



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of Discrimination
against Women**

Communication No. 56/2013

**Decision on admissibility adopted by the Committee at its
sixty-second session (26 October-20 November 2015)**

<i>Submitted by:</i>	M.C. (represented by counsel, Helge Nørrung)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Denmark
<i>Date of communication:</i>	9 July 2013 (initial submission)
<i>References:</i>	Transmitted to the State party on 11 July 2013 (not issued in document form)
<i>Date of adoption of decision:</i>	9 November 2015



Annex

Decision of the Committee on the Elimination of Discrimination against Women under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (sixty-second session)

concerning

Communication No. 56/2013*

Submitted by: M.C. (represented by counsel,
Helge Nørrung)

Alleged victim: The author

State party: Denmark

Date of communication: 9 July 2013 (initial submission)

The Committee on the Elimination of Discrimination against Women, established under article 17 of the Convention on the Elimination of All Forms of Discrimination against Women,

Meeting on 9 November 2015,

Adopts the following:

Decision on admissibility

1.1 The author of the communication is M.C., a Pakistani national born in 1945. She sought asylum in Denmark; her application was rejected and, at the time of submission of the communication, she was awaiting deportation from Denmark to Pakistan. The author claims that her deportation to Pakistan would constitute a violation by Denmark of her rights under articles 1, 2, 3, 5 and 16 of the Convention on the Elimination of All Forms of Discrimination against Women, read in conjunction with the Committee's general recommendation No. 19 (1992) on violence against women. The author is represented by counsel, Helge Nørrung. The Convention and the Optional Protocol thereto entered into force for the State party on 21 May 1983 and 22 December 2000, respectively.

1.2 When registering the communication, the Committee's Working Group on Communications under the Optional Protocol decided not to accede to the author's request for interim measures of protection in order to stop her deportation pending the examination of her case. On 10 September 2013, the State party informed the Committee that the author had been returned to Pakistan on 13 July 2013.

* The following members of the Committee took part in the consideration of the present communication: Ayse Feride Acar, Gladys Acosta Vargas, Bakhita Al-Dosari, Nicole Ameline, Barbara Bailey, Niklas Bruun, Náela Gabr, Hilary Gbedemah, Nahla Haidar, Yoko Hayashi, Lilian Hofmeister, Ismat Jahan, Lia Nadaraia, Theodora Nwankwo, Pramila Patten, Silvia Pimentel, Biancamaria Pomeranzi, Patricia Schulz and Xiaoqiao Zou.

1.3 On 29 January 2014, the Committee, acting through the Working Group on Communications, decided, pursuant to rule 66 of the Committee's rules of procedure, to consider the admissibility of the communication separately from its merits.

Facts as submitted by the author

2.1 The author is a Pakistani national belonging to a Christian minority of Anglo-Indians who speak English as their mother tongue. She is the mother of seven adult children. One of her daughters, P., is a resident of Denmark through marriage to a Danish national. The author has another daughter, M.S. (the author of communication No. 40/2012, which was found inadmissible by the Committee on 22 July 2013), who arrived in Denmark in 2007 and applied for asylum in 2009 and whose asylum claim was rejected.

2.2 The author travelled to Denmark on a valid visa on 3 April 2011. On 25 May, she applied for asylum. In her application, she claimed that she had always been subjected to discrimination as a Christian woman, referring to frequent incidents of verbal assault in public (providing no further details) and the touching of her intimate parts by unspecified individuals. She also informed the authorities that her daughter, M.S., had been harassed by a Muslim man, A., who had connections to powerful individuals within the police force in Pakistan and who wanted to convert her to Islam. When her daughter had become a young woman, that discrimination had turned into sexual harassment. The author also claimed that her son had been arrested "in connection to Ramadan" in January 2010 and, after spending one day in police detention, had been thrown on to the street and died in hospital on 12 January 2012 from kidney injuries. The author provided no further details about the alleged events.

2.3 On 23 September 2011, the Danish Immigration Service refused to grant asylum to the author. On 9 March 2012, the author's appeal was rejected by the Danish Refugee Appeals Board. The Board found that the author herself had not been subjected to harassment from the man who allegedly had harassed her daughter and that the general situation for Christians in Pakistan was not of such a nature that the author should be considered persecuted under Danish asylum law.

2.4 The author notes that that decision is final and not subject to further appeal.

Complaint

3. The author claimed that, if she were returned to Pakistan, the State party would violate articles 1, 2, 3, 5 and 16 of the Convention and the Committee's general recommendation No. 19, without providing further details in support of her claim. She alleged that she feared becoming a victim of continued harassment because of her Christian background and because of her relationship to her daughter, who had been a victim of sexual harassment by A.

State party's observations on admissibility

4.1 The State party presented its observations through a note verbale on 10 September 2013 and informed the Committee that the author had been returned to Pakistan on 13 July 2013.

4.2 The State party challenged the admissibility of the communication as being manifestly ill-founded and insufficiently substantiated, under article 4 (2) (c) of the

Optional Protocol. It noted that the author had sought to apply the obligations under the Convention in an extraterritorial manner. The State party referred to communication No. 33/2011,¹ stating that it appeared from the reasoning of the Committee in that communication that the Convention had extraterritorial effect only when the woman, if returned, would be exposed to a real, personal and foreseeable risk of serious forms of gender-based violence. The State party was of the view that the acts of States parties that might have an indirect effect on a person's rights under the Convention in other States could entail responsibility for the State party only under exceptional circumstances in which the person, if returned, would be at risk of being deprived of life or being exposed to torture or other inhuman or degrading treatment. It suggested that the author had not sufficiently substantiated that she would be exposed to a real, personal and foreseeable risk if she were returned to Pakistan.

4.3 Regarding the claim in the author's submission about being at risk of persecution by a Muslim man, the State party observed that the author had put forward no information on specific incidents of harassment, referring only to alleged incidents experienced by her daughter, M.S., and her son. In the proceedings before the Danish Immigration Service, she had stated that she did not know the identity of those who had harassed her family. In addition, she had provided no clarification in her communication to the Committee in that connection. The State party submitted that the alleged persecution of the author's daughter and son had no relevance to the assessment of the author's submission that returning her to Pakistan would be contrary to the Convention, given that, according to the jurisprudence of the Committee, for such a determination to be made, there must exist a personal risk of serious forms of gender-based violence.

4.4 The State party referred to the inadmissibility decision of the Committee regarding the case of the author's daughter (communication No. 40/2012). It noted that the Committee had found the communication inadmissible owing to the insufficient substantiation of the claim that the daughter's removal to Pakistan would expose her to a real, personal and foreseeable risk of serious forms of gender-based violence. Given that no new information had been brought to light by the author of the present communication during the proceedings before the Committee in relation to the communication submitted by her daughter, and taking into account that the author's asylum grounds were derived from those of her daughter, the State party considered that the present communication should be rejected under article 4 (2) (c) of the Optional Protocol because the author had failed to substantiate the claim that her removal to Pakistan would expose her to a real, personal and foreseeable risk of serious gender-based violence.

4.5 Regarding the author's statement before the Committee that "all her life [she] has been subject to sexual harassment because she is a woman belonging to a Christian minority", the State party submitted that a claim regarding sexual harassment had not been raised as a ground per se during the national proceedings. Notwithstanding that fact, the State party submitted that the author's allegations regarding the risk of sexual harassment were in no way substantiated by prima facie evidence and were not of such a nature as to constitute serious gender-based violence.

¹ Communication No. 33/2011, *M.N.N. v. Denmark*, decision of inadmissibility adopted on 15 July 2013, para. 8.10.

The State party also noted that the author had not specified who had committed the acts of harassment or when they had taken place.

4.6 The State party also submitted that the author had not sufficiently substantiated which of her rights under the Convention would be violated if she were returned to Pakistan. It noted that the author had listed several articles, but without describing in detail how they might be considered relevant to her case.

4.7 Regarding the author's fear of persecution by A., the State party submitted that that part of the communication was incompatible with the provisions of the Convention, pursuant to article 4 (2) (b) of the Optional Protocol. It stated that article 2 (d) of the Convention did not encompass an obligation for State parties to refrain from expelling a person who might risk pain or suffering inflicted by a private person, without the consent or acquiescence of the relevant State.² The State party noted that, in addition, the author had failed to sufficiently substantiate why the Pakistani authorities would be unable to obviate the alleged risk by providing her with appropriate protection.

Additional information from the author

5. On 5 November 2013, the author's counsel informed the Committee that, upon her return to Pakistan on 13 July 2013, the author had converted to Islam, in August, to avoid persecution. The author presented extracts regarding her conversion taken from several local newspapers.

Additional observations by the State party

6.1 On 13 January 2014, the State party presented an opinion from the Danish Refugee Appeals Board regarding the author's additional submission of 5 November 2013. The Board did not find that the newspaper articles presented by the author concerning her conversion rendered it probable that, immediately after her return to Pakistan, she had been subjected to harassment such that she had had to convert to Islam. The Board attached importance to the fact that the author had been born a Christian and lived all her life in Pakistan as a Christian, as well as to the extent of the harassment that she had experienced in that context. The Board also referred to a country of origin information report by the Home Office of the United Kingdom of Great Britain and Northern Ireland, published on 9 August 2013, in which it was stated that it was possible to pay for or to use private contacts to have a newspaper article published depicting a situation of persecution in Pakistan. The State party also referred to the 2013 annual report of the Commission on International Religious Freedom, according to which, every year, many young Christian girls in Pakistan are kidnapped, forced to convert to Islam and get married and are then raped. In that regard, the State party noted that the author was an older woman. It also submitted that the general situation of Christians in Pakistan had been evaluated by the Board and found not to be of such a nature as to consider the author a persecuted person.

² Reference is made to the jurisprudence of the Committee against Torture, namely communications Nos. 130/1999 and 131/1999, *V.X.N. and H.N. v. Sweden*, views adopted on 15 May 2000, para. 13.8, and the case law of the European Court of Human Rights, namely *H.L.R. v. France*, judgement of 29 April 1997 (application No. 24573/94), para. 40; *Salah Sheekh v. the Netherlands*, judgement of 11 January 2007 (application No. 1948/04), para. 137; and *NA v. the United Kingdom*, judgement of 17 July 2008 (application No. 25904/07), para. 110.

6.2 The State party reiterated its position about the inadmissibility of the communication and indicated that, in case the Committee decided to examine the communication on the merits, the author had failed to provide prima facie evidence that, by returning her to Pakistan, the State party had violated articles 1, 2, 3, 5 and 16 of the Convention.

Author's comments on State party's observations

7.1 On 14 February 2014, the author's counsel addressed the State party's observations of 10 September 2013 and 13 January 2014. Regarding the State party's observations of 10 September 2013, he submitted that the author had sufficiently substantiated the real, personal and foreseeable risk of serious forms of gender discrimination by providing information about the harassment to which she had been subjected before coming to Denmark. He also stated that, although it was true that the author's claims were connected to the persecution of her daughter by a private individual, she could have become a hostage if returned, in order to force her daughter to return to Pakistan. He indicated that sexual harassment was a severe breach of human rights, corresponding to inhuman and degrading treatment under article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and article 7 of the International Covenant on Civil and Political Rights.

7.2 Regarding the State party's observations concerning the news articles about the author's conversion to Islam, he commented that, although the author appeared to have initiated the articles herself, it also seemed from the text of some of the announcements that Muslim sources had boasted about the situation. Given that neither of the articles depicted a situation of persecution, the State party did not need to refer to the country background information issued by the Home Office. The author had converted to Islam in order to avoid persecution. He also argued that the author was part of the community of Anglo-Indians that was being persecuted and harassed. One instance of such harassment, he suggested, was the killing of the author's son.

Additional submission by the State party

8. By a note verbale of 1 May 2014, the State party submitted that it had no further comments.

Issues and proceedings before the Committee concerning admissibility

9.1 In accordance with rule 64 of its rules of procedure, the Committee must decide whether the communication is admissible under the Optional Protocol. Pursuant to rule 66, the Committee may decide to consider the admissibility of the communication separately from its merits.

9.2 The Committee notes the author's claim that her deportation to Pakistan would constitute a violation, by Denmark, of her rights under the Convention, in view of the harassment to which she had been subjected as a Christian woman, the sexual harassment to which her daughter had been subjected by a private individual and the detention and death of her son. The Committee also takes note of the State party's argument that the communication should be declared inadmissible on the basis of its incompatibility with the provisions of the Convention, pursuant to article 4 (2) (b) of the Optional Protocol, its lack of substantiation, pursuant to article 4 (2) (c) of the Optional Protocol, and because article 2 (d) of the Convention does not encompass an obligation for State parties to refrain from expelling a person who might risk

ill-treatment by a private person, without the consent or acquiescence of the relevant State.

9.3 The Committee recalls that article 1 of the Convention defines discrimination against women as “any distinction, exclusion or restriction made on the basis of sex, which has the effect or purpose of impairing or nullifying the recognition, enjoyment, or exercise by women ... of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field”. It also recalls its general recommendation No. 19, which has clearly placed violence against women within the ambit of discrimination against women by stating that gender-based violence is a form of discrimination against women and includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.

9.4 In the present case, the Committee notes that the author’s claims are, in part, based on the fact that her daughter had been persecuted and sexually harassed by a private individual and her son had been detained by the police and later died in hospital. The Committee also notes the author’s claim that all her life she had been persecuted and sexually harassed because of her Christian faith. The author also claims to have been verbally abused and touched in intimate parts of her body by unknown men. The Committee observes, however, that the author has provided no clear and specific details about the persecution and sexual harassment that she claims to have endured throughout her life. Regarding the claimed incidents of harassment, the Committee notes that the information provided by the author is vague as to when those incidents took place, how often they happened and who the perpetrators were. The Committee also notes that, following her return to Pakistan, the author did not report any incidents of harassment. She also provided no other information except on her conversion to Islam, which was allegedly out of fear. On the basis of the limited information provided by the author and considering that she provided no explanation as to how the harassment of her children would constitute a personal risk to her, the Committee is unable to establish whether there was systematic harassment amounting to gender-based violence in the author’s case. In addition, the Committee notes that the author made no link between the alleged facts and the violation of the articles of the Convention that she invokes. In the circumstances, the Committee considers that the author has failed to sufficiently substantiate, for the purposes of admissibility, her claim that her removal to Pakistan would expose her to a real, personal and foreseeable risk of serious forms of gender-based violence. It therefore declares the communication inadmissible under article 4 (2) (c) of the Optional Protocol. In view of the above findings, the Committee does not consider it necessary to examine the other inadmissibility grounds put forward by the State party.

10. The Committee therefore decides:

- (a) That the communication is inadmissible under article 4 (2) (c) of the Optional Protocol;
- (b) That this decision shall be communicated to the State party and to the author.