

HUMAN RIGHTS COMMITTEE

Jarman v. Australia

Communication No. 700/1996

8 November 1996

CCPR/C/58/D/700/1996

ADMISSIBILITY

Submitted by: Trevor L. Jarman

Victim: The author

State party: Australia

Date of communication: 31 August 1995 (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 Trevor L. Jarman, an Australian citizen, currently residing in Shepparton, Australia. He claims to be the victim of violations by Australia of articles 14, 16 and 26, of the International Covenant on Civil and Political Rights.

The facts as submitted by the author

2.1 On 29 June 1984, the author sold his insurance business to Nemur Varity Pty Ltd, the contract was to be executed over a period of 10 years, until 30 June 1994. The author was to remain as manager for a period of at least three years. He claims that Marshall Richards and Associates, a law firm which had done work for his business, judicially claimed from him two invoices in 1994 dating back to 1981 and 1984 respectively, which according to him were statute barred. The Statute of limitations for debts in Victoria, Australia is six years. It appears that the author defended himself.

2.2 The author submits that he did not have a fair and public hearing by a competent and independent court, as the magistrate was a friend of the firm of solicitors against whom he was litigating, and for this reason the members of the Court allowed the plaintiff to submit a barred recovery claim. He was condemned to pay the debt and given 21 days to appeal. He failed to do so in time, filing his appeal 3 months late. The judge refused to accept the appeal after its expiration date, as the author had not shown that there were exceptional circumstances. The author further submits that he was denied legal aid by the legal aid commission of Victoria. It is argued that the Court had insufficient jurisdiction, and that the judgement was unlawful and contrary to law.

The complaint

3. The author claims that the above constitutes a violation of articles 14, 16 and 26 of the Covenant. He claims to have been discriminated against by the judicial system because he is a layman. He further claims that his right to be recognized as a person before the law and his right to equal treatment were violated as he was not permitted to submit his appeal three months after it expired and the plaintiff was permitted to recover a debt which was over 12 years old.

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 has carefully examined the material submitted by the author and considers that with regard to his claim of an unfair trial, the information before it does not substantiate, for purposes of admissibility, how the alleged irregularities in his hearings would constitute a violation of his right to a fair hearing under article 14.

4.3 Furthermore the Committee considers that the author's allegations of discrimination and non-recognition of his rights as a person before the law have not been substantiated for the purposes of admissibility: the allegations do not in any way reveal how the author's rights under articles 16 and 26 of 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 under article 2 of the Optional Protocol;

(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 Committee's annual report to the General Assembly.]