

Gambia's Non-Cooperation with UN Treaty Bodies

Report by the Centre on Civil and Political Rights for the Universal Periodic Review of Gambia

In the past twenty years Gambia has submitted only two of the twenty-eight reports due on the implementation of the International Human Rights Treaties it has ratified. Reports are between 23 and 3 years overdue and it is not up to date in reporting on any treaty.

	Ratification date	Report number	Report Due	Years Overdue
CCPR	1979	Second Periodic	1985	23
CESCR	1978	Initial	1990	19
CERD	1978	Second Periodic	1990	19
CRC	1990	Second Periodic	2006 ¹	3
CEDAW	1993	Fourth Periodic ²	2006	3

Three Treaty Bodies have examined Gambia in the absence of a report:

The Committee on the Elimination of Racial Discrimination four times (in 1991, 1996, 2001 and 2008);

The Committee on Economic, Social and Cultural Rights (in 1994);

The Human Rights Committee (in 2002).

In February 2009 the Human Rights Committee declared Gambia to be in breach of its obligation to cooperate with the HR Committee in the performance of its functions under Part IV (Article 40) of the International Covenant on Civil and Political Rights (ICCPR) and referred the matter to the High Commissioner for Human Rights. It remains to be seen what further action will be taken. This decision followed the consideration in the absence of a report of the situation in Gambia at the seventy-fifth session in July 2002 (when the State Party report was seventeen years overdue) and the State Party's failure to cooperate with that review and the subsequent follow-up procedure.

¹ This assumes that Gambia was asked to submit its Second Periodic Report five years after the consideration of the Initial Report in 2001. The documents of the CRC still indicate the original reporting schedule which expected the Second and Third reports in 1997 and 2002 respectively.

² A combined Initial, Second and Third Report was submitted in 2003, nine years after the Initial Report was due.

The following summary demonstrates that the HR Committee made every effort to engage with the State in the course of the six years between the review and this declaration.

March 2002	A diplomatic note (confirmed in writing on 19 June 2002) from the Permanent Mission of the Gambia to the Secretary General of the UN confirmed that a high-level delegation would attend the review at the HR Committee's 75 th Session in July 2002. (Concluding Observations of the Human Rights Committee on Gambia CCPR/CO/75/GMB).
July 2002	<p>At the last minute the delegation indicated that it would not attend the session. The HR Committee therefore considered the situation in the State Party in closed session in the absence of both a report and a delegation and issued Provisional Concluding Observations. These Provisional Concluding Observations were transmitted to the State Party with a request that it provide replies to the concerns raised therein by 31 December 2002.</p> <p>In the Concluding Observations (CCPR/CO/75/GMB) the HR Committee described the delegation's last-minute decision not to attend the session as a serious concern and noted that the failure to submit a report since 1983 “amounts to a serious breach by the State party of its obligations under article 40 of the Covenant”.</p>
July 2003	As no information had been received by the 78 th Session (July 2003) the HR Committee asked the State to submit a periodic report specifically addressing the concerns raised in the Provisional Concluding Observations by July 2004. Failure to do so would result in the conversion of the Provisional Concluding Observations into final Concluding Observations and their general dissemination. (Report of the Human Rights Committee to the GA covering the 76 th , 77 th and 78 th Sessions. A/58/40(Vol.1) para.58.)
July 2004	As no information had been received by the 81 st Session (July 2004) the Provisional Concluding Observations were converted into public and final ones. This decision and the Concluding Observations themselves were published in the Human Rights Committee report to the GA covering the 79 th , 80 th and 81 st Sessions (A/59/40(Vol1) para.46.)

October 2006, February 2007, June 2007, September 2007	Reminders were sent to the State Party, requesting the submission of information on the measures taken to implement the Concluding Observations. No information was received.
January 2008, March 2008	The Special Rapporteur on Follow-up to the Concluding Observations requested a meeting with State representatives. No response was received.
June 2008	A further reminder was sent and the State Party was informed that “in the absence of a response by the ninety-third session, it will be declared to be in breach of its obligation to cooperate with the HR Committee in the performance of its functions under Part IV of the Covenant” (Human Rights Committee Report to the GA covering the 91 st , 92 nd and 93 rd Sessions (A/63/40 (Vol1))).
September 2008	At its 93 rd Session (July 2008) the HR Committee declared Gambia in breach of its obligation to cooperate with the HR Committee under part IV of the ICCPR. In September the State Party was notified of this decision. (Human Rights Committee Progress report on Follow-up, updated at the 95 th Session (March 2009) (CCPR/C/95/2/rev.1)).
February 2009	The HR Committee informed the High Commissioner for Human Rights that Gambia had been declared in breach of its obligations and referred the matter to her. (Human Rights Committee Progress report on Follow-up, updated at the 95 th Session (March 2009) (CCPR/C/95/2/rev.1)).

In summary, Gambia has persistently failed to cooperate with the Human Rights Committee. Not only in failing to submit periodic reports, but also in refusing at the last minute to send a delegation to the review, although the HR Committee had previously agreed to postpone consideration of Gambia in the light of the State's commitment to send a delegation to the seventy-fifth session³. The State Party also failed to cooperate with the follow up procedure, during which the HR Committee deployed all the methods available to it to solicit a response.

Finally, it should be born in mind that this is the first time that the Human Rights Committee has considered it necessary to declare a State Party in breach of its obligations and to refer the matter to the High Commissioner for Human Rights.

3 Concluding Observations of the Human Rights Committee on The Gambia (CCPR/CO/75/GMB) para.2.

This record of non-cooperation makes it impossible to believe that Gambia's poor reporting record to all the Treaty Bodies is due solely to lack of resources and capacity to report. It suggests a more fundamental problem with a lack of respect for and compliance with the UN mechanisms and international standards, including those which Gambia has freely accepted by ratifying the relevant Treaties.

The Centre for Civil and Political Rights suggests that, in the course of the Universal Periodic Review, Gambia should be asked about its non-cooperation with the UN Treaty bodies, particularly the Human Rights Committee, and encouraged to submit its overdue reports as soon as possible, where necessary seeking technical support from the OHCHR.

Gambia should also implement the Human Rights Committee's Concluding Observations (CCPR/CO/75/GMB) as a matter of priority.

The Centre for Civil and Political Rights is an NGO based in Geneva which aims to facilitate the participation of national NGOs in the reporting processes of the UN Human Rights Committee and so contribute to the promotion and protection of the rights guaranteed by the International Covenant on Civil and Political Rights.