

HUMAN RIGHTS COMMITTEE

M. W. v. Trinidad and Tobago

Communication No. 683/1996

14 October 1997

CCPR/C/61/D/683/1996 */

ADMISSIBILITY

Submitted by: M. W. (name deleted) [represented by a London law firm]

Victim: The author

State party: Trinidad and Tobago

Date of communication: 11 March 1996 (initial submission)

Documentation references: List - CCPR/C/CL/R.63/Add.2; Prior decisions - Special Rapporteur's combined rule 86/rule 91 decision, transmitted to the State party on 14 March 1996 (not issued in document form)

Date of present decision: 14 October 1997

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 M. W., a Trinidadian citizen and former mason, born in 1964, who at the time of the submission of the communication was awaiting execution at the State Prison in Port-of-Spain. He claims to be a victim of violations by Trinidad and Tobago of articles 7, 10, paragraph 1, 14, paragraphs 3 (c) and 5, of the Covenant. He is represented by Stephen Chamberlain of the London law firm of Nabarro Nathanson. On 24 June 1996, the author's death sentence was commuted to 75 years' imprisonment with hard labour.

The facts as submitted

2.1 Mr. M. W. was convicted of murder in the High Court of Port-of-Spain on 28 February 1989

and sentenced to death. The Court of Appeal of Trinidad and Tobago dismissed his appeal on 20 January 1994. A subsequent petition for special leave to appeal was dismissed by the Judicial Committee of the Privy Council on 11 December 1995.

2.2 On 8 March 1996, a warrant was read to Mr. M. W. for his execution to take place on 13 March 1996. A constitutional motion was filed on his behalf after the issuance of the warrant, with a view to obtaining a stay of execution. A stay was granted, pending the result of the hearing of the constitutional motion. On 11 March 1996, the author's representative submitted the case under the Optional Protocol; a request for interim protection under rule 86 of the Committee's rules of procedure was issued on 14 March 1996.

The complaint

3.1 Counsel contends that Mr. M. W. is a victim of a violation of articles 7 and 10, paragraph 1, since Mr. M. W. was detained on death row for a period of seven years and four months between his conviction and the commutation of his death sentence in June 1996. In his initial submission, counsel argues that the delay in carrying out the execution would make it unconstitutional. Reference is made in this respect to the jurisprudence of the Judicial Committee of the Privy Council in Pratt and Morgan and in Guerra v. Baptiste, and of the Supreme Court of Zimbabwe. 1/

3.2 Counsel contends that the anguish suffered by Mr. M. W. over a period exceeding seven years, during which he constantly faced the prospect of his own execution, combined with appalling conditions under which he was detained in the death row section of the State Prison, amount to cruel, inhuman and degrading treatment within the meaning of articles 7 and 10 (1) of the Covenant.

3.3 Counsel alleges a violation of article 14, paragraph 3 (c), juncto paragraph 5, because of the Court of Appeal's failure to hear Mr. M. W.'s appeal within a reasonable time: it is submitted that a delay of almost five years for adjudicating an appeal against conviction and sentence in a capital case is wholly unacceptable. Reference is made to General Comment 13 [21] of the Human Rights Committee.

State party's observations

4. By submission received on 9 July 1996, the State party argues that because the author's pending constitutional motion, the complaint should be held inadmissible on the ground of non-exhaustion of domestic remedies. On 4 October 1996, the State party confirms the commutation of the author's death sentence to 75 years' imprisonment with hard labour.

Admissibility considerations

5.1 As required, the Committee has considered whether the conditions for admissibility under the Optional Protocol have been met in the present case. It observes that the constitutional motion filed on Mr. M. W.'s behalf has become moot with the commutation of his death sentence by the President of Trinidad and Tobago. Accordingly, there are no further available and effective remedies which the author would be required to exhaust.

5.2 The Committee notes that the author has sufficiently substantiated, for purposes of admissibility, his claims under articles 7 and 10 (1), in so far as they relate to the conditions of his detention on death row and since the commutation of his death sentence, and under article 14, paragraph 3 (c), juncto paragraph 5, on account of the delay in adjudication of his appeal. These claims should be considered on their merits.

6. The Human Rights Committee therefore decides:

(a) that the communication is admissible in so far as it appears to raise issues under articles 7, 10 (1) and 14, paragraph 3 (c), juncto paragraph 5, of the Covenant;

(b) that, in accordance with 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 this decision, written explanations or statements clarifying the matter and the measures, if any, that may have taken by it. The State party is requested in particular to forward to the Committee a copy of the trial transcript and of the judgement of the Court of Appeal in the author's case;

(c) that any explanations or statements received from the State party shall be communicated by the Secretary-General under rule 93, paragraph 3, of the rules of procedure to the author, with the request that any comments which he may wish to make should reach the Human Rights Committee, in care of the Office of the High Commissioner 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 author of the communication, his counsel and the State party.

[Done in English, French and Spanish, the English text being the original version.]

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

1/ Pratt and Morgan v. Attorney-General of Jamaica et al., Privy Council Appeal No. 10 of 1993, judgement of 2 November 1993; Guerra v. Baptiste and others [1995] All ER 583; Supreme Court of Zimbabwe, judgement S.C. 73/93 of 24 June 1993 in Catholic Commission for Justice and Peace in Zimbabwe v. The Attorney-General of Zimbabwe.