

HUMAN RIGHTS COMMITTEE

B. L. v. Australia

Communication No. 659/1995

8 November 1996

CCPR/C/58/D/659/1995/Rev.1

ADMISSIBILITY

Submitted by: Mrs. B. L.

Victim: The author

State party: Australia

Date of communication: 17 December 1994 (initial submission)

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

Meeting on 8 November 1996,

Adopts the following:

Decision on admissibility

1. The author of the communication is B. L., a German citizen, currently residing in Galston, Australia. She claims to be the victim of violations by Australia of articles 1; 2, paragraphs 1, 2 and 3; 7; 14; 16; 17 and 26, of the International Covenant on Civil and Political Rights.

The facts as submitted by the author

2.1 On 28 January 1992, the author and her husband filed a complaint against their neighbours (Mr. and Mrs. Kirkness) because of work carried out on an embankment causeway of their adjacent properties; the neighbours' property has a right of way for access over the author's property. When the author removed the constructions, Mr. and Mrs. Kirkness, on 25 May 1992, sued for damages.

2.2 The author claims that the construction was carried out without the correct authorization and initiated proceedings before the Hornsby Council with negative results. She initiated further proceedings before the Equity Division of the Supreme Court, but both the ruling and the appeal went against her. The proceedings have taken place over a period of three years 1992-1994. The author received a notice of motion, declaring her in contempt of the Court's orders, for her refusal to comply with the Court's order to allow the construction on her property.

2.3 The author had privately retained counsel of her own choosing (six different ones), until the appeal hearing, where the author had to defend herself as no lawyer agreed to take on her case.

The complaint

3.1 The author alleges that the Australian legal system and legal profession are corrupt and holds the State party responsible for tolerating it. In this respect, she submits that, since she had to take on her own legal representation, she has developed stress related health problems. She alleges that the fact that she has had to defend herself before a court in a second language and with no legal background constitutes a violation of the Covenant.

3.2 The author further alleges that the Australian courts are biased against women and immigrants. In this respect the author states that she was not allowed into the courtroom while the judge was instructing the lawyers, allegedly because her and her husband's appearance "aggravated" the magistrate. She also claims that one of the judges shouted at her when she fainted in Court and accused her of feigning. She further alleges, in this respect, that in the judgement given by Judge Windeyer, on 1 February 1994, he said "To say the least the parties in this matter or some of them appear to have a death wish which will involve substantial funds which ought to be put to better purpose than going to legal fees". The author claims that all the above constitute violations of articles 1; 2, paragraphs 1, 2, and 3, 7; 14; 16; 17 and 26, of the Covenant, without, however, further substantiating her claim.

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 observes that the allegations of discrimination and bias on the part of the Australian courts have not been substantiated for the purposes of admissibility: they remain sweeping allegations and do not in any way reveal how the author's rights under the Covenant might have been violated. Therefore, the Committee concludes that the author has failed to advance a claim within the meaning of article 2 of the Optional Protocol.

5. The Human Rights Committee therefore decides:

(a) that the communication is inadmissible;

(b) that this decision shall be communicated to the author and, for information, to the State party.

[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 annual report to the General Assembly.]