

HUMAN RIGHTS COMMITTEE

C.F. v. Jamaica

Communication No. 382/1989**

28 July 1992

CCPR/C/45/D/382/1989*

ADMISSIBILITY

Submitted by: C.F. (name deleted)

Alleged victim: The author

State party: Jamaica

Date of communication: 2 August 1989 (initial submission)

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

Meeting on 28 July 1992,

Adopts the following:

Decision on admissibility

1. The author of the communication is C.F., a Jamaican citizen born in January 1961, currently awaiting execution at St. Catherine District Prison, Jamaica. He claims to be a victim of violations of his human rights by Jamaica but does not invoke the International Covenant on Civil and Political Rights.

The facts as submitted by the author:

2.1 The author was arrested on 22 February 1980 and charged with the murder of one A.A.; on 26 January 1981, he was found guilty as charged and sentenced to death in the Home Circuit Court of Kingston, Jamaica. The Jamaican Court of Appeal dismissed his appeal on 18 November 1981. The author subsequently sought to petition the Judicial Committee of the Privy Council for special leave to appeal; in 1990 a Londonbased law firm accepted to

represent him **pro bono** for this purpose. As of May 1992, the petition had not been filed.

2.2 It appears that warrants for the author's execution were signed on two occasions by the Governor General of Jamaica. On both occasions the author was granted a stay of execution, the second time in February 1988.

2.3 With respect to the facts, it is merely stated that a prosecution witness testified during the trial that on the night of the crime, she had heard the deceased talk to the author outside her house, apparently begging for his life, which would appear to imply that the deceased and the author were engaged in a dispute.

The complaint:

3.1 It transpires from the author's submissions that he considers that he did not receive a fair trial, or that he has been discriminated against; repeatedly, he refers to the difficulties encountered in Jamaica, be it in the local courts or in everyday life, to obtain "justice for black people".

3.2 The author also appears to claim inhuman and degrading treatment, in violation of article 7, and that he was not treated with respect for the inherent dignity of the person, in violation of article 10. In several submissions spread over a period of three years (1989 to 1992), he refers (a) to his cell as being "cold as ice"; (b) to prison warders who regularly "try to kill some prisoners"; (c) to beatings sustained during the years 1983 to 1986; and (d) to the absence of medical or dental care in the prison.

State party's information and observations and author's comments:

4.1 In his initial transmittal of the communication to the State party, dated 14 November 1989, the Committee's Special Rapporteur on New Communications requested the State party, **inter alia**, to provide information about the admissibility of the communication, including about the author's mental health.

4.2 By submission of 12 February 1990, the State party argues that the communication is inadmissible on the ground of nonexhaustion of domestic remedies, as the author has failed to petition the Judicial Committee of the Privy Council for special leave to appeal.

4.3 In a further submission, the State party adds that a mental status examination "was carried out on C.F. on 6 February 1990. The examination revealed a 'young man who spoke freely and was not depressed. He displayed no psychotic features and no evidence of cognitive impairment. His intelligence seemed average. He is presently displaying no features of psychological disturbance'. Prior to his examination, C.F. had not undergone any psychiatric examination. His behaviour had been normal throughout the period of his incarceration. He had been treated on numerous occasions by general practitioners for medical conditions, but on no occasion was it considered necessary to have him examined by a psychiatrist".

4.4 On 28 May 1992, author's representative before the Judicial Committee of the Privy Council indicated that leading counsel had advised that a petition would have merits, that it would be filed within two weeks, and that it would be based on three main grounds (delay; issue of accident inadequately left to jury; inadequate directions on identification).

Issues and proceedings before the Committee:

5.1 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.

5.2 The Committee has taken note of the State party's contention that the communication is inadmissible on the ground of non-exhaustion of domestic remedies, as the author has failed to petition the Judicial Committee of the Privy Council for special leave to appeal. It observes that the author has secured **pro bono** legal representation for this purpose, and that his representative is endeavouring to submit a petition for special leave to appeal on his behalf. In the circumstances, the Committee concludes that the requirements of article 5, paragraph 2(b), of the Optional Protocol have not been met.

5.3 In respect of the author's allegations under article 7, the Committee notes that these do not appear to have been brought to the attention of the competent authorities and concludes, accordingly, that domestic remedies have not been exhausted.

6. The Human Rights Committee therefore decides:

(a) that the communication is inadmissible under article 5, paragraph 2(b), of the Optional Protocol;

(b) that this decision may be reviewed pursuant to rule 92, paragraph 2, of the Committee's rules of procedure, upon receipt of information from the author or from his counsel to the effect that the reasons for inadmissibility no longer apply;

(c) that this decision shall be communicated to the State party, to the author and to his counsel.

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

Footnotes

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

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