

HUMAN RIGHTS COMMITTEE

Matthews v. Trinidad and Tobago

Communication No. 569/1993

13 October 1995

CCPR/C/55/D/569/1993*

ADMISSIBILITY

Submitted by: Patterson Matthews

Alleged victim: The author

State party: Trinidad and Tobago

Date of communication: 11 October 1993 (initial submission)

Documentation references: Prior decisions - Special Rapporteur's rule 91 decision, transmitted to the State party on 5 January 1994 (not issued in document form); - CCPR/C/53/D/569/1993 (Rule 91 decision, dated 4 April 1995)

Date of present decision: 13 October 1995

The Human Rights Committee, acting through its Working Group pursuant to rule 87, paragraph 2, of the Committee's rules of procedure, adopts the following decision on admissibility

Decision on admissibility

1. The author of the communication is Patterson Matthews, a Trinidadian citizen, currently detained at Carrera Convict Prison in Port-of-Spain, Trinidad and Tobago. The author claims to be the victim of violations by Trinidad and Tobago of his human rights.

Facts as submitted by the author

2.1 The author was arrested on a capital charge in late June 1982. He was sentenced to 20 years' imprisonment and 20 strokes. The author does not state whether he appealed his conviction, or if so, whether the Court of Appeal of Trinidad or the Judicial Committee of the Privy Council has heard his case.

2.2 In 1988, the author was diagnosed as suffering from glaucoma in his left eye. He indicates that, since that date, the vision of his left eye has deteriorated dramatically, that his vision has become blurred, and that he suffers from persistent and violent headaches as a result.

2.3 In May 1991, the author was to undergo eye surgery. On 10 May 1991, he underwent several blood tests. As the results of the tests were not available on the scheduled date of the operation (16 May 1991), surgery was postponed. On 19 May 1991, an attempted mass escape from Carrera Convict Prison failed; the author was accused - falsely according to him - of having participated in the escape attempt. Two prison officers allegedly took him aside and severely beat him. Thereafter, the author was locked in a small cell for two weeks, without the possibility of seeing daylight; for two months, he claims, he could only bathe in sea water.

2.4 The author submits that the Assistant Commissioner of the Prison was always aware of his eye condition, but that he failed to provide medical assistance. The author believes that this was because he had written about an incident in the prison on 17 November 1988, in which an inmate had been killed by prison warders. This matter was brought to the attention of the Minister for National Security, who simply referred it back to the prison authorities.

Complaint

3.1 Between 1990 and 1993, the author claims, he was denied attendance at the eye clinic at the Port-of-Spain General Hospital on no fewer than 14 occasions. He claims that an ophthalmologist and registered practitioner at the eye clinic could corroborate his story. The author complained to the prison authorities and to the Parliamentary Ombudsman about lack of medical treatment, to no avail.

3.2 According to the author, the daily prison diet and conditions of detention have only served to worsen his situation. In this context, he explains that the prison diet consists of two slices of bread (mostly dry) and one cup of "sugar water" in the morning, and a 1/4 lb. of rice with peas and flour cooked into it, on a tin plate, at lunch-time. Allegedly, the prison authorities do not listen to, or forward, complaints about the food. Food brought by inmates' relatives allegedly goes to the kitchen of the prison officers.

3.3 As to the conditions of detention, the author considers them to be "appalling and inhumane". He is currently "cramped" into a small cell with four other inmates, and the cell "leaks profusely" during rainfalls, which in turn increases the incidence of influenza among inmates. There is no medication against influenza in the prison.

3.4 The author contends that he cannot, as a poor person, afford to file a constitutional motion. He claims that he cannot even pay for the medication which may be available in the prison infirmary.

State party's observations and author's comments thereon

4.1 By submission of 8 March 1994, the State party confirms that the author, on 25 November 1985, was convicted of manslaughter and sentenced to 20 years' imprisonment and 20 strokes. On 1 July 1987, the Court of Appeal dismissed his appeal. There has been no appeal to the Judicial Committee

of the Privy Council.

4.2 The State party further submits that the author is suffering from glaucoma in his left eye and that he is an out-patient at the eye clinic at the General Hospital, Port-of-Spain. In addition, he is examined by the Prison Medical Officer on a regular basis and receives medication accordingly. The State party submits that the author attended the eye clinic on 24 May, 24 July and 22 November 1990, 18 June, 13 August, 29 October and 7 November 1991, 7 July and 19 November 1992, and 16 January and 16 and 30 July 1993. The State party explains that the occasions on which he was unable to attend the clinic during that period resulted from a shortage of staff and lack of transportation. It is stated that prison records do not indicate that the author underwent blood tests or was scheduled for an operation.

4.3 The State party further submits that, on 19 May 1991, several prisoners attempted to escape from Carrera Convict Prison. The State party argues that the author was one of the conspirators and that necessary force was used against him. It is submitted that the author was subsequently charged with attempting to escape legal custody and with leaving his place of work without authority, but that he was found not guilty owing to insufficient evidence. It is said that, following the escape, the author and the other prisoners involved were housed in the Top Security Division of the prison, but that they were never denied their daily entitlements such as food and bath.

4.4 The State party describes the author's complaint with regard to the food and the diet as absolutely ludicrous and states that the prison diet has never constituted of dry slices of bread and sugar water. The State party submits that meals served at the prisons are prepared by qualified dietitians under strict sanitary conditions and fulfil all nutritional requirements.

4.5 The State party admits that overcrowding exists at all prisons, but denies the author's claim that the cell leaks whenever it rains and that no medication for influenza is available. Furthermore, the State party states that medication is given to prisoners free of charge. The State party states that the author was examined by the Prison Medical Officer on 2 February 1994 and found to be physically and mentally fit.

4.6 As regards the admissibility of the communication, the State party indicates that the author has not submitted the same matter to any other international organization for investigation or settlement. It further submits that, although legal aid is available for the filing of a constitutional motion, such a motion is unlikely to succeed, because the author's complaints do not reveal a violation of his fundamental rights guaranteed by the Constitution. The State party concludes that the communication is inadmissible as being incompatible with the provisions of the Covenant.

5.1 By submission of 21 February 1994, the author reiterates that his eyesight is deteriorating because of the prison conditions. In this connection, he states that he is being kept for 16 hours a day in 6 x 9 feet cell with only one 60-watt light bulb.

5.2 The author contests that he was taken to the eye clinic on 18 June and 13 August 1991, and adds that he was scheduled to visit the eye clinic on 18 February, 14 March and 5 April 1990, 12 March, 23 May, 18 June, 20 July and 13 and 15 August 1991, 9 March, 15 September and 1 December 1992, 7 January, 2 March, 26 May and 11 and 19 August 1993, and 1 March and 19 April 1994, but

that the authorities failed to take him there on those dates. He claims that the above constitutes a deliberate attempt to subject him to degrading treatment.

5.3 The author further affirms that a blood test was made and eye surgery scheduled in May 1991, and that the hospital records can prove this. He also states that the doctor at the eye-clinic wrote to the Commissioner of Prisons to inform him about the seriousness of his illness. In this connection, the author states that he suffers from glaucoma in both eyes. The author further states that he has only 15 per cent vision in his left eye, owing to the negligence of the prison authorities.

5.4 The author states that he was never involved in the prison escape in May 1991 and refers to the fact that he was acquitted of the charges brought against him.

5.5 With regard to the prison diet, the author claims that it consists of sugar water, cocoa water, coffee water and green tea water in the morning and evening, with two breads, one with butter and one with a steamed egg. At lunch time, he is given pea soup, rice with stones in it, rotten fish, goat meat, liver or chicken. The author states that he sometimes eats the chicken, because it is not always rotten.

5.6 The author asserts that he has written to the Ombudsman on numerous occasions, and that the Ombudsman's last reply dates from 15 June 1994.

5.7 In a further undated letter, the author indicates that he did undergo an eye surgery sometime between March and May 1992. However, he also states that, on 21 December 1994 and on 21 March 1995, he was scheduled to be taken to the eye clinic for vision tests but that the authorities failed to take him there on these dates. The author alleges that, on this last occasion, when he was already handcuffed and prepared to be taken to his appointment, he was told by the prison officers to shave his beard, which, being a muslim, he refused to do. The officers then forcibly shaved the author's beard, while he was still handcuffed, and locked him up for three days in the punishment division, for having refused to shave. The author claims that the forced shaving of his beard constitutes a violation of his rights to freedom of religion and of his right to privacy.

5.8 With regard to the sanitary conditions under which the prison food is prepared, the author explains that a small uncovered drainage is running in front of the "Rations Room" and that human excrements are thus exposed at about 15 feet from where the food is prepared. The author moreover states that the dining shed is open-sided and that the toilets, which do not have doors, are at a distance of about 8 to 10 feet. It is alleged that these toilets are not working properly, that buckets of salt water - when salt water is available - have to be thrown in them, and that swarms of flies are thus in control of the dining shed. The author claims that, as a result, prisoners are suffering from diarrhoea. In support of his contention, the author refers an article of the Secretary General of the Prison Officers Association which was published in a local newspaper and which describes the conditions prevailing in Trinidadian prisons.

5.9 As regards the prison diet, the author submits that no allowance is made for persons with different eating habits. Furthermore, prisoners who, for health reasons, may not drink coffee, green tea or cocoa, have to drink sugar water or plain water; plain milk is allegedly never made available to the average prisoner. It is also stated that the Prisons Medical Officer does not entertain requests

for changes of diet, unless the prisoner suffers from severe sickness and has to be brought to hospital. The author claims that inmates who do not receive food from their visiting relatives, suffer from malnutrition, weakness or even insanity.

5.10 As to medication, the author explains that the prison infirmary usually stocks medicines in short and irregular supply and that the prescribed medication has therefore to be bought outside the prison.

Issues and proceedings before the Committee

6.1 On 4 April 1995, the Committee decided to request the State party, under rule 91 of the rules of procedure, to provide copies of the author's medical file at Carrera Convict Prison and at the eye clinic at Port-of-Spain General Hospital, as well as the results of its investigation into the attempted mass escape from Carrera Convict Prison in May 1991. No reply has been received from the State party, despite a reminder addressed to it on 29 August 1995. The Committee recalls that it is implicit in the Optional Protocol that States parties make available to the Committee all information at its disposal and regrets the lack of cooperation of the State party. Nevertheless, it is the Committee's duty to ascertain, in accordance with rule 87 of the rules of procedure, whether the conditions of admissibility under the Optional Protocol have been met.

6.2 The Committee has ascertained, as required 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.

6.3 The Committee notes that the author, in his initial submission, contended that he was not receiving sufficient treatment for the glaucoma in his eyes and that the prison authorities hindered him in attending the eye clinic to which he was an out-patient. The Committee also notes that it appears from the file that the author has visited the eye clinic regularly and that he underwent an eye operation between March and May 1992. In the circumstances, the Committee considers that the author has failed to advance a claim under article 2 of the Optional Protocol.

6.4 With regard to the author's claims concerning the forced shaving of his beard, the Committee notes that the author has failed to show what steps, if any, he has taken to bring the matter to the attention of the authorities in Trinidad and Tobago. In this respect, therefore, the Committee considers that this part of the communication does not fulfil the requirement of exhaustion of domestic remedies set out in article 5, paragraph 2 (b), of the Optional Protocol.

6.5 The Committee next turns to the author's claim concerning the conditions of his detention. The Committee has noted the author's contention, which was not contradicted by the State party, that he had brought his grievances to the attention of the Ombudsman. In the circumstances, the Committee concludes that it is not precluded, under article 5, paragraph 2 (b), of the Optional Protocol, from examining the complaint. The Committee also has taken note of the State party's rejection of the author's complaint with regard to the conditions of his detention, but considers that the question whether the author's conditions of detention are in violation of article 10, is a matter which should be decided on the merits.

6.6 The Committee also notes that it appears from the information provided by the parties that the author, in addition to his sentence of 20 years' imprisonment, was sentenced to 20 strokes. The Committee refers to its General Comment on article 7 1/, in which it stated that the prohibition of torture and of cruel, inhuman or degrading treatment or punishment must extend to corporal punishment. The Committee requests the State party to inform it whether the author's punishment of 20 strokes was in fact carried out and whether the law in Trinidad and Tobago continues to provide for corporal punishment, and to make observations on the compatibility of such punishment with article 7 of the Covenant.

7. The Human Rights Committee therefore decides:

(a) that the communication is admissible in so far as it appears to raise issues under articles 7, with respect to the corporal punishment imposed on the author, and 10, paragraph 1, with respect to the author's conditions of detention;

(b) that, pursuant to article 4, paragraph 2, of the Optional Protocol, the State party shall be requested to submit to the Committee, within six months of the date of transmittal to it of the present decision, written explanations or statements clarifying the matter and measures, if any, that may have been taken by it;

(c) that any explanations or statements received from the State party shall be communicated under rule 93, paragraph 3, of the rules of procedure, to the author, with the request that any comments that he may wish to submit thereon should reach the Committee, in care of the Centre for Human Rights, United Nations Office at Geneva, within six weeks of the date of the transmittal;

(d) that this decision shall be communicated to the State party and to the author of the communication.

*/ All persons handling this document are requested to respect and observe its confidential nature.

1/ General Comment No. 20, adopted by the Committee at its 44th session, in April 1992, paragraph 5.