

HUMAN RIGHTS COMMITTEE

Baboeram et al. v. Suriname

Communication No. 146/1983 and 148-154/1983 a/

4 April 1985

VIEWS

Submitted by: Kanta Baboeram-Adhin on behalf of her deceased husband, John Khemraadi Baboeram (146/1983); Johnny Kamperveen on behalf of his deceased father, Andre Kamperveen (148/1983); Jenny Jamila Rehnuma Karamat All on behalf of her deceased husband, Cornelis Harold Riedewald (149/1983); Henry Francois Leckie on behalf of his deceased brother, Gerald Leckie (150/1983); Vidya Satyavati Oemrawsingh-Adhin on behalf of her deceased husband, Harry Sugrim Oemrawsingh (151/1983); Astrid Sila Bhamini-Devi Sohansingh-Kanhai on behalf of her deceased husband, Somradj Robby Sohansingh (152/1983); Rita Dulci Imanuel-Rahman on behalf of her deceased brother, Lesley Paul Rahman (153/1983); Irma Soeinem Hoost-Boldwijn on behalf of her deceased husband, Edmund Alexander Hoost (154/1983)

Alleged victims: John Khemraadi Baboeram, Andre Kamperveen, Cornelis Harold Riedewald, Gerald Leckie, Harry Sugrim Oemrawsingh, Somradj Robby Sohansingh, Lesley Paul Rahman and Edmund Alexander Hoost.

State party concerned: Suriname

Date of communications: 5 July 1983, 31 July and 4 August 1983

Date of decision on admissibility: 10 April 1984

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

Meeting on 4 April 1985,

Having concluded its consideration of communications Nos. 146/1983 and 148-154/1983 submitted to the Committee under the Optional Protocol to the International Covenant on Civil and Political Rights;

Having taken into account all written information made available to it by the authors of the communications and by the State party concerned;

Adopts the following:

Views under article 5, paragraph 4, of the Optional Protocol

Communication No. 146/1983

1.1 The author of communication No. 146/1983 (initial letter dated 5 July 1983 and further letters of 4 November 1983 and 3 January 1985) is Kanta Baboeram-Adhin, a Surinamese national, at present residing in the Netherlands. She submits the communication on behalf of her deceased husband, John Khemraadi Baboeram, a Surinamese lawyer who was allegedly arrested by Surinamese military authorities on 8 December 1982 and whose corpse was delivered to the mortuary on 9 December 1982 showing signs of severe maltreatment and numerous bullet wounds.

1.2 It is stated that on 8 December 1982 at around 2 a.m. a number of persons in Paramaribo, Suriname, were taken from their beds and arrested, including John Baboeram, whose corpse along with the corpses of 14 other persons was identified on 10 December 1982 and was described in the "Report of the Dutch Lawyers Committee for Human Rights" (United Nations Commission on Human Rights document E/CN.4/1983/55, submitted by the author as an annex to her communication) as "heavily and brutally maltreated in the face. He for instance had a broken upper jaw. Almost all his teeth, except for one, on the upper right hand side, were beaten inwards and his lips were pulped. He had a horizontal gash on his forehead. In addition he had a bullet wound on the left side of his nose, which was later covered by a plaster. Further he had wounds, cuts on the cheeks and internal haemorrhages."

1.3 The persons arrested and allegedly killed were four journalists, four lawyers, amongst whom was the Dean of the Bar Association, two professors, two businessmen, two army officers and one trade union leader. The names of the victims are John Baboeram, Bram Behr, Cyrill Daal, Kenneth Goncalves, Eddy Hoost, Andre Kamperveen, Gerald Leckie, Sugrim Oemrawsingh, Leslie Rahman, Soerindre Rambocus, Harold Riedewald, Jiwansingh Sheombar, Jozef Slagveer, Somradj Sohansingh and Frank Winjngaarde. The executions are said to have taken place at Fort Zeelandia.

2.1 The author of the communication states that she has not submitted the matter to any other procedure of international investigation.

2.2 With respect to the exhaustion of domestic remedies, the author states that no recourse has been made to any court in Suriname because "it became obvious from different sources that the highest military authority ... was involved in the killing", because the official judicial investigation required in such a case of violent death had not taken place, and "because of the atmosphere of fear one would find no lawyer prepared to [plead] such a case, considering the fact that three lawyers have been killed, apparently because of their concern with human rights and democratic principles". The author also refers to the report of the International Commission of Jurists' mission to Suriname, dated 21 March 1983, which, inter alia, surveys

the situation in Suriname with respect to freedom of the press, freedom of association, freedom from arbitrary arrest, the right to protection of life and bodily integrity and the right of recourse to effective legal remedies. The report confirms the author's contention that there are no effective legal remedies.

2.3 The author claims that her husband was a victim of violations of articles 6, 7, 9, 10, 14 and 17 of the International Covenant on Civil and Political Rights.

3. By its decision of 27 July 1983, the Working Group of the Human Rights Committee transmitted communication No. 146/1983 under rule 91 of the provisional rules of procedure to the State party concerned, requesting information and observations relevant to the Question of admissibility of the communication. The Working Group also requested the State party to transmit to the Committee copies of the death certificate and medical report and of a report on whatever inquiry has been held in connection with the death of John Khemraadi Baboeram.

4. In a submission dated 5 October 1983, the State party objected against the admissibility of communication No. 146/1983 on the ground that the same matter had already been submitted to and was "being examined under another procedure of international investigation or settlement," referring in this connection to "investigations regarding the human rights situation in Suriname by international organizations dealing with human rights such as the Inter-American Commission on Human Rights and the International Committee of the Red Cross". The State party also mentioned that "the Special Rapporteur on summary or arbitrary executions of the United Nations Commission on Human Rights, Mr. Amos Wako," would pay a visit to Suriname during the week beginning 31 October 1983. b/

5. In her comments dated 4 November 1983, the author of communication No. 146/1983 rejected the State party's contention that "the same matter" had been submitted to another procedure of international investigation or settlement. She submitted that the procedures mentioned by the Government of Suriname for the study of the human rights situation in that country were not comparable with the procedure for the examination of individual cases under the Optional Protocol to the International Covenant on Civil and Political Rights.

Communications Nos. 148 to 154/1983

6.1 Five communications Nos. 148/1983, 149/1983, 150/1983, 151/1983 and 152/1983 dated 31 July 1983 and two communications Nos. 153/1983 and 154/1983 dated 4 August 1983 were submitted by close relatives of 7 of the 15 persons allegedly killed in Suriname on 8/9 December 1982. All seven authors, at present residing in the Netherlands, allege that the deceased were victims of violations by the Government of Suriname of articles 6, 7, 9, 10, 14, 17 and 19 of the International Covenant on Civil and Political Rights. The facts of these cases are similar to those of communication No. 146/1983 concerning John Khemraadi Baboeram.

6.2 The authors of these seven cases are Johnny Kamperveen, on behalf of his late father, Andre Kamperveen, formerly a businessman in Paramaribo (No. 148/1983); Jenny Jamila

Rehnuma Karamat All, on behalf of her late husband Cornelis Harold Riedewald, formerly a lawyer in Paramaribo (No. 149/1983); Henry Francois Leckie, on behalf of his late brother Gerald Leckie, formerly a professor at the Faculty of Social Sciences of the University of Suriname (No. 150/1983); Vidya Satyavati Oemrawsingh-Adhin, on behalf of her late husband Harry Sugrim Oemrawsingh, formerly a professor at the Technical Faculty of the University of Suriname (No. 151/1983); Astrid Sila Bhamini-Devi Sohansingh-Kanhai, on behalf of her late husband Somradj Robby Sohansingh, formerly a businessman in Paramaribo (No. 152/1983); Rita Dulci Imanuel-Rahman, on behalf of her late brother Lesley Paul Rahman, formerly a journalist and trade union leader from Aruba, Netherlands Antilles (No. 153/1983); and Irma Soeinem Hoost-Boldewijn, on behalf of her late husband Edmund Alexander Hoost, formerly a lawyer in Paramaribo (No. 154/1983).

6.3 Common to all of these communications are the following allegations: the alleged victims were arrested at their respective homes in the early morning hours of 8 December 1982; in the evening of the same day it was declared by Surinamese authorities that a coup attempt had been foiled and in the evening of 9 December 1982 it was declared that a number of arrested persons had been killed during an attempt to escape; the bodies of the 15 persons lay from 10 to 13 December 1982 in the mortuary of the Academic Hospital and were seen by family members and other persons; the bodies showed numerous wounds, apparently inflicted from the front side. Neither autopsies nor official investigations of the killings have taken place. The relevant facts are also described in United Nations Commission on Human Rights document E/CN.4/1983/55, which some of the authors incorporate by reference.

6.4 A summary of the specific allegations in the individual cases follows:

Andre Kamperveen was allegedly subjected to violence upon his arrest. Much damage was done to his house through fire arms and handgrenades; his radio station ABC was burned down. His body reportedly showed injuries to the jaw and a swollen face, 18 bullet wounds in the chest, a shot wound in the right temple, a fractured femur and a fractured arm.

Cornelis Harold Riedewald was arrested by military police who allegedly did not show a warrant. His body showed a bullet wound through the right temple, severe injuries on the left side of the neck and numerous bullet wounds in the chest.

Gerald Leckie was arrested by military police who allegedly did not show a warrant. His body had internal haemorrhages in the face and bullet holes in the chest.

Harry Sugrim Oemrawsingh was arrested by military police who allegedly did not show a warrant. His body had a wound in the right cheek and a bigger wound on the left temple.

Somradj Robby Sohansingh had already been detained seven months and allegedly subjected to mistreatment, but had been released pending trial for his alleged participation in the coup attempt of 13 March 1982. He was rearrested by military police on 8 December 1982. His body had wounds on the face, his teeth were beaten inwards and one of his cheekbones was fractured. He had six bullet wounds in the chest and abdominal area.

Lesley Paul Rahman was arrested by military police who allegedly did not show a warrant. His body had lumps on the forehead and parts of the skin of the upper thigh were torn off.

Edmund Alexander Hoost was arrested by military police who allegedly did not show a warrant. His body had several bullet wounds which had entered the body from the front side.

6.5 The authors of the seven communications state that they have not submitted the same matter to any other procedure of international investigation or settlement.

6.6 With respect to exhaustion of domestic remedies, the authors explain in an annex common to all seven communications that no recourse has been made to any court in Suriname because, inter alia:

"1. The highest military and civilian authorities were involved in planning and carrying out the murders. 2. Taking into account the general atmosphere of fear and the fact that three lawyers were killed apparently because of their involvement in defending opponents of the regime one would find no lawyer prepared to defend such a case. 3. From official side there was neither an autopsy, nor an investigation of the death of the 15 victims as is required in such a case of violent death ..."

7. By decisions of 20 October 1983, the Working Group of the Human Rights Committee transmitted communications Nos. 148/1983 to 154/1983 to the State party concerned under rule 91 of the Committee's provisional rules of procedure, requesting information and observations relevant to the question of admissibility of the communications. The Working Group also requested the State party to provide the Committee with copies of the death certificates and medical reports and reports of whatever inquiry has been held in connection with the death of the alleged victims.

8. In a submission dated 6 April 1984 the State party objected against the admissibility of communications Nos. 148/1983 to 154/1983 on the grounds already set out in its submission of 5 October 1983 in respect of communication No. 146/1983 (see para. 4 above), namely, that the matter had already been submitted to and is "being examined under another procedure of international investigation or settlement" The State party added the following:

"In this regard, the Government of the Republic of Suriname wishes to refer once more to investigations regarding the human rights situation in Suriname by international organizations dealing with human rights, such as the Inter-American Commission on Human Rights of the Organization of American States, the International Committee of the Red Cross, the International Labour Organisation, the International Commission of Jurists, Amnesty International, as well as the proposed visit to Suriname of the United Nations Special Rapporteur on summary or arbitrary executions "

9.1 With respect to the admissibility of the communications the Human Rights Committee observed firstly that a study by an intergovernmental organization either of the human rights situation in a given country (such as that by IACHR in respect of Suriname) or a study of the trade union rights situation in a given country (such as the issues examined by the

Committee on Freedom of Association of the ILO in respect of Suriname), or of a human rights problem of a more global character (such as that of the Special Rapporteur of the Commission on Human Rights on summary or arbitrary executions), although such studies might refer to or draw on information concerning individuals, cannot be seen as being the same matter as the examination of individual cases within the meaning of article 5, paragraph 2 (a), of the Optional Protocol. Secondly, a procedure established by non-governmental organizations (such as Amnesty International, the International Commission of Jurists or the ICRC, irrespective of the latter's standing in international law) does not constitute a procedure of international investigation or settlement within the meaning of article 5, paragraph 2 (a), of the Optional Protocol. Thirdly, the Human Rights Committee ascertained that, although the individual cases of the alleged victims had been submitted to IACHR (by an unrelated third party) and registered before that body, collectively, as case No. 9015, that case was no longer under consideration. Accordingly, the Human Rights Committee concluded that it was not barred by the provisions of article 5, paragraph 2 (a), of the Optional Protocol from considering the communications.

9.2 With regard to article 5, paragraph 2 (b), of the Optional Protocol, the Committee noted that the State party did not challenge the author's contention that there were no effective legal remedies to exhaust. The Committee recalled that it had already established in numerous other cases that exhaustion of domestic remedies could be required only to the extent that these remedies were effective and available within the meaning of article 5, paragraph 2 (b), of the Optional Protocol. Accordingly, the Human Rights Committee concluded that it was not barred by the provisions of article 5, paragraph 2 (b), of the Optional Protocol from considering the communications.

10.1 On 10 April 1984, the Human Rights Committee therefore decided:

1. That the communications were admissible;
2. That, in accordance with article 4, paragraph 2, of the Optional Protocol, the State party be requested to submit to the Committee, within six months of the date of the transmittal to it of this decision, written explanations or statements clarifying the matter and the remedy, if any, that may have been taken by it. These should include copies of the death certificates and medical reports and of reports of whatever inquiry has been held in connection with the death of John Khemraadi Baboeram, Andre Kamperveen, Cornelis Harold Riedewald, Gerald Leckie, Harry Sugrim Oemrawsingh, Somradj Robby Sohansingh, Lesley Paul Rahman and Edmund Alexander Hoost.

10.2 The Committee also decided, pursuant to rule 88 (2) of its provisional rules of procedure, to deal jointly with all eight communications, i.e. communications Nos. 146/1983 and 148/1983 to 154/1983.

11.1 In response to the Committee's request for explanations or statements in accordance with article 4, paragraph 2, of the Optional Protocol the State party submitted a note, dated 12 November 1984, a death certificate, issued by the medical staff of the University Hospital

in Suriname on 25 October 1984, and a copy of Suriname's observations dated September 1983, on a report prepared by the Inter-American Commission on Human Rights on the human rights situation in Suriname, following an IACHR visit to Suriname from 20 to 24 June 1983.

11.2 In its note of 12 November 1984, the State party indicates that the investigation of the Special Rapporteur on summary or arbitrary executions, Mr. Amos Wako, temporarily deferred in 1983, was finalized during the period of 17 to 21 July 1984. "[T]his important investigation concentrated on the unfortunate occurrences of 8 and 9 December 1982, the causes of these occurrences, the plans to promote democratization of the Surinamese society, as well as the maintenance of the constitutional state in our society and the measures taken to prevent a repetition of the occurrences referred to before." c/

11.3 In the relevant parts of Suriname's observations on the IACHR report the State party notes:

"The right to life is only being discussed in connection with the death of 15 persons early in December 1982, whereas this right comprises much more. The Surinamese authorities deeply regret the death of these persons not because they are said to be of 'National Stature' but because they were citizens of this country ...

"It is regretted that the IACHR hardly pays any attention to the information supplied on the Surinamese side concerning the developments of Suriname regarding the occurrences of early December 1982. Beforehand, the reply of the Surinamese authorities seems to be regarded as of no importance, whereas great value is attached to information of the 'responsible sources' ...

"Again and again the oppositional view is being given which leads to the Committee's conclusion that 15 prominent Surinamese citizens have been eliminated because they led a critical movement for the return to democracy. Nowhere is the analysis objectively and systematically entertained which has been expressed in official talks, about the part which the deceased played in the planning of the overthrow of the legal authority.

"See ... the intensified continuation of these attempts with mercenaries after 8 December 1982 as well as the CIA disclosures about this matter.'

12.1 On 3 January 1985, the author of communication No. 146/1983, Kanta Baboeram-Adhin submitted her comments on the State party's submission under article 4, paragraph 2, of the Optional Protocol. Identical comments were submitted by the author of communication No. 151/1983, Vidya S. Oemrawsingh-Adhin, on 5 January 1985.

12.2 In their Comments the authors claim that the State party has failed to clarify the matters placed before the Human Rights Committee by the authors and that no information has been given about measures taken to remedy the alleged violations. The authors further point out that the official version of the killings had maintained that the victims had been shot while trying to escape. However, "in a recent interview with a well-known Dutch Magazine

'Elsevier' the military leader, also the highest authority in Suriname, admits that the victims were executed and that it was a matter of 'their lives or ours' and that 'we killed them first before they could kill us'".

13.1 The Human Rights Committee has considered the present communications in the light of all information made available to it by the parties, as provided in article 5, paragraph 1, of the Optional Protocol. The Committee bases its views on the following facts, which are not in dispute or which are unrefuted by the State party.

13.1 In the early hours of 8 December 1982, 15 prominent persons in Paramaribo, Suriname, including journalists, lawyers, professors and businessmen, were arrested in their respective homes by Surinamese military police and subjected to violence. The bodies of these 15 persons, among them eight persons whose close relatives are the authors of the present communications, were delivered to the mortuary of the Academic Hospital, following an announcement by Surinamese authorities that a coup attempt had been foiled and that a number of arrested persons had been killed while trying to escape. The bodies were seen by family members and other persons who have testified that they showed numerous wounds. Neither autopsies nor official investigations of the killings have taken place.

14.1 In formulating its views, the Human Rights Committee also takes into account the following considerations, which reflect a failure by the State party to furnish the information and clarifications requested by the Committee. The Committee notes that the death certificate submitted by the State party is dated nearly two years after the killings and does not indicate whether the medical doctors who signed the certificate had carried out any autopsies or whether they had actually seen the bodies. The death certificate merely confirms that "on 9 December 1982 the following persons died, probably as a result of gunshot wounds ...".

14.2 In operative paragraph 2 of its decision on admissibility of 10 April 1984, the Committee requested the State party to forward copies of medical reports and of reports of whatever inquiry has been held in connection with the deaths of the eight named victims. No such reports have been received by the Committee. In this connection, the Committee stresses, as it has done in a number of other cases (e.g. Nos. 30/1978, 84/1981) that it is implicit in article 4 (2) of the Optional Protocol that the State party has the duty to investigate in good faith all allegations of violation of the Covenant made against it and its authorities and to furnish to the Committee the information available to it. In cases where the allegations are corroborated by evidence submitted by the authors and where further clarification of the cases depends on information exclusively in the hands of the State party, the Committee may consider the authors' allegations as substantiated in the absence of satisfactory evidence and explanations to the contrary submitted by the State party.

14.3 Article 6 (1) of the Covenant provides:

"Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life."

The right enshrined in this article is the supreme right of the human being. It follows that the deprivation of life by the authorities of the State is a matter of the utmost gravity. This follows from the article as a whole and in particular is the reason why paragraph 2 of the article lays down that the death penalty may be imposed only for the most serious crimes. The requirements that the right shall be protected by law and that no one shall be arbitrarily deprived of his life mean that the law must strictly control and limit the circumstances in which a person may be deprived of his life by the authorities of a State. In the present case it is evident from the fact that 15 prominent persons lost their lives as a result of the deliberate action of the military police that the deprivation of life was intentional. The State party has failed to submit any evidence proving that these persons were shot while trying to escape.

15. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the victims were arbitrarily deprived of their lives contrary to article 6 (1) of the International Covenant on Civil and Political Rights. In the circumstances, the Committee does not find it necessary to consider assertions that other provisions of the Covenant were violated.

16. The Committee therefore urges the State party to take effective steps (i) to investigate the killings of December 1982; (ii) to bring to justice any persons found to be responsible for the death of the victims) (iii) to pay compensation to the surviving families; and (iv) to ensure that the right to life is duly protected in Suriname.

Notes

a/ Pursuant to rule 85 of the provisional rules of procedure, Mr. S. Amos Wako did not participate in the adoption of the views of the Committee under article 5, paragraph 4, of the Optional Protocol on this matter.

b/ The visit subsequently took place between 22 and 27 July 1984.

c/ The report of the Special Rapporteur of the Commission on Human Rights on summary or arbitrary executions was submitted to the forty-first session of the Commission (document E/CN.4/1985/17). Annex 5 to the report deals with the Special Rapporteur's visit to Suriname.