

HUMAN RIGHTS COMMITTEE

Parun and Bulmer v. New Zealand

Communication No. 952/2000

22 March 2001

CCPR/C/71/D/952/2000

ADMISSIBILITY

Submitted by: Messrs. M. J. Parun and K. D. Bulmer

Alleged victim: The authors

State party: New Zealand

Date of communication: 15 October 1998 (initial submission)

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

Meeting on 22 March 2001,

Adopts the following:

Decision on admissibility

1. The authors of the communication are Kenneth Daniel Bulmer, born in 1964, and Melvin Joseph Parun, born in 1955, both New Zealand citizens. They claim to be victims of the violation of their rights under articles 2, 14 and 26 of the International Covenant on Civil and Political Rights by New Zealand.

Facts as submitted by the authors

2.1 The authors were barristers practising in New Zealand, working with criminal cases, including legal aid cases.

2.2 It appears that the authors commenced procedures in the High Court at Wellington, New Zealand, on 4 August 1997, alleging that the Registrar of the Wellington District Court allocated criminal legal aid to lawyers in an unreasonable and unlawful way. The authors provide no

information on these proceedings.

2.3 In April 1998, the authors applied to the Court of Appeal for a disqualification from the hearing of their case of High Court Justice Neazor, on the grounds of the judge's alleged involvement in policy and administration of legal aid. In a letter dated 10 July 1998, directed to the Registrar of the Court of Appeal of New Zealand, authors' counsel objected to the involvement in the court hearing by several listed Court of Appeal judges due to their involvement in several committees and councils. They also required declarations from all permanent judges of the Court of Appeal, *inter alia*, about their involvement in committees listed in the letter, stating that any hearing in breach of either of the said requirements would give rise to claims for substantial damages.

2.4 On 20 July 1998, the Court of Appeal of New Zealand dismissed the application for disqualification of Justice Neazor on the grounds that it had no jurisdiction to act upon an originating application.

2.5 In its judgement, the Court of Appeal stated that it was forwarding the judgement and the authors' letter to the Registrar of the Court to the Wellington District Law Society (WDLs). The Court was of the opinion that the authors had misused the Court's procedure, and that their letter to the Registrar could be interpreted as a threat to the judges, and lodged a complaint to the WDLs against the authors accordingly. In a letter dated 11 November 1998, the WDLs found the complaint justified. According to the authors, the WDLs decision may be appealed to the High Court of New Zealand.

2.6 On 21 September 1998, the Court of Appeal of New Zealand dismissed the authors' application for conditional leave to appeal the 20 July 1998 decision to the Privy Council, on the basis that the court had no jurisdiction to grant the leave. On the same day, the Court of Appeal of New Zealand dismissed the authors' ancillary application for discovery in their case against Justice Neazor, on the basis that the authors did not appear before the Court. The authors state that they may appeal the decisions to the Privy Council directly. However, they choose not to submit a direct appeal to the Privy Council since the members of the Court of Appeal are also members of the Privy Council, and the authors consider them all biased against them.

2.7 The authors further claim that they have not pursued available court remedies in respect of their claim to be registered as legal aid lawyers, their eventual complaint against the WDLs decision and their eventual claim for compensation from the State, because the New Zealand courts are biased against them.

The complaint

3. The authors contend that by failing to provide them with an effective remedy of disqualifying the High Court Justice Neazor, and by allowing participation of several judges in the Court of Appeal whom the authors had alleged were biased against them, their rights pursuant to Articles 2, 14 and 26 of the Covenant were violated. Furthermore, the authors claim violation of the Covenant because they were being denied access to an independent and impartial court in respect of their claim to be registered as legal aid lawyers, their eventual complaint against the WDLs decision and in respect of their eventual claim for compensation from the State.

Issues and proceedings before the Human Rights Committee

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

4.2 The essence of the authors' claim is that all New Zealand courts are biased against them. For this reason they fail to pursue remedies before the domestic courts. The Committee is of the opinion that the authors have provided no substantiation for this claim. In these circumstances, the Committee is of the view that the authors' claim has not been substantiated for purposes of admissibility, and the communication is therefore inadmissible under articles 2 and 5, paragraph 2(b), of the Optional Protocol.

5. The Committee therefore decides:

- a) that the communication is inadmissible;
- b) that this decision shall be communicated to the authors and, for information, to the State party.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be translated into Arabic, Chinese and Russian as part of the Committee's Annual Report to the General Assembly.]

* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Nisuke Ando, Mr. Prafullachandra Natwarlal Bhagwati, Ms. Christine Chanet, Mr. Louis Henkin, Mr. David Kretzmer, Ms. Cecilia Medina Quiroga, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Martin Scheinin, Mr. Ivan Shearer, Mr. Hipólito Solari Yrigoyen, Mr. Ahmed Tawfik Khalil, Mr. Patrick Vella, Mr. Maxwell Yalden.