

HUMAN RIGHTS COMMITTEE

R. M. v. Trinidad and Tobago

Communication No. 476/1991

31 March 1994

CCPR/C/50/D/476/1991

ADMISSIBILITY

Submitted by: R. M. [name deleted] (represented by counsel)

Alleged victim: The author

State party: Trinidad and Tobago

Date of communication: 3 October 1991 (initial submission)

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

Meeting on 31 March 1994,

Adopts the following:

Decision on Admissibility

1. The author of the communication is R. M., a Trinidadian citizen, at the time of submission of the communication awaiting execution at the State prison of Port-of-Spain. He claims to be the victim of a violation by Trinidad and Tobago of article 14, paragraphs 1 and 2, of the International Covenant on Civil and Political Rights. He is represented by counsel.

The facts as submitted by the author

2.1 The author was arrested on 23 August 1982 and charged with the murder, on 19 August 1982, of one C. G. After trial before a jury in the High Court, he was found guilty and sentenced to death on 21 July 1986. The Court of Appeal dismissed his appeal on 16 July 1988. A subsequent petition to the Judicial Committee of the Privy Council was dismissed on 24 April 1991.

2.2 At the trial, it transpired that on 19 August 1982, the author was picked up by C. G. and Sue Y. M., who had been driving around in C. G.'s car, pausing intermittently for drinks. The prosecution relied heavily upon the evidence given by the principal witness, Ms. Sue Y. M. She testified that, at a certain moment, the author and C. G. went to a bar, but she, feeling drunk and tired, stayed behind in the car and fell asleep. When she woke up, the author was driving the car and she heard C. G.'s voice coming from the trunk. The car stopped near a bridge and the author attempted to rape her. C. G. called out from the trunk to the author to "leave the girl alone". The author then got out of the car and opened the trunk. The witness heard sounds of a fight and after that she no longer heard C. G. She then heard a splash from underneath the bridge and when she asked the author upon his return to the car what had happened, he reportedly said: "Don't worry about him, he has gone for a long sleep". According to the witness, the author tried to rape her twice more during that night. In the morning, she reported the incident to the police. Five days later, at an identification parade, she identified the author. The body of the deceased was found in the Caroni river.

2.3 The defence, at the trial and on appeal, claimed that Ms. M.'s testimony was inadmissible because it went beyond the *res gestae*, in that the attempted rapes were not germane to the offence with which the author was charged nor to the issue of identification, and testimony about another serious offence would prejudice the jury against the accused.

2.4 In addition to Ms. M.'s evidence, the prosecution also adduced circumstantial evidence and relied on a confession allegedly made by the author to the police, in which he admitted that he, together with another man, had locked C. G. in the trunk of the car and later had tied his hands and feet and had pushed him into the river. According to the evidence led by the prosecution, this statement was recorded and signed by the author in the presence of a Justice of the Peace.

2.5 During the trial, the author made a statement from the dock, in which he denied any involvement in the crime and claimed that he had not made any confession to the police after his arrest.

The complaint

3. The author claims that he was denied a fair trial in that (a) the judge allowed the prosecution to present Ms. M.'s evidence, which was highly prejudicial to the author, (b) the trial judge failed to instruct the jury on the need of corroboration of this evidence, and (c) the trial judge misdirected the jury, saying that it was improper for the defence to suggest that the author's statement to the police had been fabricated, without subjecting such allegations to cross-examination, thus suggesting that the author's statement from the dock had been improper.

The State party's observations

4.1 The State party, by submission of 1 April 1993, concedes that all criminal appeals available to the author have been exhausted and undertakes not to carry out the death sentence against the author while his communication is under consideration by the Committee.

4.2 In February 1994, the State party informed the Committee that, following the judgement of 2 November 1993 by the Judicial Committee of the Privy Council in *Earl Pratt and Ivan Morgan v. the Attorney-General of Jamaica*, the author's death sentence had been commuted to life

imprisonment.

Issues and proceedings before the Committee

5.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 87 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

5.2 The Committee notes that the State party does not object to the admissibility of the communication. Nevertheless, it is the Committee's duty to ascertain whether all the admissibility criteria laid down in the Optional Protocol have been met.

5.3 The Committee notes that the author's allegations that he did not have a fair trial relate to the evaluation of evidence and to the instructions given by the judge to the jury. The Committee refers to its prior jurisprudence and reiterates that it is generally for the appellate courts of States parties to the Covenant to evaluate facts and evidence in a particular case. Similarly, it is not for the Committee to review specific instructions to the jury by the trial judge, unless it can be ascertained that the instructions to the jury were arbitrary or amounted to a denial of justice, or that the judge manifestly violated his obligation of impartiality. The material before the Committee does not show that the trial judge's instructions or the conduct of the trial suffered from such defects. Accordingly, the communication is inadmissible as incompatible with the provisions of the Covenant, pursuant to article 3 of the Optional Protocol.

6. The Human Rights Committee therefore decides:

- (a) That the communication is inadmissible under article 3 of the Optional Protocol;
- (b) That this decision shall be communicated to the State party, to the author and to his counsel.

[Adopted in English, French and Spanish, the English text being the original version.]