

**HUMAN RIGHTS COMMITTEE**

**Matthews v. Trinidad and Tobago**

**Communication No. 569/1993**

**31 March 1998**

**CCPR/C/62/D/569/1993\***

**VIEWS**

*Submitted by: Patterson Matthews*

*Victim: The author*

*State party: Trinidad and Tobago*

*Date of communication: 11 October 1993*

*Date of decision on admissibility: 13 October 1995*

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

Meeting on 31 March 1998,

Having concluded its consideration of communication No.569/1993 submitted to the Human Rights Committee by Mr. Patterson Matthews, under the Optional Protocol to the International Covenant on Civil and Political Rights,

Having taken into account all written information made available to it by the author of the communication and the State party,

Adopts the following:

**Views under article 5, paragraph 4, of the Optional Protocol**

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. He claims to be a victim of violations of his human rights by Trinidad and Tobago.

### Facts as submitted by the author:

2.1 The author was arrested on a capital charge in late June 1982. On 25 November 1985, he was convicted of manslaughter and sentenced to 20 years' imprisonment and 20 strokes. The Court of Appeal of Trinidad and Tobago dismissed his appeal on 1 July 1987. The author did not apply for special leave to appeal to the Judicial Committee of the Privy Council thereafter.

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

2.3 In May 1991, the author was to undergo eye surgery. He claims that on 10 May 1991, he underwent several blood tests. As test results were unavailable on the scheduled day of the surgery (16 May 1991), the operation was postponed. On 19 May 1991, an attempted mass escape from Carrera Convict Prison failed; the author was accused - wrongly according to him - of having participated in the attempt. Two prison warders allegedly took him aside and severely ill-treated him. Thereafter, Mr. Matthews was locked into a small, unlit, cell for two weeks. He claims that for approximately two months, he could only bathe in sea water.

2.4 According to the author, the Assistant Commissioner of the prison was always aware of his glaucoma, but he failed to provide adequate medical assistance. Mr. Matthews believes that this was because he had written about an incident in the prison which had occurred in November 1988 and in which an inmate was killed by warders. The matter was brought to the attention of the Minister for National Security, who simply referred it back to the prison authorities.

### Complaint:

3.1 Mr. Matthews contends that between 1990 and 1993, he was denied attendance at an eye clinic in Port-of-Spain on 14 occasions; according to him, an ophthalmologist and registered practitioner at the eye clinic could corroborate his story. The author complained to the Ombudsman and to prison authorities about lack of medical treatment, to no avail.

3.2 The author contends that the prison diet and conditions of detention have contributed to a worsening of his situation. He claims that the prison diet consists of two slices of (mostly dry) bread and a cup of 'sugar water' in the morning, and 1/4 pound of rice with peas and flour at lunch-time. Prison authorities allegedly do not listen to, or transmit, complaints about the daily diet. Food brought by the inmates' relatives allegedly goes to the prison officers' kitchen.

3.3 The author describes the conditions of detention as appalling and inhuman. He notes that he is 'cramped' into a small cell with four inmates, and that the cell 'leaks profusely' during rainfalls, which in turn has increased the incidence of influenza among inmates. There is no medication against influenza in the prison.

3.4 The author alleges that, as a poor person, he cannot pay to file a constitutional motion or obtain legal representation for the purpose. He notes that he cannot even pay for such medication as may be available in the prison infirmary.

State party's submission and author's comments:

4.1 In its submission under rule 91, the State party confirms that the author suffers from glaucoma and that he is an out-patient at the eye clinic of the General Hospital, Port-of-Spain; he is examined regularly by a prison medical officer and is prescribed medication. According to the State party, the author visited the eye clinic on 12 occasions between 24 May 1990 and 30 July 1993; it explains that on other occasions, he could not attend medical appointments because of shortage of staff and lack of transportation. The prison records do not indicate that Mr. Matthews underwent any blood tests or was scheduled for an operation.

4.2 As to the attempted mass escape from the prison, the State party argues that the author was one of the conspirators and that appropriate force was used against him. Subsequently, he was charged with seeking to attempt to escape custody and with leaving his place of work without authority, but was found not guilty, because of insufficient evidence. After the escape, the author and other prisoners were placed in the top security division of the prison, but according to the State party, they continued to receive their daily entitlements to food and hygiene.

4.3 The State party dismisses the author's complaint about inadequate food and diet as ludicrous, and argues that meals served at the prisons are prepared by qualified dietitians under strict sanitary conditions, and fulfil all nutritional requirements.

4.4 The State party concedes that overcrowding exists in all the prisons but refutes the author's claim that the cells leak whenever it rains and that no medication for influenza is available; on the contrary, medication is given to prisoners free of charge. According to the State party, the author was examined by a prison medical officer on 2 February 1994 and found to be physically and mentally fit.

4.5 As to the requirement of exhaustion of domestic remedies, the State party concedes that although legal aid is available for a constitutional motion, such a motion is unlikely to succeed, since the author's complaints do not reveal a violation of any of his fundamental rights under the Constitution. The State party argues that the claims are inadmissible as incompatible with the provisions of the Covenant.

5.1 In his comments, the author reiterates many of his allegations. He contests that he was taken to the eye clinic on the dates of visit scheduled between February 1990 and April 1994, and that failure to take him to these appointments constitutes a deliberate attempt to subject him to degrading treatment. Mr. Matthews reiterates that blood tests were carried out on him and eye surgery was scheduled for 1991. He now states that he suffers from glaucoma in both eyes, and that he only has 15% vision left in his left eye, owing to negligence of prison authorities.

5.2 The author reasserts that the prison diet 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 lunchtime, he is given pea soup, rice with stones in it, rotten fish, goat meat, liver or chicken. The author notes that he sometimes eats the chicken, as it is not always rotten.

5.3 In another undated letter, the author concedes that he underwent eye surgery sometime between March and May 1992. He again notes that on 21 December 1994 and 21 March 1995, he was scheduled to be taken to the eye clinic for tests but was again not taken there by the prison authorities. He contends that on the last occasion, he was already handcuffed and ready to be taken to the appointment when he was told by warders to shave his beard which, as a Muslim, he refused to do. Prison officers then forcibly shaved his beard and locked him up for three days. The author claims that the forced shaving of his beard amounts to a violation of his freedom of religion and of his right to privacy.

5.4 As to sanitary conditions under which prison food is prepared, Mr. Matthews explains that a small open drainage pipe runs in front of the "rations room", which means that human excrement is exposed at appr. 15 feet from where food is prepared. The dining shed is open-sided and the toilets, which do not have doors, are at a distance of only 8 to 10 feet. He claims that the toilets do not work properly, that buckets of salt water have to be thrown into them, and that swarms of flies invade the dining shed. As a result, many prisoners allegedly suffer from diarrhoea.

5.5 Still concerning the prison diet, the author notes that no allowance is made for inmates with different eating habits. Prisoners who may not drink coffee, green tea or cocoa must drink 'sugar water' or plain water. Milk allegedly is unavailable. The Prison Medical Officer allegedly does not entertain requests for changes in diet, unless the prisoner is seriously ill and must be hospitalized. According to the author, inmates who do not receive food from visiting relatives suffer from malnutrition, weakness and insanity. Concerning medication, it is submitted that the prison infirmary stocks medication in short and irregular supplies; prescribed medication often must be bought outside the prison.

#### The Committee's admissibility decision:

6.1 During its 53rd session, the Committee requested the State party, under rule 91 of the rules of procedure, to provide copies of the author's medical file at Carrera Convict Prison, as well as the results of investigations into the failed mass escape from the prison in May 1991. No reply was received from the State party.

6.2 During its 55th session, the Committee considered the admissibility of the communication. It regretted the lack of cooperation by the State party in not providing the additional information requested by the Committee. In respect of the author's claim that he was not receiving adequate treatment for a glaucoma in his eyes and that prison authorities did not allow him to attend the eye clinic where he was an out-patient, the Committee observed that it transpired from the file that the author had visited the eye clinic regularly and that he had undergone eye surgery between March and May 1992. In that respect, the

Committee considered that the author had failed to advance a claim within the meaning of article 2 of the Optional Protocol.

6.3 Concerning the author's claim that he was forced to shave his beard, the Committee observed that Mr. Matthews had not shown what steps, if any, he had taken to bring this matter to the attention of the Trinidadian authorities. This claim was deemed inadmissible under article 5, paragraph 2(b), of the Optional Protocol.

6.4 As to the claims related to the conditions of the author's detention, the Committee noted that the author had filed complaints on this issue with the Parliamentary Ombudsman. It was not, therefore, precluded under article 5, paragraph 2(b), of the Optional Protocol, from considering the complaint. It also noted that the State party had summarily dismissed the author's claim, but considered that the matter warranted examination on the merits.

6.5 Noting that the author had, in addition to his prison sentence, been sentenced to 20 strokes with a birch, the Committee recalled its General Comment on article 7, which observes that the prohibition of cruel, inhuman or degrading punishment must extend to corporal punishment. It requested the State party to inform it whether the author's punishment of 20 strokes had been carried out, and whether the State party's legislation continued to provide for corporal punishment.

6.6 On 13 October 1995, the Committee declared the communication admissible under article 7 in so far as it related to the issue of corporal punishment imposed on the author, and article 10, paragraph 1, in respect of the author's conditions of detention.

#### Examination of the merits:

7.1 In submissions dated 17 October and 14 December 1995, the State party provides additional information on the issue of medical treatment of the author's glaucoma, a claim which had been declared inadmissible by the Committee. No information is provided on the issue of the corporal punishment to which Mr. Matthews was sentenced, nor on the conditions of detention to which he is subjected. The Committee regrets the lack of cooperation on the part of the State party in respect of the above issues and reiterates that it is implicit in article 4, paragraph 2, of the Optional Protocol, that a State party must provide the Committee, in good faith and within the imparted deadlines, with all the information at its disposal. In the circumstances, due weight must be given to the author's allegations, to the extent that they have been sufficiently substantiated.

7.2 Concerning the issue of corporal punishment to which the author was sentenced, the Committee notes that Mr. Matthews himself has not raised this issue in his communication to the Committee. This implies that the punishment, if imposed on him, may not have been carried out. The Committee maintains that corporal punishment is incompatible with the provisions of article 7 of the Covenant<sup>1</sup>, but makes no finding in this respect in the present case.

7.3 As to the conditions of detention at Carrera Convict Prison, the Committee notes that the

author has made very detailed allegations which have been refuted by the State party as preposterous and exaggerated. On the basis of the information before it, the Committee concludes that the conditions of detention at Carrera Convict Prison described by the author, in particular the sanitary conditions, amount to a violation of article 10, paragraph 1, of the Covenant.

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it reveal a violation by Trinidad and Tobago of article 10, paragraph 1, of the Covenant.

9. Under article 2, paragraph 3(a), of the Covenant, the author is entitled to an effective remedy. The State party is under an obligation to take measures to ensure that the author's conditions of detention comply with the requirements of article 10, paragraph 1, of the Covenant so that similar violations do not occur in the future.

10. Bearing in mind that, by becoming a State party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, under article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to the Committee's Views.

[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.]

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\*/ Made public by decision of the Human Rights Committee.

\*/ The following members of the Committee participated in the examination of the present communication: Mr. Nisuke Ando, Mr. Prafullachandra N. Bhagwati, Mr. Th. Buergenthal, Lord Colville, Ms. Christine Chanet, Mr. Omran el Shafei, Ms. Elizabeth Evatt, Mr. Eckart Klein, Mr. David Kretzmer, Mr. Rajsoomer Lallah, Ms. Cecilia Medina Quiroga, Mr. Fausto Pocar, Mr. Martin Scheinin, Mr. Maxwell Yalden and Mr. Abdallah Zakhia.

1/ General Comment No. 20, adopted at the Committee's 44th session, paragraph 5.