



**International Covenant on
Civil and Political Rights**

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Human Rights Committee

One hundredth session

11 to 29 October 2010

Views

Communication No. 1776/2008

<u>Submitted by:</u>	Salem Saad Ali Bashasha (represented by the World Organisation Against Torture and Libyan Human Rights Solidarity)
<u>Alleged victim:</u>	The author and Milhoud Ahmed Hussein Bashasha (the author's cousin)
<u>State Party:</u>	The Libyan Arab Jamahiriya
<u>Date of communication:</u>	8 March 2008 (initial submission)
<u>Document references:</u>	Special Rapporteur's rule 97 decision, transmitted to the State party on 3 April 2008 (not issued in document form)
<u>Date of adoption of Views:</u>	20 October 2010

* Made public by decision of the Human Rights Committee.

<i>Subject matter:</i>	Enforced disappearance.
<i>Procedural issue:</i>	State failure to cooperate, another procedure of international investigation or settlement.
<i>Substantive issues:</i>	Prohibition of torture and cruel, inhuman and degrading treatment, right to liberty and security of the person, arbitrary arrest and detention, right of all persons in custody to be treated humanely, absence of effective remedy.
<i>Articles of the Covenant:</i>	article 2, paragraph 3; article 6; article 7; article 9, paragraphs 1 to 5; and article 10, paragraph 1.
<i>Articles of the Optional Protocol:</i>	article 5, paragraph 2 (a)

On 20 October 2010, the Human Rights Committee adopted the annexed text as the Committee's Views under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 1776/2008.

[Annex]

Annex

Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights (one hundredth session)**

concerning

Communication No. 1776/2008

Submitted by: Salem Saad Ali Bashasha (represented by the World Organisation Against Torture and Libyan Human Rights Solidarity)

Alleged victim: The author and Milhoud Ahmed Hussein Bashasha (the author's cousin)

State Party: The Libyan Arab Jamahiriya

Date of communication: 8 March 2008 (initial submission)

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

Meeting on 20 October 2010,

Having concluded its consideration of communication No. 1776/2008, submitted to the Human Rights Committee on behalf of Mr. Salem Saad Ali Bashasha and Mr. Milhoud Ahmed Hussein Bashasha, under the Optional Protocol to the International Covenant on Civil and Political Rights,

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

Adopts the following:

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

1.1 The author of the communication is Salem Saad Ali Bashasha, a Libyan citizen, born in 1942, and currently residing in Switzerland, where he was granted asylum in 1998. He is acting on his own behalf and on behalf of his cousin, Milhoud Ahmed Hussein Bashasha, also a Libyan national born on 5 September 1966 and who is said to have disappeared in the Libyan Arab Jamahiriya in October 1989. The author claims to be a

** The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Prafullachandra Natwarlal Bhagwati, Mr. Lazhari Bouzid, Mr. Mahjoub El Haiba, Mr. Yuji Iwasawa, Ms. Helen Keller, Mr. Rajsoomer Lallah, Ms. Zonke Zanele Majodina, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Fabian Omar Salvioli and Mr. Krister Thelin.

Pursuant to article 90 of the Committee's rules of procedure, Committee member Mr. Michael O'Flaherty, did not participate in the examination of the present Views.

victim of a violation by the Libyan Arab Jamahiriya¹ of article 7, of the Covenant, and that his cousin is a victim of a violation of articles 2, paragraph 3, 6 (see paras. 3.2 and 5.2), 7, 9, paragraphs 1 to 5, and 10, paragraph 1, of the Covenant. He is represented by the World Organization Against Torture and the Libyan Human Rights Solidarity.

1.2 On 5 June 2008, the State party was informed that, in the absence of any substantiation of its challenge to the admissibility, the admissibility of the communication will be examined together with the merits.

The facts as presented by the author

2.1 The author's cousin Milhoud Ahmed Hussein Bashasha was living with his family in the Shabna district of Benghazi, where he ran a food shop. He was not known to be politically active. The author and his cousin lived in the same house from 1966 to 1977 and had a very close relationship; the author was like a father to his younger cousin. Presently, the victim's father is deceased.

2.2 In October 1989, Milhoud Ahmed Hussein Bashasha was arrested for unknown reasons by plain-clothes agents of the Libyan internal security agency. The agents arrived armed at the family home in Benghazi in unmarked cars and did not produce an arrest warrant. His family witnessed the arrest but was not informed where the author's cousin was being taken. The following day, the internal security police searched the author's cousin's house and seized most of his personal belongings, including books, cassettes and papers, without giving any explanations to his family.

2.3 Milhoud Ahmed Hussein Bashasha's arrest coincided with the mass arrests carried out by the Libyan authorities in 1989, when the regime was cracking down on perceived dissidents. Many young persons were arrested in a seemingly indiscriminate manner at that time. Most of them were detained at the Abu Salim prison and then disappeared.²

2.4 Milhoud Ahmed Hussein Bashasha's family and the author made numerous attempts to locate him. Given that the Milhoud Ahmed Hussein Bashasha had been arrested by persons in civilian clothing, his family strongly suspected that he was arrested on political, rather than criminal grounds, as none of the minimal procedural formalities were maintained. Therefore, the family could only inquire with the political authorities about Milhoud Ahmed Hussein Bashasha's fate. They approached the Libyan Internal Security Agency and its various local offices, the office of the Revolutionary Committee and the military police station in Benghazi, a well known interrogation centre and transit point to Tripoli for political detainees, however always in vain. The family and the author were threatened with arrest and detention if they continued their efforts to locate the victim. The family consequently changed its strategy and used informal channels to try to obtain information about the victim's whereabouts. The author explains that the practice of informally approaching persons known to work for the internal security agency is the customary way for Libyan citizens to get information about missing family members.

2.5 More than half a year after his arrest, the family suspected that Milhoud Ahmed Hussein Bashasha was being detained at the Abu Salim prison outside Tripoli, where many persons arrested in the fall of 1989 were detained. The family's requests to visit Milhoud Ahmed Hussein Bashasha were all denied. While refusing to confirm Milhoud Ahmed Hussein Bashasha's presence at the prison, the prison guards regularly accepted food and clothing brought by the family for him. The family understood this as a confirmation of

¹ The Optional Protocol entered into force for Libyan Arab Jamahiriya on 16 May 1989.

² See Amnesty International Report, Libya Amnesty International's prisoner concerns in the light of recent legal reforms, June 1991, pp. 2-3, 8.

Milhoud Ahmed Hussein Bashasha's detention at the prison; however, without knowing if the items they had brought were reaching him.

2.6 Over the years, the family periodically received confirmation from released detainees that Milhoud Ahmed Hussein Bashasha was detained at Abu Salim prison. In 1994, a released detainee³ confirmed that he had heard that he was detained at Abu Salim prison. He also reported on the extremely poor conditions of detention, severe overcrowding, systematic beatings and undernourishment.

2.7 In the summer of 1996, special military forces killed a large number of detainees at the Abu Salim prison. The poor prison conditions that sparked the Abu Salim "riot" have been widely documented, for example in a report by the UN Special Rapporteur on Torture,⁴ according to which the prison conditions are harsh, overcrowded and unsanitary and available information indicated that the lack of adequate food, medical care and the use of torture and other forms of ill-treatment had resulted in the deaths of political prisoners.

2.8 On 24 May 2003, the author submitted his cousin's case to the Working Group on Enforced or Involuntary Disappearances. The case was registered as case No. 1002049 and transmitted to the Government of the Libyan Arab Jamahiriya on 29 August 2003. On 17 September 2003, the Working Group informed the author that the Government of the Libyan Arab Jamahiriya had failed to respond to its request for clarification. The author has received no further information from the Working Group.

The complaint

3.1 The author claims that his cousin is a victim of a violation of article 2, paragraph 3, of the Covenant as the State party failed to investigate his disappearance and, since 1989, the State party has not provided any information to his family as to his whereabouts or fate.⁵

3.2 The author submits that he does not invoke a violation of article 6, of the Covenant, as he does not know if his cousin is dead and continues to hope that he is still alive.

3.3 The author further submits that his cousin is a victim of a violation of articles 7 and 10, paragraph 1, because he has been held in *incommunicado* detention since 1989. The author refers to the Committee's views in *Youssef El-Megresisi v. Libyan Arab Jamahiriya*⁶, confirmed in *El Alwani v. Libyan Arab Jamahiriya*⁷, *El Hassy v. Libyan Arab Jamahiriya*⁸, in which the Committee found that prolonged *incommunicado* detention in an unknown location amounted to a violation of articles 7 and 10, paragraph 1, of the Covenant.

3.4 Referring to the Committee's jurisprudence⁹, the author claims to be, himself, a victim of a violation of article 7, because of the acute, long and chronic mental anguish that he has suffered due to the uncertainty of his cousin's fate. The author further recalls that he had a very close relationship with his cousin, similar to that of a father and that he has been trying to inquire about his cousin's fate since his arrest in 1989.

³ The name of this detainee is known to the author but his identity is not disclosed for fear of retaliation.

⁴ UN Special Rapporteur on Torture, Sir Nigel Rodley, report of 12 January 1999 (E/CH.4/1999/61, para. 448).

⁵ See General Comment No. 6, A/37/40, para. 4; communication No. 107/1981, *Quinteros v. Uruguay*, Views adopted on 21 July 1983, para. 16.

⁶ Communication No. 440/1990, Views adopted on 23 April 1994, paragraph 5.4

⁷ Communication No. 1143/2002, Views adopted on 20 July 2007.

⁸ Communication No. 1422/2005, Views adopted on 24 October 2007.

⁹ Communication No. 440/1990, *Quinteros v. Uruguay*, Views adopted on 23 April 1994, para. 14.

3.5 He further claims that his cousin is a victim of violation of article 9, because he was arbitrarily arrested without an arrest warrant and held incommunicado for a prolonged period of time, without being charged or convicted of a crime or other offence (article 9, paragraph 1), informed of the reasons for his detention and of the charges against him (article 9, paragraph 2) and never brought before a judge (article 9, paragraph 3). By disappearing him, the State party made it impossible to challenge the legality of the author's cousin's detention (article 9, paragraph 4) and to seek compensation for his unlawful arrest and detention (article 9, paragraph 5).

3.6 On admissibility, the author submits that the same matter has not been examined by another procedure of international investigation or settlement. He argues that the procedure before the Working Group on Enforced or Involuntary Disappearances cannot be considered a "procedure of international investigation or settlement" for the purpose of article 5, paragraph 2 (a), of the Optional Protocol.

3.7 As regards exhaustion of domestic remedies, the author recalls the Committee's jurisprudence, according to which the exhaustion requirement of article 5, paragraph 2 (b), of the Optional Protocol applies only to the extent that local remedies are available, effective and not unreasonably prolonged.¹⁰ He argues that there are no effective remedies for human rights violations in the Libyan Arab Jamahiriya because the judiciary is not independent from the government of Colonel al-Gaddafi. The author refers to communications No. 440/1990, *El-Megreisi v Libyan Arab Jamahiriya*, No. 1143/2002, *El Alwani v Libyan Arab Jamahiriya* and No. 1422/2005, *El Hassy v Libyan Arab Jamahiriya* and argues that the Committee had accepted that in the Libyan Arab Jamahiriya no effective remedies exist against public officials and that the victims or persons acting on their behalf would face unreasonable high risks of harm by attempting to invoke any remedies. The author further argues that the failure of Libya to provide information on the implementation of the Committee's views in communication No. 440/1990 (*Youssef El-Megreisi v. Libyan Arab Jamahiriya*)¹¹ is further evidence of the ineffectiveness of the Libyan legal system and the unavailability of legal remedy against public officials. The author submits that domestic remedies are neither effective, nor available and that, therefore, he should not be required to exhaust them, as they are objectively futile.¹² The author further submits that he was not in a position to appeal to the judicial authorities to request for an investigation to be carried out into the fate of the victim, because of a general climate of fear¹³, particularly surrounding the fate of political detainees at Abu Salim prison and the unreasonable high risk of harm to which he would have exposed himself and the victim's family.

State party's observations

4.1 On 2 June 2008, the State party submitted that it wishes to challenge the admissibility pursuant to rule 97, paragraph 3, of the Committee's Rules of Procedure, without however adducing any arguments.

4.2 On 3 April 2008, 22 January 2009, 12 August 2009 and 16 December 2009, the State party was requested to submit information on the admissibility and merits of the

¹⁰ See for example communication No. 147/1983, *Arzuaga Gilboa v. Uruguay*, Views adopted on 1 November 1985, para. 7.2.

¹¹ The Committee's Concluding Observations on the Libyan Arab Jamahiriya fourth periodic report, 30 October 2007, CCPR/C/LBY/CO/4/para. 7.

¹² See communication No. 210/1986 and 225/1987, *Pratt and Morgan v. Jamaica*, Views adopted on 6 April 1989.

¹³ See communication No. 594/1992, *Phillip v. Trinidad and Tobago*, Views adopted on 20 October 1998, para. 6.4.

communication. The Committee notes that this information has not been received. It regrets the State party's failure to provide any substantive information with regard to the admissibility or substance of the author's claims. It recalls that under the Optional Protocol, the State party concerned is required to submit to the Committee written explanations or statements clarifying the matter and the remedy, if any, that it may have taken. In the absence of a reply from the State party, due weight must be given to the author's allegations, to the extent that these have been properly substantiated.

4.3 On 28 August 2010, the State party informed the Committee that the author is sought by the Libyan justice.

Further information by the author

5.1 On 17 July 2009, the author submitted a death certificate issued on 12 April 2008, which had been given to the family on 20 June 2009. According to the certificate, the death of the victim occurred on 18 June 1996 in Tripoli and the cause is unknown.

5.2 On 20 August 2010, the author submitted that there appears no longer to be any hope to find Milhoud Ahmed Hussein Bashasha alive. He, therefore, claims that his cousin is also a victim of a violation of article 6, of the Covenant, as there is no evidence that his cousin died of a natural cause, but as a consequence of his enforced disappearance.

5.3 On 16 September 2010, the author referred to the State party's submission of 28 August 2010 and argued that the State party's explanations appeared to be contradictory with the information in the author's possession, including his cousin's death certificate. The author expressed concern at the State party's failure to cooperate and reiterated that he wished to be informed of the true cause of his cousin's death by means of an independent and impartial investigation. The investigation should be carried out by a competent body and the findings should be made public.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with article 93 of its Rules of Procedure, decide whether or not it is admissible under the Optional Protocol of the Covenant.

6.2 The Committee notes that the author submitted his cousin's case to the United Nations Working Group on Enforced or Involuntary Disappearances, which informed him on 17 September 2003 that the Libyan Arab Jamahiriya failed to provide any information as requested. The Committee, however, recalls that extra-conventional procedures or mechanisms established by the United Nations Commission on Human Rights and assumed by the United Nations Human Rights Council or the Economic and Social Council, and whose mandates are to examine and publicly report on human rights situations in specific countries or territories or on major phenomena of human rights violations world wide, do not constitute a procedure of international investigation or settlement within the meaning of article 5, paragraph 2 (a), of the Optional Protocol.¹⁴ The Committee recalls that the study of human rights problems of a more global character, although it might refer to or draw on information concerning individuals, cannot be seen as being the same matter as the examination of individual cases within the meaning of article 5, paragraph 2 (a), of the

¹⁴ See communication No. 540/1993, *Celis Laureano Atachahua v. Peru*, Views adopted on 25 March 1996, para. 7.1.

Protocol.¹⁵ Accordingly, the Committee considers the fact that Milhoud Ahmed Hussein Bashasha's case was registered before the United Nations Working Group on Enforced or Involuntary Disappearances does not make it inadmissible under this provision.

6.3 With respect to the requirement of exhaustion of domestic remedies, the Committee reiterates its concern that in spite of three reminders addressed to the State party no substantive information or observations on the admissibility, which the State party challenged without providing any arguments, or merits of the communication have been received from the State party. In the circumstances, the Committee finds that it is not precluded from considering the communication under article 5, paragraph 2 (b), of the Optional Protocol. The Committee finds no other reason to consider the communication inadmissible and thus proceeds to its consideration on the merits, in as much as the claims under article 6; article 7; article 9; article 10, paragraph 1; and article 2, paragraph 3, are concerned.

Consideration of merits

7.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it, as required under article 5, paragraph 1, of the Optional Protocol.

7.2 The Committee recalls paragraph 7.3 of communication *El Abani v. Libyan Arab Jamahiriya*¹⁶, in which it stated that any act leading to an enforced disappearance of a person constitutes a violation of many of the rights enshrined in the Covenant. It also notes that the State party has provided no response to the author's allegations regarding the enforced disappearance of his cousin. It reaffirms that the burden of proof cannot rest solely on the author of the communication, especially considering that the author and the State party do not always have equal access to evidence and that frequently the State party alone has access to the relevant information.¹⁷ It is implicit in article 4, paragraph 2, of the Optional Protocol that the State party has the duty to investigate in good faith all allegations of violations of the Covenant made against it and its representatives and to provide the Committee with the information available to it. In cases where the author has submitted allegations to the State party that are corroborated by credible evidence and where further clarification depends on information that is solely in the hands of the State party, the Committee may consider an author's allegations substantiated in the absence of satisfactory evidence or explanations to the contrary presented by the State party.¹⁸

7.3 With respect to the alleged violation of article 6, paragraph 1, the Committee recalls its General Comment 6 on article 6, which states, inter alia, that States parties should take specific and effective measures to prevent the disappearance of individuals and establish facilities and procedures to investigate thoroughly, by an appropriate impartial body, cases of missing and disappeared persons in circumstances which may involve a violation of the right to life.¹⁹ The Committee observes that on 20 June 2009, the family was provided with Milhoud Ahmed Hussein Bashasha's death certificate, without any explanation as to the

¹⁵ See communication No. 1495/2006, *Zohra Madoui v. Algeria*, Views adopted on 28 October 2008, para. 6.2.

¹⁶ See communication No. 1640/2007, Views adopted on 26 July 2010, para. 7.3.

¹⁷ See communications No. 1640/2007, *El Abani v. Libyan Arab Jamahiriya*, Views adopted on 26 July 2010, para. 7.4; No. 1422/2005, *El Hassy v. Libyan Arab Jamahiriya*, Views adopted on 24 October 2007, para. 6.7; No. 1297/2004, *Medjnoune v. Algeria*, Views adopted on 14 July 2006, para. 8.3, and No. 139/1983, *Conteris v. Uruguay*, Views adopted on 17 July 1985, para. 7.2.

¹⁸ See Communication No. 1439/2005, *Sid Ahmed Aber v. Algeria*, Views adopted on 13 July 2007, para. 7.2.

¹⁹ See General Comment No. 6, A/37/40, para. 4.

cause or the exact place of his death or any information on any investigations undertaken by the State party. In the circumstances, the Committee finds that the right to life enshrined in article 6 has been violated by the State party.

7.4 In the present case, the Committee notes that the author's cousin was reportedly arrested in October 1989 by what clearly appears to be internal security officers, armed and in plain clothes. The victim's family witnessed the arrest and was present the following day when agents of the internal security police returned and confiscated Milhoud Ahmed Hussein Bashasha's belongings. The Committee notes that the State party has not provided any explanation of these allegations, thus making it impossible to shed the necessary light on the victim's arrest and subsequent incommunicado detention. The Committee recognizes the degree of suffering entailed in being detained indefinitely and deprived of all contact with the outside world. In this connection, the Committee recalls its General Comment No. 20 on article 7 of the Covenant, in which it recommends that States parties should make provisions against *incommunicado* detention²⁰. In the absence of any satisfactory explanation by the State party concerning the disappearance of the author's cousin, his detention since 1989, having been prevented from communicating with his family and the outside world and his unexplained death in 1996, the Committee considers that Milhoud Ahmed Hussein Bashasha's enforced disappearance constitutes a violation of article 7 of the Covenant.²¹

7.5 The Committee also takes note of the anguish and distress caused by the disappearance of the author's cousin to his close family, including the author, since October 1989. It therefore considers that the facts before it disclose a violation of article 7 of the Covenant with regard to the author.²²

7.6 With regard to the alleged violation of article 9, the information before the Committee shows that the author's cousin was arrested without a warrant by plain clothes agents of the State party, was then held incommunicado without access to defence counsel and without ever being informed of the reasons for his arrest or the charges against him. The Committee recalls that the author's cousin was never brought before a judge and never could challenge the legality of his detention. In the absence of any pertinent explanation from the State party, the Committee finds a violation of article 9 of the Covenant.²³

7.7 Regarding the author's complaint under article 10, paragraph 1, that his cousin was held incommunicado at Abu Salim prison, under poor conditions of detention, severe overcrowding, systematic beatings and undernourishment, the Committee reiterates that persons deprived of their liberty may not be subjected to any hardship or constraint other than that resulting from the deprivation of liberty and that they must be treated with humanity and respect for their dignity. In the absence of information from the State party concerning the treatment of the author's cousin in Abu Salim prison and noting what has

²⁰ See General Comment No. 20, A/47/40(SUPP).

²¹ See communication No. 1640/2007, *El Abani v. Libyan Arab Jamahiriya*, Views adopted on 26 July 2010, para. 7.4; communication No. 1422/2005, *El Hassy v. Libyan Arab Jamahiriya*, Views adopted on 24 October 2007, para. 6.2; No. 1295/2004, *El Awani v. Libyan Arab Jamahiriya*, Views adopted on 11 July 2007, para. 6.5; communication No. 540/1993, *Celis Laureano v. Peru*, Views adopted on 25 March 1996, para. 8.5; and communication No. 458/1991, *Mukong v. Cameroon*, Views adopted on 21 July 1994, para. 9.4.

²² Communication No. 107/1981, *Maria del Carmen Almeida de Quinteros v. Uruguay*, Views adopted on 21 July 1983, para. 14; communication No. 950/2000, *S. Jegatheeswara Sarma v. Sri Lanka*, Views adopted on 16 July 2003, para. 9.5; communication No. 992/2001, *Louisa Bousroual v. Algeria*, Views adopted on 30 March 2006, para. 9.8; communication No. 1422/2005, *El Hassy v. Libyan Arab Jamahiriya*, Views adopted on 24 October 2007, para. 6.11.

²³ See communication No. 1297/2004, *Medjnoune v. Algeria*, Views adopted on 14 July 2006, para. 8.5.

been reported on the general conditions in that prison²⁴, the Committee concludes that his rights under article 10, paragraph 1, were violated.²⁵

7.8 The author invokes article 2, paragraph 3, of the Covenant, which requires States parties to ensure that individuals have accessible, effective and enforceable remedies for asserting the rights enshrined in the Covenant. The Committee reiterates the importance it attaches to States parties' establishment of appropriate judicial and administrative mechanisms for addressing alleged violations of rights under domestic law. It refers to its General Comment No. 31, which states that failure by a State party to investigate allegations of violations could in and of itself give rise to a separate breach of the Covenant.²⁶ In the present case, the information before the Committee indicates that the author's cousin did not have access to such effective remedy, and the Committee therefore concludes that the facts before it reveal a violation of article 2, paragraph 3, read in conjunction with article 7.²⁷

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it reveal violations by the State party of articles 6 and 7 alone and read in conjunction with article 2, paragraph 3; article 9, article 10, paragraph 1, of the Covenant with regard to the author's cousin; and of article 7 of the Covenant with regard to the author himself.

9. In accordance with article 2, paragraph 3, of the Covenant, the State party is under an obligation to provide the author with an effective remedy. The Committee therefore urges the State party a) to conduct a thorough and effective investigation into the disappearance and death of the author's cousin; b) to provide adequate information resulting from its investigation; c) to return to the family the mortal remains of Mr. Milhoud Ahmed Hussein Bashasha, provided that the State party has not already done so; d) to prosecute, try and punish those held responsible for the violations; and e) to provide adequate compensation for the author and Milhoud Ahmed Hussein Bashasha's family for the violations suffered by the author's cousin. The State party is also under an obligation to take measures to prevent similar violations in the future.

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, that State party has undertaken to ensure all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish the Committee's Views.

²⁴ UN Special Rapporteur on Torture, Sir Nigel Rodley, report of 12 January 1999, E/CH.4/1999/61, para. 448.

²⁵ See general comment No. 21 on article 10, A/47/40(SUPP), para. 3; communication No. 1134/2002, *Gorji-Dinka v. Cameroon*, Views adopted on 17 March 2005, para. 5.2; and communication No. 1422/2005, *El Hassy v. Libyan Arab Jamahiriya*, Views adopted on 24 October 2007, para. 6.4.

²⁶ See General Comment No. 31, CCPR/C/21/Rev.1/Add.13, paras. 15 and 18.

²⁷ See communication No. 1422/2005, *El Hassy v. the Libyan Arab Jamahiriya*, Views adopted on 24 October 2007, para. 6.9; and communication No. 1196/2003, *Boucherf v. Algeria*, Views adopted on 30 March 2006, para. 9.9.

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