's response unsatisfactory and considers the dialogue ongoing. It reminds the State party of its invitation to the Rapporteur for a follow-up mission to the State party and notes that despite a note verbale in May 2008 from the secretariat on behalf of the Special Rapporteur to the State party requesting available dates for the mission, no response has been forthcoming from the State party.

Case **Kurbanov, 1096/2002**

Views adopted on 6 November 2003

Issues and violations found Arbitrary arrest and detention, torture, unfair trial, no/inadequate legal representation, no right to appeal, no interpretation, inhuman conditions, death sentence following unfair trial - articles 6, 7, 9, paragraph 2, and 3, 10, 14, paragraphs 1, and 3 (a) and (g).

Remedy recommended Compensation and a new trial before an ordinary court and with all the guarantees of article 14, or, should this not be possible, release.

Due date for State party response 10 February 2003

Date of reply 5 December 2007 (the State party had responded on 29 September 2004)

State party response On 29 September 2004, the State party confirmed that following the Committee's Views, and pursuant to the Death Penalty (Suspension) Act of 2 June 2004, the execution of the author's death sentence was commuted to 25 years. By order No. 1300 of the President of the Republic of Tajikistan dated 9 March 2004, he was granted clemency. The State party provided a copy of the joint reply of the Office of the Prosecutor General and the Supreme Court addressed to the Deputy Prime Minister. The

Prosecutor General and the Supreme Court re-examined the author's case and established the following facts. He was arrested on 12 May 2001 suspected of fraud, with which he was charged on 14 May 2001, and was kept in detention from 15 May 2001. At the time, the law did not allow for court control of detention and it was controlled by the prosecutor. According to the authorities, the case file did not contain any information that the author had been subjected to torture or ill-treatment, and he presented no complaint on this issue during the investigation or in court. After having confessed to the murders for which he had also been charged he was assigned a lawyer in whose presence he was charged with murder on 30 June 2001. The authorities concluded that his conviction for different crimes (including murders) was proven, that the judgment was grounded, and they found no reason to challenge it.

On 5 December 2007, the State party provided further decisions from the Supreme Court and the Prosecutor General, dated 5 October 2007 and 28 May 2007 respectively. After a second review of these cases, both bodies arrive at similar conclusions to their earlier decisions provided to the Committee on 29 September 2004.

Further action taken or required	In an earlier report the Committee, while expressing its satisfaction that the author's sentence had been commuted, requested the State party to fully implement its Views.
Committee's Decision	The Committee considers the dialogue ongoing.
Case	Dovud and Sherali Nazriev, 1044/2002
Views adopted on	17 March 2006
Issues and violations found	Torture, forced confession, unlawful detention, no legal representation at initial stages of the investigation, no notification of execution or burial ground - articles 6, 7, 9, paragraph 1, 14, paragraphs 1, 3 (b), (d), and (g) and breach of the Optional Protocol.
Remedy recommended	In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide Mrs. Shukurova with an effective remedy, including appropriate compensation, and to disclose to her the burial site of her husband and her husband's brother. The State party is also under an obligation to prevent similar violations in the future.

Due date for State party response 2 July 2006

Date of reply 5 December 2008 (the State party had responded on 13 July 2006)

State party response On 13 July 2006, the State party submitted two letters, one from the Supreme Court and one from the Office of the Prosecutor General. It informed the Committee that, at the request of the Governmental Commission, both institutions had examined the Committee's Views and had given their opinion on the State party's compliance with its international human rights obligations.

The Supreme Court recalled in extenso the facts/procedure of the case. It submitted information provided by the State party prior to consideration of the case, including the fact that their requests for Presidential pardon were denied in March 2002, and that the death sentences were carried out on 23 June 2002 (NB: the case was registered in January 2002). Thus, the executions took place when the judgment became executory and all domestic judiciary remedies were exhausted.

The examination of the criminal case file showed that the Nazrievs' guilt was established by much corroborating evidence (an extensive list of this evidence was provided, for example witnesses' testimonies, material evidence, and several experts' conclusions) that were examined and evaluated by the court). According to the Supreme Court, the author's allegations about the use of torture by the investigators to force the brothers to confess guilt were groundless and contradicted the content of the criminal case file and the rest of the evidence. There was no record in the criminal case file about any requests or complaints in relation to the assigned lawyers, no request to change the lawyers, and no complaints or requests from the Nazrievs' lawyers about the impossibility of meeting with their clients.

The Supreme Court rejected as groundless the author's allegations that both brothers were subjected to torture during the preliminary investigation, and that the court ignored their statements in this regard. It noted that according to the criminal case file, neither during the preliminary investigation nor in court did the brothers or their representatives make any torture claims (it is noted that the court trial was public and held in the presence of the accused, their representatives, relatives, and other individuals). In addition, the brothers "did not confess guilt either during the preliminary investigation or in court and their confessions" were not used as

evidence when establishing their guilt. Notwithstanding, the court had requested from the Detention Centre of the Ministry of Security (where the brothers were kept) medical records, and according to a response of 18 April 2001, it transpired that both brothers had requested medical care during their stay for hypertonia, "acute respiratory virus infection", grippe, caries, and depression. The brothers were examined on several occasions by medical doctors and were given appropriate medical care. No marks of torture or ill-treatment were revealed during these examinations, nor had they complained about torture/ill-treatment during the medical examinations.

Finally, in relation to the author's allegation that she was not informed either of the date of execution or of the burial place of her husband and his brother, the Supreme Court referred the Committee to its law on the Execution of Criminal Penalties. It stated that when the Supreme Court learnt that the brothers had been executed, it informed the relatives.

The Deputy Prosecutor General had provided a similar decision to that of the Supreme Court with identical conclusions, in a decision of 14 June 2006.

On 5 December 2008, the State party provided further decisions from the Supreme Court and the Prosecutor General, dated 5 October 2007 and 28 May 2007. After review of these cases for a second time, they arrived at similar conclusions to their earlier decisions provided to the Committee on 13 July 2006.

Author's response

The State party's response was sent to the author on 26 September 2006 with a deadline of 26 November 2006 for comments.

The State party's response of 5 December 2008 was sent to the author on 21 February 2008 with a deadline of 21 April 2008 for comments.

Committee's Decision

The Committee considers the dialogue ongoing.

Case

Davlatov brothers and Askarov, 1121/2001

Views adopted on

26 March 2007

Issues and violations found

Torture; unfair trial; right to life; conditions of detention: as to Messrs. Davlatovs - articles 6, paragraph 2, 7 and 14,

paragraph 3 (g) read together, 10, and 14, paragraph 2. As to Messrs. Karimov and Askarov - articles 6, paragraph 2, 7 read together with 14, paragraph 3 (g), 10, and 14, paragraphs 2 and 3 (b) and (d), of the Covenant

Remedy recommended An effective remedy, including compensation.

Due date for State party response 3 September 2007

Date of reply 5 December 2008

State party response The State party submits that in light of the Views, the Supreme Court reviewed the authors' case. It reiterated the facts in detail and refers to the large quantity of evidence on which the courts based their judgment in establishing the authors' guilt. With reference to the authors' allegations set out in the Committee's Views, the Supreme Court notes the following: the allegations of the alleged victims' innocence is not corroborated and is groundless; during the preliminary investigation, in the presence of their lawyers, all authors confirmed that they were not forced to confess and that they made their depositions freely; three witnesses testified, both during the preliminary investigation and in court, having seen Karimov on 11 April 2001 near the place where the Deputy Minister was killed; and during a search on 11 April 2001 at the crime scene, a sports bag was discovered. All four authors confirmed that the bag in question was used by them to carry the guns used in the murder.

The Supreme Court contends that the Committee's conclusions are groundless, and are refuted by the material in the criminal case file.

The General Prosecutor's Office also examined the Committee's Views and contests the findings. The file demonstrates inter alia that all actions taken during the investigation were conducted in the presence of their respective lawyers and all records are countersigned by the lawyers. Thus, the Committee's conclusion in relation to the breach of the alleged victims' right to defence has not been confirmed. As to the alleged violation of the presumption of innocence, due to the fact that they were kept with handcuffs in a metallic cage, the State party submits that officials have explained that this was needed because they were dangerous criminals. The fact that officials refused to remove their handcuffs does not in any way affect the outcome of the trial. The Committee's conclusion that the pronouncement of death

sentences does not fulfil the requirements of justice is, according to the Prosecutor's decision, also incorrect as it is only based on the author's distorted allegations.

Author's comments

State party's response sent to the authors on 21 February 2008 with a deadline of 21 April 2008.

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.

...						
Tajikistan (20)	964/2001, <i>Saidov</i> A/59/40	X A/60/40, A/62/40*				X
	973/2001, <i>Khalilov</i> A/60/40	X A/60/40, A/62/40*				X
	985/2001, <i>Aliboeva</i> A/61/40	A/62/40*			X A/61/40	X
	1096/2002, <i>Kurbanov</i> A/59/40	X A/59/40, A/60/40				X
	1108 and 1121/2002, <i>Karimov and Nursatov</i> A/62/40	X A/63/40				X
	1117/2002, <i>Khomidov</i> A/59/40	X A/60/40				X
	1195/2003, <i>Dunaev</i> A/64/40				X	
	1042/2002, <i>Boymurudov</i> A/61/40	X A/62/40, A/63/40				X
	1044/2002, <i>Nazriev</i>	X				X

	A/61/40	A/62/40, A/63/40				
Tajikistan (<i>cont'd</i>)	1096/2002, <i>Abdulali Ismatovich Kurbanov</i>	A/62/40*				

* The State party has not replied but it has met several times with the Rapporteur.

	1200/2003, <i>Sattorov</i> A/64/40				X	
	1208/2003, <i>Kurbanov</i> A/61/40	X A/62/40		X A/62/40		X
	1209/2003, 1231/2003 and 1241/2004, <i>Rakhmatov, Safarovs and Mukhammadiev</i> A/63/40	Not due				

	1263/2004 and 1264/2004, <i>Khuseynov and Butaev</i> A/64/40				X	
	1276/2004, <i>Idiev</i> A/64/40				X	
	1348/2005, <i>Ashurov</i>				X	

	A/62/40					
...						

CCPR, CCPR/C/SR.2712 (2010)

Human Rights Committee
Ninety-eighth session

Summary record (partial) of the 2712th meeting
Held at Headquarters, New York,
on Thursday 25 March 2010, at 3pm

...

Follow-up on views under the Optional Protocol

...

2. **Ms. Wedgwood**, speaking as Special Rapporteur for follow-up on Views under the Optional Protocol, introduced the follow-up progress report, which included information received since the Committee's 97th session.

...

12. **Ms. Wedgwood** said that cases in which the State party undertook systematic reforms in response to the Views of the Committee exemplified the virtues of the follow-up procedure under the Optional Protocol. With regard to cases Nos. 1200/2003, 1263/2004, 1264/2004 and 1276/2004 involving Tajikistan, and cases Nos. 1163/2003, 1382/2005 and 1418/2005 involving Uzbekistan, both States parties contested the Committee's findings. Noting that torture cases such as those should be the Committee's top priority, she proposed that the Committee should promptly schedule meetings in order to pursue a sincere dialogue on the issue with State party representatives.

...

17. *The recommendations contained in the follow-up progress report of the Committee on individual communications were approved.*

The discussion covered in the summary record ended at 3.40 p.m.

...

Chapter VI. Follow-up on individual communications under the Optional Protocol

202. The present chapter sets out all information provided by States parties and authors or their counsel since the last annual report (A/64/40).

...

State party	Tajikistan
Case	<i>Sattorov, 1200/2003 and Idiev, 1276/2004</i>
Views adopted on	30 March 2009, 31 March 2009
Issues and violations found	<p>Death penalty, torture, compelled to confess guilt, no legal representation, arbitrary arrest and detention and equality of arms with respect to the calling of witnesses - article 7; article 9, paragraphs 1 and 2; article 14, paragraphs 3 (d), (e), and (g); and a violation of article 6, paragraph 2, read together with article 14, paragraph 3 (d), (e) and (g).</p> <p>Torture and ill-treatment and confession through torture - articles 7, 14, 3 (g).</p>
Remedy recommended	<p>An effective remedy, including initiation and pursuit of criminal proceedings to establish responsibility for the ill-treatment of the author's son and a payment of adequate compensation.</p> <p>Effective remedy, including the payment of adequate compensation, initiation and pursuit of criminal proceedings to establish responsibility for the author's son's ill-treatment, and a retrial, with the guarantees enshrined in the Covenant or release, of the author's son.</p>
Due date for State party response	12 November 2009 for both cases
Date of State party response	12 October 2009 for both cases

State party response The State party reiterates the information provided in its submission on admissibility and merits with respect to the facts and substances of both cases. It denies that it has violated any of the author's rights and considers that the national courts correctly evaluated the law and facts of this case.

Author's comments None

Committee's Decision The follow-up dialogue is ongoing.

Case *Khuseynov, 1263/2004 and Butaev, 1264/2004*

Views adopted on 20 October 2008

Issues and violations found Torture, confession under torture, effective legal representation, equality of arms - article 7, read together with article 14, paragraph 3 (g) and article 14, paragraph 3 (b), with respect to Messrs. Khuseynov and Butaev and a violation of article 14, paragraph 3 (e), with respect to Mr. Butaev.

Remedy recommended An effective remedy, including adequate compensation.

Due date for State party response 11 May 2009

Date of State party response 13 March 2009

State party response The State party denies that it has violated any of the author's rights and considers that the national courts correctly evaluated the law and facts of this case.

Author's comments None

Committee's Decision The follow-up dialogue is ongoing.

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