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International Covenant on Civil and Political Rights

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Human Rights Committee

Communication No. 1752/2008

Decision adopted by the Committee at its 104th session, 12–30 March 2012

Submitted by:	J. S. (represented by counsel, Tony Ellis)
Alleged victim:	The author
State party:	New Zealand
Date of communication:	3 October 2007 (initial submission)
Document references:	Special Rapporteur's rule 97 decision, transmitted to the State party on 22 January 2008 (not issued in document form)
Date of adoption of decision:	26 March 2012
Subject matter:	Delay in the judicial review of a patient detention in a psychiatric hospital
Procedural issues:	Failure to exhaust domestic remedies; failure to substantiate allegations; *actio popularis*
Substantive issues:	Right to access to a court without delay
Articles of the Covenant:	2, paragraphs 2 and 3; 9, paragraph 4; and 14, paragraph 1
Articles of the Optional Protocol:	1, 2, 3, 5, paragraph 2 (b)

Annex

Decision of the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political rights (104th session)

concerning

Communication No. 1752/2008*

Submitted by:	J. S. (represented by counsel, Tony Ellis)
Alleged victim:	The author
State party:	New Zealand
Date of communication:	3 October 2007 (initial submission)

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

Meeting on 26 March 2012

Adopts the following:

Decision on admissibility

1. The author of the communication is J.S., a New Zealand national born on 20 November 1964. He claims that his detention in a psychiatric hospital against his will and the proceedings brought before the State party's courts as result violated his rights under articles 2, paragraphs 2 and 3; 9, paragraph 4; and 14, paragraph 1, of the Covenant. He is represented by counsel, Mr. Tony Ellis.

Facts as presented by the author

2.1 The author was diagnosed as having a bipolar/schizoaffective disorder that could be controlled by taking prescribed medication. By the time he submitted his communication he had been subject to five admissions to hospital since 2002 and to compulsory treatment order. His mother claimed that he had had behavioural outbursts such as jumping from a balcony, being naked in public places, experiencing hallucinations and abandoning his car on a motorway. On 27 October 2006, she contacted the North Shore Two Community Health team due to her concerns about his behaviour, notably his elevated mood and excessive spending including purchasing two apartments with virtually no deposit.

2.2 On 28 October 2006, the author accepted to go to the hospital's emergency unit. Upon his arrival, a nurse called the author's mother to inform her of the situation and

* The following members of the Committee participated in the examination of the present communication: Mr. Lazhari Bouzid, Ms. Christine Chanet, Mr. Ahmad Amin Fathalla, Mr. Cornelis Flinterman, Mr. Yuji Iwasawa, Mr. Walter Kaelin, Ms. Zonke Zanele Majodina, Ms. Iulia Antoanella Motoc, Mr. Gerald L. Neuman, Mr. Michael O'Flaherty, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Fabian Omar Salvioli, Mr. Marat Sarsembayev, Mr. Krister Thelin and Ms. Margo Waterval.

inquire whether she, or another relative, would come to the hospital to stay with him while he was being assessed, as required by section 9(2)(d) of the Mental Health Compulsory Assessment and Treatment Act 1992 (MHCAT). None of them wished to be involved, and the author was informed accordingly. Then he was informed that he could nominate somebody else. He did not provide any name but confirmed that he wished to get on with the assessment process. The psychiatric assessment concluded that J.S. was mentally disordered and needed further assessment and treatment pursuant to MHCAT. The clinical report highlighted that he had placed others at risk, exhibited poor judgment and his ability to care for himself was compromised. The author refused to accept copies of relevant documents and became irritable, trying to leave the hospital.

2.3 On 29 October 2006, upon a preliminary assessment certificate issued by the psychiatric registrar on duty, the author was admitted to the Tahuratu Mental Health Unit. The author stayed in the hospital until 10 January 2007.

2.4 On 1 November 2006, the author filed an application for judicial review before the District Court, under section 16 of the MHCAT, where he contested the medical report and argued that he was not of unsound mind and there was no emergency in his case. Therefore, he was arbitrarily detained at the hospital.[1] He also held that his request to be assisted by a lawyer was denied and that no family member was present during his examination, in breach of MHCAT. On 1 November 2006, his claim to be released was refused and a medical certificate was issued stating that the author needed a further 14 day period of assessment and treatment. On 8 November 2006, the District Court also refused a second application for review.

2.5 In parallel, on 8 November 2006, the author filed an application for a writ of habeas corpus against the Director of Area Mental Health Services Waitemata District Health Board (the District Health Board), before the High Court, to obtain release. He claimed that the statutory requirements of detention under MHCAT were not being complied with, particularly his right to be informed of the legal requirements that the assessment examination take place in the presence of a family member, a caregiver, or other person concerned with his welfare. Secondly, he was detained unlawfully as he was not mentally disordered as defined in MHCAT. Thirdly, the evidence provided to justify his detention was irrelevant. On 16 November 2006, the High Court stated that the decision to proceed with the assessment without any other person's presence was contrary to MHCAT, but it did not in itself imply the invalidity of the detention. Regarding the mental condition of the author and the lawfulness of his detention, the Court pointed out that the habeas corpus was best suited to simple actions where the issue relates to the lawfulness of the actual act of detention. The issue brought in the author's application was not a matter that was properly raised in an application for habeas corpus, but rather fell within the ambit of judicial review. Thus, the author's application was denied. On 21 November 2006, the author appealed this decision before the Court of Appeal, alleging that the High Court failed to assess whether he was arbitrarily detained and that his release was denied without reasons, in violation of MHCAT and the New Zealand Bill of Rights Act 1990 (NZBORA). The appeal was dismissed on 12 December 2006. On the same day, before he learned about the dismissal, the author applied to the Supreme Court for a leapfrog appeal, seeking to ignore the delayed judgment of the Court of Appeal not issued by that moment and to have the case heard by the Supreme Court before it closed down for vacation.

2.6 On 13 December 2006, the leapfrog appeal was withdrawn and an application for leave to appeal before the Supreme Court was lodged. The author requested urgent and

[1] The author's application refers to European Court of Human Rights' jurisprudence in *Winterwerp* v. *The Netherlands* (1979) 2 EHRR 387, p. 402, para. 39.

priority hearings,[2] pursuant to section 17 of the Habeas Corpus Act. On 14 December 2006, the Supreme Court issued a minute-setting hearing for 13 February 2007. The Supreme Court pointed out that it was not realistic to require counsels to prepare submissions in a short time frame. In addition, the Supreme Court could not reach the quorum of five judges, because one of them recused himself in view of the fact that his daughter was a member of the District Health Board (the respondent), and no acting judge was available during that period. On 15 December 2006, the author submitted a memorandum, holding that the delay caused by the Supreme Court's Christmas and summer vacations, between 20 December 2006 and 12 February 2007, without arrangement in place for any urgent hearing, would cause an effective denial of access to court. In view of the systematic failure of the State party to provide a meaningful justice system that operated over vacations period, and its inability to examine the lawfulness of his detention in due course, the author requested the Supreme Court to order the Ministry of Justice to award legal costs, i.e. to be reimbursed for the costs he had to pay as a result of the habeas corpus proceedings. Furthermore, the author submitted that the Court of Appeal contributed to the overall delay, not disposing his appeal as a matter of priority and urgency in breach of the State party international obligations and section 17 of the Habeas Corpus Act.

2.7 On 14 February 2007, the Supreme Court dismissed the leave to appeal because it was not possible to consider the habeas corpus insofar as the author had been released from inpatient to outpatient. The decision did not address the author's claim with regard to the legal costs.

2.8 On 1 March 2007, the author filed an application before the Supreme Court and requested to be awarded legal costs. He reminded the Court that he submitted this claim within his application for leave to appeal. He argued that he could not challenge the legality of his detention due to a systematic failure of the Government to guarantee that the judicial system operates over vacation period. Thus, it was held that it did not correspond to the District Health Board, as respondent in this case, but to the Ministry of Justice to cover the legal costs of the Supreme Court proceeding. In addition, the author accepted he had legal aid in the High Court, but he did not request it in the Court of Appeal because he was wrongly advised by his lawyer. Notwithstanding his habeas corpus application was dismissed at these instances, he informed the Supreme Court that he would submit an application to request legal costs due to the extraordinary length of time of the proceedings. On 7 March 2007, his claim for legal costs was dismissed by the Supreme Court. The Court held that the application for costs was against the Ministry of Justice which was not a party to the case and that the primary reason for its delay was the author's counsel request of having the necessary time for preparation before hearings take place.

2.9 The author further argues that, due to be labelled as having a mental illness, he was subjected to unlawful discrimination by the psychiatric services and the judiciary, and that he intends to undertake further domestic action in this respect.

2.10 The author submits that the dismissal of the application for leave to appeal by the Supreme Court, on 14 February 2007, exhausted all domestic remedies.

The complaint

3.1 The author asserts that articles 2, paragraphs 2 and 3; 9, paragraph 4; and 14, paragraph 1, of the Covenant were violated by the State party, while he was arbitrarily detained in a psychiatric hospital, without speedy access to effective judicial remedies.

[2] The author's counsel informed to Supreme Court that he estimated both parties could be ready in four days.

3.2 As to article 2, paragraphs 2, and 3 (a) and (b), of the Covenant, the author claims that NZBORA does not fully implement the Covenant, does not have status of "supreme law" and can be displaced by any other Act of Parliament. He further upholds that the Covenant has no direct application into the State party's legal system and the enjoyment of rights is not effectively assured by the judiciary. Section 6 of NZBORA states that in interpreting an enactment, it shall be preferred an interpretation consistent with the rights and freedoms set out in NZBORA. However, courts are not allowed striking down primary legislation inconsistent with NZBORA or the Covenant,[3] pursuant to section 4 of NZBORA. The author alleges that the State party fails to comply with the requirement under article 2, paragraph 2, of the Covenant. He points out that according to the Committee's view in its general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant,[4] read together with articles 26 and 27 of the Vienna Convention on the Law of Treaties, 1969, the State party cannot justify this failure, by reference to its internal legislation or to political, social, cultural or economic considerations. In consequence, this failure breaches the obligation contained within article 2, paragraphs 2 and 3, of the Covenant.

3.3 The author refers to article 9, paragraph 1, and indicates that the District Court failed twice to assess adequately the arbitrariness of his detention in a psychiatric hospital, in particular, the lack of grounds for his detention and the failure to comply with the requirements established by the law (MHCAT).

3.4 The author submits that the State party's failure to provide enough resources to the judiciary and make adequate provision for the holiday period to guarantee the normal functioning of the Supreme Court violated his right under article 9, paragraph 4, to request a court to decide without unreasonable delay[5] on the lawfulness of his detention and his right to access to independent judicial bodies. The State party has the duty to ensure that judicial bodies act without delay and cannot use as an excuse that only four Supreme Court judges were available. The three-month length of the habeas corpus proceedings was excessive, and breached his right to access to an effective remedy enshrined in article 9, paragraph 4, of the Covenant.

3.5 As to article 14, paragraph 1, of the Covenant, the author claims that the dismissal of his application for legal costs by the Supreme Court should be seen as part of the violations of his right to access to court. He also argues that the judiciary lacks financial and administrative independence. Independence entails that courts should be perceived as such. However, the Supreme Court ignored totally the author's memorandum regarding hearing date and judicial independence, failed to take steps to call more judges and blamed the author for the delay. Thus, the author concludes that the Supreme Court cannot be perceived as an independent body or did not show that it was independent. Furthermore, the absence of sufficient Supreme Court judges does not only affect the right to access to court, but also breaches the rule of law itself.

[3] The author refers to Committee's concluding observations regarding the third periodic report of New Zealand (A/39/40, para. 185), in which the Committee recommended the State party "that the courts should have the power to strike down legislation inconsistent with the Covenant rights affirmed by the Bill of Rights Act. It also recommended that there should be remedies for all persons whose rights under the Covenant have been violated."

[4] *Official Records of the General Assembly, Fifty-ninth Session, Supplement No. 40*, vol. I (A/59/40 (Vol. I)), annex III.

[5] The whole habeas corpus proceedings lasted three months and six days. There were 21 days between the filing of appeal and the Court of Appeal's judgement and two months and one day, between the filing of the application for leave to appeal and the Supreme Court judgment.

3.6 The author asserts that appeals lodged in December or January receive less favourable treatment than those lodged at other time of the year and recalls in this respect the prohibition of discrimination enshrined in article 26 of the Covenant. He points out that the Supreme Court made no efforts to appoint a fifth judge that could examine his application for leave to appeal and, the same day his application was lodged, it decided that no acting judge were available to complete the quorum, which shows that the Court did not try to find a substitute judge or that its administrative arrangements failed to prevail this kind of situations.

3.7 The author requests the Committee to consider domestic proceedings costs[6] and costs for the proceedings before the Committee as part of the remedies that the Committee may request.

State party's observations on admissibility and merits

4.1 In July 2008, the State party submitted its observations on admissibility and merits. It indicates that, on 28 October 2006, the author was assessed by a psychiatrist upon contacts between his mother and the mental health staff of the local health authority, the Waitemata District Health Board (the Health Board). In addition to the proceedings under the Habeas Corpus Act, the author's status as compulsory patient was subject of scrutiny under the MHCAT. The author applied for judicial review to the District Court twice, on 1 and 8 November 2006. On 15 November 2006, the Health Board applied to the District Court for an order allowing the author's continuing compulsory care, pursuant to the MHCAT. On 22 November 2006, the District Court ordered preparation of a second opinion, upon request of the author. It also ordered that he should remain in the hospital on an interim basis. On 6 December 2006, the District Court reserved its decision pending the outcome of the habeas corpus proceedings at the Court of Appeal and extended again his stay in the hospital on an interim basis. On 18 December 2006, the District Court delivered its judgment granting compulsory treatment. From 22 December 2006 to 10 January 2007, as further medical assessments concluded that his circumstances had changed positively, he was allowed home leaves of approximately five days each.

4.2 The State party upholds that the communication is inadmissible *ratione personae*, for failure to exhaust domestic remedies and insufficient substantiation, pursuant to articles 1, 2, and 3 of the Optional Protocol; and rules 96 (b), (c), and (f) of the Committee's rules of procedure.

4.3 As to the claims of violation of article 2, paragraphs 2 and 3 (a) and (b), of the Covenant, the State party's courts do not apply international obligations directly because it has a dualist legal system. Nevertheless, article 2 of the Covenant does not require a direct application of the Covenant. Secondly, in the author's communication there is no allegation of breach of article 2, in conjunction with violations of substantive rights of the Covenant. Thus, being an *actio popularis*, these claims should be declared inadmissible *ratione personae*, under article 1 of the Optional Protocol.

4.4 With regard to the claims of violations of articles 9, paragraph 1, and 26[7] of the Covenant, they should be declared inadmissible for failure to exhaust domestic remedies pursuant to article 5, paragraph 2 (b), of the Optional Protocol, insofar as the author has brought allegations before the Committee that either were not pursued in domestic proceedings or that were determined as question of fact by the State party's courts, before which no claim of arbitrary procedure or injustice was made. Alternatively, the claims lack

[6] The author claims that he spent NZ$ 23,196.77 in the Court of Appeal and NZ$ 14,303.00 in the Supreme Court.

[7] See *supra* note **Error! Bookmark not defined.**.

sufficient substantiation. The author was subject to detention pursuant to MHCAT, as a compulsory patient upon a clinical assessment that concluded his mental health condition was a serious danger to himself and others. The measures taken were subjected to clinical and judicial scrutiny and the treatment imposed to the author had legitimate reasons and did not amount to discrimination.

4.5 Regarding the claims of violation of article 9, paragraph 4, they should be declared inadmissible for lack of substantiation, failure to exhaust domestic remedies, and incompatibility with the provisions of the Covenant, pursuant to articles 2 and 3 of the Optional Protocol. The author's allegations do not disclose any instance of unreasonable delay. The primary objective of article 9, paragraph 4, meaning to ensure prompt and ongoing judicial oversight of detention, was readily met. During the 10 weeks the author was under compulsory care, his continuing detention was subjected to independent scrutiny by the courts, which considered and upheld this measure in seven occasions. The author's applications for review were heard and decided on the day they were made. His application for habeas corpus at first instance was heard within six days and decided two days later, whereas the appeal and subsequent application for leave to appeal to the Supreme Court were heard and decided within three weeks and two months, respectively, notwithstanding the complexity of the case and the inclusion of additional grounds in each instance. Therefore, in these circumstances, and taking into account the psychiatric care purpose of the author's detention, the length of the habeas corpus proceedings was reasonable and within the parameters established by the Committee or the European Court of Human Rights.

4.6 In addition, the author had alternative judicial means at his disposal. The author could have sought interim release under section 11 of the Habeas Corpus Act, or filed an application for judicial review pursuant to section 16 of MHCAT, or other civil proceedings with regard to any other allegation of unlawfulness not determined in the habeas corpus proceedings. The Court of Appeal or the Supreme Court could have been able to deal with an application for interim release on an urgent basis. The author could have also made further challenges to his detention as compulsory patient, i.e. when his mental health condition would have improved, by an application for judicial review to the District Court, which, in fact examined two applications for review under MHCAT also on an urgent basis. Hence, the author failed to exhaust domestic remedies. Finally, the State party argues that the Supreme Court assessed the author's application for leave and the prospect of intervention by other interested parties and formed the view that the proposed appeal required substantial preparation time. As a finding of a domestic court and, particularly, the final appellate court for New Zealand, and absent any plausible claim of arbitrariness or injustice, that view does not warrant reconsideration by the Committee.

4.7 As to the claim of violation of article 14, paragraph 1, in respect of the failure to award the legal costs, the State party argues it should be declared inadmissible as incompatible with the provision of the Covenant and/or as ill-substantiated, for failure to exhaust domestic remedies, and *ratione personae*. First, neither article 14, paragraph 1 of the Covenant nor the State party legislation require the award of costs in respect of unsuccessful proceedings and, in the present case, the author's appeal and application for leave to appeal were both dismissed by Courts. Secondly, the author was provided with public legal aid for his application for habeas corpus before the High Court. Nevertheless, he did not request this aid for the following instances, upon advice of his counsel. Thirdly, the author did not appeal the court decision that refused the costs application. The State party further argues that this claim is based on the claim of unreasonable delay, which is unsubstantiated.

4.8 As to the claim of violation of article 14, paragraph 1, with regard to the failure of the Supreme Court to make a public statement calling for additional judges and its lack of

administrative independence, it should be declared inadmissible as incompatible with the provisions of the Covenant and/or not sufficiently substantiated, for seeking to review findings of national courts, and for failure to exhaust domestic remedies. First and foremost, the author's claim is grounded on the premise that the Court required additional judges and this produced an unreasonable delay. However, there was no such delay. Secondly, as to the assertion that the State party's court gave to the author's case a secondary significance and did not weight its urgency, it is recalled that the Committee does not review factual assessments by national courts, unless it is ascertained that a court manifestly violates its obligation of impartiality, acts arbitrarily or their findings amount to denial of justice. Thirdly, the author could have sought interim release pending the hearing of his application for leave, but he decided not to do so.

4.9 With regard to the author's request to the Committee to consider legal costs of the proceedings before it as part of the remedies to be recommended, the State party argues it is inadmissible and without merit. It further alleges that even if some part of the communication were upheld, the inclusion of extensive unmeritorious and/or irrelevant material should bar any such remedy as inappropriate.[8]

Author's comments on the State party's observations on admissibility and merits

5.1 As to the State party's observations on article 2, paragraphs 2 and 3 (a) and (b), the breaches to these provisions are to be read in conjunction with the violations suffered by the author of articles 9, paragraph 4, and 14, paragraph 1, of the Covenant. Therefore, they cannot be considered *actio popularis*. The author holds that NZBORA prevents the Appeal and Supreme Courts from applying directly articles 9, paragraph 4, and 14, paragraph 1, of the Covenant and requests the Committee to find that the State party has not fully implemented the Covenant in order to provide individuals with an effective legal remedy.

5.2 As to the State party's observations on articles 9, paragraph 1, and 26, the author clarifies that he referred to these articles only by way of background information, but does not claim violations of them.

5.3 As to the State party's observations on article 9, paragraph 4, and the possibility to apply for an interim release, it is debatable that the Court of Appeal and the Supreme Court have jurisdiction to grant an interim order for release. According to section 11 of the Habeas Corpus Act, only the High Court has jurisdiction to grant such order. It would be pointless to apply for an interim application, which does not examine substantial rights, while a hearing of a final application involving priority and urgency is pending. Regarding the time frame of the habeas corpus proceedings, the author holds that in order to avoid an unreasonable delay, the Supreme Court could proceed without the intervention of any other person other than the plaintiff's and respondent's counsels, disposing the final application with priority and urgency.

5.4 As to the State party's observations on article 14, paragraph 1, and its refusal to pay legal costs, the author asserts that when a proceeding becomes unmeritorious simply as direct result of the undue delay caused by the Supreme Court and to a lesser extent the Court of Appeal, the legal costs ought to be awarded against the State party. He submits that he did not request the Supreme Court for a delay of hearing, and informed it that only two–four days of preparation were required. He further clarifies that he sought costs against the party responsible for the unreasonable delay, that is, the Ministry of Justice rather than the respondent, the Health Board, who was not in fault in that respect.

[8] According to the State party, this is the approach followed by the European Court of Human Rights in similar circumstances.

5.5 As to the State party's observations on article 14, paragraph 1, and the Supreme Court's failure to publicly call for appointment of additional judges, the author reaffirms that the primary reason for the delay was the lack of sufficient judges appointed to the Bench of the Supreme Court. The Court itself admitted in its judgment on the author's application for legal costs that "there [were] a limited number of persons permitted by the Supreme Court Act 2003 to perform that function that would have been available at that time".

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 to the Covenant.

6.2 As required under article 5, paragraph 2 (a), of the Optional Protocol, the Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 The author holds that the length of the habeas corpus proceedings at the Court of Appeal and Supreme Court, of 21 days and 2 months and 1 day, respectively, is excessive and breached his right to a decision without delay on the lawfulness of his detention under article 9, paragraph 4. He argues that the Supreme Court did not give due priority to such urgent proceedings and was not diligent in guaranteeing its functioning during vacations period. The State party alleges that during the ten weeks the author was under compulsory care, his continuing detention was subjected to independent scrutiny by the courts, which considered this measure on seven occasions. The author´s applications for review were heard and decided on the day they were made. His application for habeas corpus at first instance was heard within six days and decided two days later, whereas the appeal was decided within three weeks.

6.4 In the circumstances of the case and in view of the length of time within which the author's applications for judicial review of his detention were dealt with by the District Court, the High Court, the Court of Appeal and the Supreme Court, the Committee considers that the author has failed to substantiate, for purposes of admissibility, his claim under article 9, paragraph 4, of the Covenant. Accordingly, the Committee declares this claim inadmissible under article 2 of the Optional Protocol.

6.5 As to the author's claims that the refusal by the Supreme Court to award him legal costs violated his rights under article 14, paragraph 1, the Committee notes that the author was able to pursue his remedies from the District Court to the Supreme Court, had legal aid in the first instance and did not apply for it in the Court of Appeal or the Supreme Court. In the circumstances, the Committee considers that the author has not substantiated how the denial of "legal cost" by the Supreme Court constituted an obstacle in his access to the Courts and a breach of article 14, paragraph 1, of the Covenant.

6.6 The Committee notes the author's claims that the Supreme Court was not independent because it ignored his memorandum requesting to fix the date of hearing in December 2006, failed to take steps to call for more judges, and lacks administrative and financial independence. It also notes the State party's arguments that the main reason why the Supreme Court did not grant the author's request was the complexity of the appeal and the Court's assessment that it was not realistic to require counsels to prepare submissions in a short time frame. In the light of the State party's observations, the Committee considers that the author failed to sufficiently substantiate his claims under article 14, paragraph 1,

concerning the lack of independence of the State party's courts. Therefore, this claim is declared inadmissible under article 2 of the Optional Protocol.

6.7 Concerning the author's claims under article 2, paragraphs 2, and 3 (a) and (b), of the Covenant, on the failure of the State party to fully implement the Covenant and the fact that the Covenant has no direct application into the State party's legal system, the Committee considers that these claims are of very general nature and are not relevant in order to determine the existence of violations of the Covenant with respect to the facts of the case. Accordingly, this claim is declared inadmissible, under article 2 of the Optional Protocol for lack of substantiation.

7. The Human Rights Committee therefore decides:

(a) That the communication is inadmissible under article 2 of the Optional Protocol;

(b) That this decision shall be communicated to the State party and to the author.

[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.]