

HUMAN RIGHTS COMMITTEE

J.P. v. Canada

Communication No. 446/1991*/

7 November 1991

CCPR/C/43/D/446/1991

ADMISSIBILITY

Submitted by: Dr. J.P. [name deleted]

Alleged victim: The author

State party: Canada

Date of communication: 21 February 1991 (initial submission)

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

Meeting on 7 November 1991,

Adopts the following:

Decision on admissibility

1. The author of the communication is Dr. J. P., a Canadian citizen residing in Vancouver, British Columbia, Canada. She claims to be a victim of a violation by Canada of article 18 of the International Covenant on Civil and Political Rights. She is represented by counsel.

The facts as submitted by the author:

2.1 The author is a member of the Society of Friends (Quakers). Because of her religious convictions, she has refused to participate in any way in Canada's military efforts. Accordingly, she has refused to pay a certain percentage of her assessed taxes, equal to the amount of the Canadian Federal budget earmarked for military appropriations. Taxes thus withheld have instead been deposited with the Peace Tax Fund of Conscience Canada, Inc., a non-governmental organization.

2.2 On 28 August 1987, the author filed a statement of claims in the Federal Court of Canada, Trial Division, for a declaratory judgment that the Canadian Income Tax Act, in so far as it implies that a certain percentage of her assessed taxes goes towards military expenditures, violates her freedom of conscience and religion. On 3 February 1988, the Trial Division of the Federal Court dismissed the action on the ground that the author had no arguable claim. The author appealed to the Federal Court of Appeal which confirmed the earlier decision on 10 October 1989. The author then applied for leave to appeal to the Supreme Court of Canada, which refused leave to appeal on 22 February 1990. Subsequently, following another request by the author, it refused to reconsider its refusal to grant leave to appeal.

2.3 The author requests interim measures of protection pursuant to rule 86 of the Committee's rules of procedure, as the Canadian Internal Revenue Service is threatening to collect the taxes owed by the author.

The complaint:

3. The author claims that the payment of taxes which will be used for military and defence purposes violates her freedom of conscience and religion under article 18 of the Covenant.

The issues and proceedings before the Committee:

4.1 Before considering any claims 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.

4.2 The Committee notes that the author seeks to apply the idea of conscientious objection to the disposition by the State of the taxes it collects from persons under its jurisdiction. Although article 18 of the Covenant certainly protects the right to hold, express and disseminate opinions and convictions, including conscientious objection to military activities and expenditures, the refusal to pay taxes on grounds of conscientious objection clearly falls outside the scope of protection of this article.

4.3 The Human Rights Committee concludes that the facts as submitted do not raise issues under any of the provisions of the Covenant. Accordingly, the author's claim is incompatible with the Covenant, pursuant to article 3 of the Optional Protocol.

5. 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 transmitted to the author and to her counsel and, for information, to the State party.

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

Footnotes

* All persons handling this document are requested to respect and observe its confidential nature.

*/ Made public by decision of the Human Rights Committee.