

HUMAN RIGHTS COMMITTEE

L. S. v. Jamaica

Communication No. 286/1988

26 July 1988

ADMISSIBILITY

Submitted by: L. S. [name deleted]

Alleged victim: The author

State party concerned: State Party Jamaica

Date of communication: 8 February 1988 (date of initial letter)

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

Meeting on 26 July 1988,

Adopts the following:

Decision on admissibility

1. The author of the communication (initial letter dated 8 February 1988; further letter dated 1 June 1988) is L. S., a 24-year-old Jamaican citizen currently awaiting execution at St. Catherine District Prison, Jamaica.

2.1 The author does not state when he was convicted and sentenced to death. He states that the Jamaica Court of Appeal has reserved its judgement, and that his case is being sent to the Judicial Committee of the Privy Council.

2.2. L. S. affirms that he is accused of having murdered a man whose body was never recovered and whom he claims he did not know. According to him, the police testified in court that there was proof that a fight had taken place between the author and the victim; the sole witness against him was the missing man's uncle, who allegedly had had serious but unspecified differences with the author.

2.3 According to the author, the jury at first returned a verdict of not guilty. The Crown's counsel, however, told it to return to the verdict room and consider a guilty verdict. The judge, in turn told the jury that, if it believed the author's account, it would have to acquit him. The jury, after reconsideration, returned a verdict of guilty.

3. Upon registering the communication on 21 March 1988, the Working Group of the Human Rights Committee instructed the Secretariat to seek further information from the author about a number of issues pertaining to his communication, in particular about the question of exhaustion of domestic remedies.

4. By a letter dated 1 June 1988, the author, in response, informed the Committee that he was still waiting for the judgement of the Jamaica Court of Appeal. Meanwhile, he stated that the Jamaica Council for Human Rights was preparing a petition for leave to appeal to the Judicial Committee of the Privy Council on his behalf, and a London-based lawyer had informed him that he would be willing to assist him for that purpose.

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

5.2 The Committee has ascertained, as it is required to do under article 5, paragraph 2 (a), of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

5.3 With respect to the requirement of exhaustion of domestic remedies under article 5, paragraph 2 (b), of the Optional Protocol, the Committee has noted the author's letter, dated 1 June 1988, indicating that he is still awaiting the judgement of the Jamaica Court of Appeal and that a petition for leave to appeal to the Judicial Committee of the Privy Council is being prepared on his behalf. It thus concludes that available remedies have not been exhausted by the author. Article 5, paragraph 2 (b), however, precludes the Committee from considering a communication prior to the exhaustion of all available domestic remedies.

6. The Human Rights Committee therefore decides:

(a) That the communication is inadmissible under article 5, paragraph 2 (b), of the Optional Protocol;

(b) That, since this decision may be reviewed under rule 92, paragraph 2, of the Committee's provisional rules of procedure upon receipt of a written request by or on behalf of the author containing information to the effect that the reasons for inadmissibility no longer apply, the State party shall be requested, taking into account the spirit and purpose of rule 86 of the Committee's provisional rules of procedure, not to carry out the death sentence against the author before he has had a reasonable time, after completing the effective domestic remedies available to him, to request the Committee to review the present decision;

(c) That this decision shall be transmitted to the State party and to the author.