HUMAN RIGHTS COMMITTEE

Adams v. Jamaica

Communication No. 607/1994

30 October 1996

CCPR/C/58/D/607/1994*

VIEWS

Submitted by: Michael Adams (represented by Mr. Saul Lehrfreund of Simons Muirhead & Burton)

Victim: The author

State party: Jamaica

Date of communication: 1 November 1994 (initial submission)

Date of decision on admissibility: 30 October 1996

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

Meeting on 30 October 1996,

Having concluded its consideration of communication No. 607/1994 submitted to the Human Rights Committee by Mr. Michel Adams 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 Michael Adams, a Jamaican citizen who, at the time of submission of his complaint, was awaiting execution at St. Catherine District Prison,

Jamaica. He claims to be a victim of violations by Jamaica of articles 7, 10, paragraph 1, and 14, paragraphs 1, 2, 3 (b) and (e), of the International Covenant on Civil and Political Rights. He is represented by counsel. The author's death sentence was commuted on 14 November 1994.

The facts as submitted by the author:

2.1 On 7 March 1991, the author was convicted of murder in the Kingston Home Circuit Court and sentenced to death. He applied for leave to appeal against conviction and sentence; on 24 February 1992, the Court of Appeal of Jamaica, treating the application for leave to appeal as the hearing of the appeal, dismissed the author's appeal. On 4 November 1993, the author's petition for special leave to appeal to the Judicial Committee of the Privy Council was dismissed. With this, it is submitted, all domestic remedies have been exhausted. On 14 November 1994, the author was re-classified as a non-capital offender.

2.2 The author was convicted on the basis of common design. The case for the prosecution was that, on 3 May 1990, the author induced an unidentified man (the gunman) with whom he was allegedly working in concert, to shoot a security guard, one Charles Wilson; the gunman however killed another person, one Alvin Scarlett.

2.3 On the morning of 3 May 1990, Mr. Wilson was on duty at the entrance gate to the dump of a bottling plant compound on the Spanish Town Road, Kingston. At approximately 8:00 a.m., he allowed two trucks to enter the dump from the compound. Several men climbed on the first truck. During the trial, Charles Wilson testified that he had seen two men, one of whom he identified in court as the author, sitting by the side of the dump's enclosure; the author followed the second truck down to the dump on foot. Fifteen minutes later, the second truck returned, with Alvin Scarlett, one Carlton McKie and the author; it stopped at the gate, and the three men unloaded some pallets. As the truck slowly entered the compound, Mr. Wilson began closing the gate, he heard a gunshot and felt a pain in his hand. He saw the other man, who had been by the fence with the author, pointing a gun at him. Mr. Wilson was unable to draw his own gun because of the hand injury. He testified that he saw the author, who had been out of sight, walk around the truck, saying to the gunman: "Shot the guard boy, let we get his gun". He then escaped, pursued by the author and the gunman. While running, he heard three more gunshots. The two men then gave up chasing him, and he saw their backs as they ran back towards the dump.

2.4 Mr. Wilson claimed that he had first seen the author three years earlier, when he was working as a security guard at a biscuit factory, and that the author used to ask him for biscuits. He had seen him once before at the dump, but had not spoken to him.

2.5 Carlton McKie testified that, while unloading the pallets, he saw a man firing at the guard, and Alvin Scarlett, who was standing in the back of the truck, fell on his back. He had then seen the author on the other side of the truck, and that the author and the gunman had pursued the guard for some distance, and then ran back towards the dump. Mr. McKie further testified that he had known the author for about one year, and that during this period he had often seen the author at the dump.

2.6 Blandford Davis, the investigating officer of the Hunts Bay Police Station, testified that, on 4 May 1990, he obtained a warrant for the author's arrest; on 4 June 1990, he saw the author at the Police Station, and arrested and charged him with the murder of Alvin Scarlett. Under arrest, the author claimed to be innocent.

2.7 The case for the defence was based on sworn evidence given by the author. He denied having been waiting by the side of the enclosure together with another man, and testified that he had gone down to the dump with a group of men. As they reached the premises of the bottling plant, the truck was about to pass the gate, and he and six other men had climbed on board. On returning from the dump, he and Mr. Scarlett, whom he had known for four years, unloaded the pallets. The author said he heard a gunshot while he was on the other side of the truck and could not see Mr. Wilson; he could not say from which direction the gunshot came. He further stated that he and others ran away, that he did not speak to anyone, and that he was not aware of anyone running in front of him. He heard several more shots and ran home. Later, he returned to the premises of the bottling plant to retrieve the pallets; he learned that Alvin Scarlett had been killed. The author denied ever having said "Shot the guard boy, let we get his gun", or having chased Charles Wilson; he stated that he had seen Mr. Wilson at the premises of the bottling plant prior to 3 May 1990, but denied ever having seen him at the biscuit factory.

2.8 The trial transcript reveals that Mr. Wilson first mentioned the author's utterance "Shot the guard boy, let we get his gun" in a written statement to the police; he did not repeat it during the preliminary enquiry at the Gun Court but did mention it again during the trial, during the examination-in-chief by crown counsel. It further appears that the author's attorney (who had not represented him at the preliminary enquiry) was not aware of the written statement and, when cross-examining Mr. Wilson, challenged that the author had ever said those words. In re-examination, crown counsel showed the written police statement to the author's attorney and requested the judge to admit it in evidence; with reference to established jurisprudence he argued that if a statement made by a witness during examination-in-chief is challenged on the basis that it is a recent concoction, it is open to the prosecution to tender a written statement made previously, to show that the statement was in fact made. The author's attorney opposed the admission of the written statement as an exhibit, on the ground that it was self-serving, self-corroborating evidence of the witness. The judge, however, allowed the statement to be admitted in evidence to rebut the suggestion of recent fabrication.

The complaint

3.1 It is claimed that the non-disclosure of the statement to the defence prior to the trial violated the author's rights under article 14, paragraphs 1, 2, 3 (b) and (e), of the Covenant.

3.2 In this respect, counsel quotes from a letter received from the author's previous representative in Jamaica: "I think the point which turned the scales against Michael Adams was the statement by the witness Wilson that he had told the police that Adams said:... shoot the guard boy mek we get fi him gun. Wilson did not say that at the preliminary enquiry. That was a material difference and that statement ought to have been made available to the

defence to ensure a fair trial. If that statement had been disclosed, the cross-examination of Charles Wilson would not have been conducted as it was. In light of this, did Adams receive a fair trial?".

3.3 Counsel points to the Committee's General Comment on article 14 of the Covenant, where it observed in respect of the right of an accused person to have adequate time and facilities for the preparation of his defence that: "[...] the facilities must include access to documents and other evidence which the accused requires to prepare his case". It is submitted that, while the author's attorney in Jamaica affirms that he had sufficient time to prepare the case and was allowed to cross-examine witnesses on the same terms as the prosecution, this could not have been the situation with regard to Mr. Wilson. Counsel reiterates that, had the statement been disclosed to the defence, the attorney's cross-examination of the witness would have been different, and that, consequently, the author was denied adequate facilities for the preparation of his defence as guaranteed by article 14, paragraph 3 (b). He adds that, without prior knowledge of the statement, further cross-examination by counsel was not as effective as it should have been and was limited by the judge in its scope, amounting to a violation of article 14, paragraph 3 (e). It is further submitted that the defence was therefore unable to rebut the witness' allegations, contrary to article 14, paragraph 2, and that, consequently, the author was denied the right to a fair trial (article 14, paragraph 1).

3.4 In support of these claims, counsel refers to the Committee's Views on Communication No. 283/1988 (Aston Little v. Jamaica). He also refers to an affidavit taken by Ms. Shelagh Anne Simmons, who visited Mr. Adams at St. Catherine District Prison from 29 August to 5 September 1994, which states that: "I told my lawyer, [...] that there were witnesses willing to give evidence on my behalf, but he said that the prosecution had so little evidence against me that witnesses would not be needed. The witnesses were people who were on the scene when the crime took place. [...] They can verify that I was never a party to the murder I am charged for. The witnesses were Alfred Campbell [...], a man I know as 'Willy' [...], and a girl called 'Reenie' [...]." Counsel points out that, if Mr. Wilson's statement to the police had been disclosed to the author's attorney, it is likely that he would have called the witnesses mentioned by the author to testify on his behalf. Thus, it is submitted, by denying adequate time and facilities for the preparation of the defence, there has also been a violation of article 14, paragraph 3 (e), in that the author was unable to obtain the testimony of witnesses on his behalf.

3.5 In affidavits dated 10 September 1994 from the three witnesses mentioned by the author, it appears that all of them, on separate occasions, tried to give statements to the police, specifically to the investigating officer. The witnesses claim that they were "warned off". In this respect, reference is made to a recent judgment of the Court of Appeal of the United Kingdom.[1] Counsel submits that, although DPP or the author's attorney had not specifically requested that statements be taken from the three above-mentioned witnesses, the investigating officer was under a duty to investigate and to take statements from witnesses willing to testify on the author's behalf. The failure of the Jamaican police, and in particular of the investigating officer, to obtain statements from alibi witnesses is said to amount to a violation of article 14, paragraphs 1 and 2.

3.6 Counsel further claims that the trial judge, in his summing-up, misdirected the jury as to the proper approach to be taken on the evidence, which amounted to a denial of justice. He submits that, by allowing the prosecution to tender in evidence the statement Charles Wilson had made to the police, the judge inevitably led the jury to a finding of guilty. In directing the jury on how to use the statement, the judge failed to clarify sufficiently that the statement should not be used to determine whether the remark "shot the guard boy, let we get his gun" was true, but was simply relevant to the credibility of Mr. Wilson as a witness. In addition, he effectively directed the jury not to consider whether Mr. Wilson was mistaken. Further, the judge effectively directed the jury that, by accepting that the statement was made, it was inevitable to conclude that the author must have had the necessary intention to participate in the joint enterprise, at the time the gunman shot Alvin Scarlett. Moreover, during the summing-up, the trial judge repeatedly used the phrase "Shoot the guard boy...", as opposed to the phrase "shot the guard boy...", used by Mr. Wilson in court and in his statement to the police. Counsel points out that, in doing so, the judge misrepresented the evidence and encouraged the jury to interpret the word "shot" as "shoot".

3.7 Counsel submits that the author is a victim of a violation of articles 7 and 10, paragraph 1, because of ill-treatment by the police after his arrest. The author claims that he spent about six months in custody on a shooting charge before being charged for murder. After his arrest, he was first detained at the Spanish Town Police Station, and then transferred to the Hunts Bay Police Station. He claims that, there, he "sustained beatings to my back, chest, neck and foot bottom by policemen, namely Bobby Williams, R. Scott and Detective Corporal Davis, who led these beatings on me which caused me to pass blood in my urine and damage to my nerves. I was beaten over a two week period, twice daily. I was denied visitors or medical treatment by the police. [...] Whenever the police went out in search of men who they say committed the crime without finding them, they always come and beat up on me for information I knew nothing about. I told my lawyer about the beatings, but nothing was done about it".

3.8 The author's claims of ill-treatment by the police appear to be corroborated by the testimony of his aunt, Janet Gayle, who stated in an affidavit dated 10 September 1994, that: "On a visit to Michael at the police station, he informed me that when he was being questioned [...], he stated his innocence and was then beaten by the investigating officers. He said he was beaten at least three or four times a week. When I visited him, I noted that he had open wounds and scars. Michael told me that after one beating he "blacked out" and was taken to a doctor and then back to the police station". She stated that she thought that the trial lawyer was unaware of the author's ill-treatment. She further stated that: "Michael never suffered from epilepsy prior to his beatings while detained. I think he was diagnosed as suffering from epilepsy about one year after the murder trial. Michael has told me that he first "blacked out" after the first beating he received while detained at Spanish Town Police Station. He has also said that he has had episodes of blackout in prison. These have normally occurred after being beaten in prison. In fact, one time I went to visit Michael in prison but was late and the visiting hours had finished. I then went to visit a friend who was in Spanish Town Hospital and to my surprise and horror I saw Michael there with his head cut open and bleeding. [...] Michael is currently on medication for his epilepsy and if he stops the

medication he suffers from fits. He is now dependent on that medication. [...]. I think that the beatings trigger the epilepsy fits". Although Janet Gayle refers to the actions of the police at Spanish Town Police Station, the author has confirmed that the beatings actually took place at Hunts Bay Police Station and not at the Spanish Town Police Station.

3.9 In a letter of 18 February 1994 to London counsel, the author explains that: "On several occasions the police [...] took me out of the cell and carried me to the guard room where [they] beat me with pieces of 2 x 4 boards, iron pipes and a pickaxe stick. I sustained several cuts on my head, swollen to my arms and my legs. Internal injury indicative of lots of blood in my urine, and whenever I cough, blood came from my stomach. Several cuts on my back. I was also beaten on the soles of my feet. As a result of being locked away for more than a month, being not able to speak to anyone, I did not go to report the issue of the beatings to anyone before I was taken to Court, and in Court, I was not allowed to speak to anyone throughout the trial".

3.10 Furthermore, on 19 July 1993, Ms. Simmons, a human rights worker from England, made a report to the Jamaica Council for Human Rights on behalf of the author; she stated that on 24 June 1993, the author was viciously assaulted by a warder at St. Catherine District Prison and, as a result, spent three and a half days in the Spanish Town Hospital suffering from head injuries.

3.11 On 20 July 1993, counsel filed a complaint, on the author's behalf, with the Parliamentary Ombudsman of Jamaica, requesting an investigation into the incidents. He also requested the Jamaica Council for Human Rights to ensure that the Ombudsman in fact investigate the matter. On 4 August 1993, the office of the Ombudsman informed counsel that "the complaint would receive the most prompt attention possible". On 3 February and 5 July 1994, counsel requested the Ombudsman about the outcome of the investigations, if any. He states that to date no reply has been forthcoming from the office of the Ombudsman. The Jamaica Council for Human Rights also sent an urgent action request to the Director of the World Organisation against Torture on 1 October 1993. In addition, Father Brian Massie SJ, Chaplin of St. Catherine District Prison, wrote to the Prison Superintendent on 23 July 1993, requesting that the author's allegations be investigated, and that a brief report be made available to the Board of Visitors' meeting. On 30 March 1994, Father Massie contacted counsel, explaining that nothing substantial had been done.

3.12 The affidavit taken by Ms. Simmons refers to the fact that, on each of her visits to the author, a warder was present, and that the author told her that he felt uneasy about openly answering questions on his maltreatment by the prison warders, for fear of reprisals. Ms. Simmons adds that she was herself on one day subjected to 30 minutes of humiliating treatment by the Superintendent and certain members of his staff, and that her visits to the author were restricted. The Jamaica Council for Human Rights sought to raise the matter with the Commissioner of Correctional Services, but the author preferred that no further action be taken, fearing reprisals from warders. It is submitted that the requirements of the UN Standard Minimum Rules for the Treatment of Prisoners were not met during the author's detention at the Hunts Bay Police Station and at St. Catherine District Prison, and that the treatment to which he was subjected on 24 June 1993, the inadequate medical

treatment he received, as well as the continuing fear of reprisals, amount to violations of articles 7 and 10, paragraph 1.

3.13 Counsel points out that the author has been held on death row for three years and seven months, prior to the commutation of his death sentence to life imprisonment as a result of the reclassification process. Reference is made to the decision of the Judicial Committee of the Privy Council in the case of Pratt and Morgan, [2] where it was held, inter alia, that it should be possible for the State party to complete the entire domestic appeals process within approximately two years. It is submitted that the delay in the author's case, during which he had to face the agony of execution, amounts to a violation of articles 7 and 10, paragraph 1.

3.14 Finally, reference is made to the findings of a delegation of Amnesty International, which visited St. Catherine District Prison in November 1993. It was observed, inter alia, that the prison is holding more than twice the capacity for which it was constructed in the nineteenth century, and that the facilities provided by the State are scant: no mattresses, other bedding or furniture in the cells; no integral sanitation in the cells; broken plumbing, piles of refuse and open sewers; no artificial lighting in the cells and only small air vents through which natural light can enter; almost no employment opportunities available to inmates; no doctor attached to the prison so that medical problems are generally treated by warders who receive very limited training. It is submitted that the particular impact of these general conditions upon the author were that he was confined to his cell for twenty-two hours a day. He spent most of the day isolated from other men, with nothing to keep him occupied. Much of the time he spent in enforced darkness. He further complained about pains in his chest and about being unable to digest any food, but had not seen a doctor as of 29 August 1994. The conditions under which the author was detained at St. Catherine District Prison are said to amount to cruel, inhuman and degrading treatment within the meaning of articles 7 and 10, paragraph 1.

The State party's information and observations on admissibility and the author's comments thereon :

4.1 In a submission, dated 1 June 1995, the State party does not specifically address the admissibility and offers observations on the merits of the case.

4.2 With regard to the claim that the non-disclosure of the statement given by Mr. Wilson to the police constituted a violation of article 14, paragraph 3 (b), the State party contends that counsel could challenge the defense witnesses' statement at the trial and was therefore not left without any course of action through which to protect his client's interests. It further contends that these matters relate to questions of evidence which, according to the Committee's own jurisprudence, are best left to the appellate courts to decide.

4.3 With respect to the claim that the author was unable to cross-examine witnesses on the same terms as the prosecution, the State party refers to the comments given by the author's lawyer in Jamaica to London counsel and contends that the former's opinion constitutes strong evidence as to the events which occurred, which belie the claim under article 14, paragraph 3 (b).

4.4 The State party denies that there was a violation of article 14, paragraph 3 (e). It submits that the author's witnesses were available to him, had he chosen to call them.

4.5 With regard to the alleged misdirections to the jury by the trial judge, the State party contends that this is an issue of evaluation of facts and evidence which is for the appellate courts, rather than the Committee, to decide.

4.6 As to the allegations that the author was ill-treated in police detention, the State party argues that it is significant that Mr. Adams did not bring this to the attention of his counsel, and that the author's aunt admits that he was taken to a doctor. With respect to the author's allegation that he was ill-treated in prison, the State party informs that it will investigate the matter and inform the Committee as soon as the results of the investigation are available. No further information had been received as of 1 March 1996.

4.7 As to the "death row phenomenon" claim, the State party contends that the Privy Council's decision in Earl Pratt and Ivan Morgan v. Attorney-General of Jamaica is not an authority for the proposition that incarceration on death row for a specific period of time constitutes cruel and inhuman treatment. Each case must be examined on its own facts, in accordance with applicable legal principles. In support of its argument, the State party refers to the Committee's Views in the case of Pratt and Morgan, where it was held that delays in judicial proceedings did not per se constitute cruel, inhuman or degrading treatment.

5.1 In his comments counsel reaffirms that his client is a victim of violations of articles 14, paragraphs 1, 2, 3 (b) and (e). He considers that the non-disclosure of the statement to the defence denied the author the possibility to examine witnesses on equal terms, by eliminating the possibility of rebutting the allegation and effectively denying him a fair trial. With regard to the availability of the defence witnesses, these were "frightened off" by the investigation officer; consequently, and contrary to the State party's affirmation, they were not "available" to the author.

5.2 Counsel notes that the State party does not deny the ill-treatment the author was subjected to during detention and at St. Catherine District Prison.

Admissibility consideration and examination of merits:

6.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 87 of its procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

6.2 The Committee observes that with the dismissal of the author's petition for special leave to appeal by the Judicial Committee of the Privy Council on 4 November 1993, the author exhausted domestic remedies for purposes of the Optional Protocol. In this context, it notes that the State party has not specifically addressed the admissibility of the case and has formulated comments on the merits. The Committee recalls that article 4, paragraph 2, of the Optional Protocol stipulates that the receiving State shall submit its written observations on the merits of a communication within six months of the transmittal of the communication

to it for comments on the merits. The Committee reiterates that this period may be shortened, in the interest of justice, if the State party so wishes. The Committee further notes that counsel for the author does not object to the examination of the case on the merits at this stage.

6.3 With respect to allegations about irregularities in the court proceedings, in particular improper instructions from the judge to the jury on the evaluation of evidence, such as the statement given by Mr. Wilson to the police, the Committee recalls that it is generally for the courts of States parties to the Covenant to evaluate the facts and evidence in a particular case; similarly, it is for the appellate courts and not for the Committee to review specific instructions to the jury by the judge in a trial by jury, unless it can be ascertained that the instructions to the jury were clearly arbitrary or amounted to a denial of justice, or that the judge manifestly violated his obligation of impartiality. The author's allegations do not show that the judge's instructions suffered from such defects. In this respect, therefore, the communication is inadmissible as incompatible with the provisions of the Covenant, pursuant to article 3 of the Optional Protocol.

7. In respect of the author's remaining claims, the Committee decides that the case is admissible and proceeds, without further delay, to an examination of the substance of his claims, in the light of all the information made available to it by the parties, as required by article 5, paragraph 1, of the Optional Protocol.

8.1 With regard to the author's claim that the length of his detention on death row amounts to a violation of articles 7 and 10 of the Covenant, the Committee refers to its prior jurisprudence that detention on death row does not per se constitute cruel, inhuman or degrading treatment in violation of article 7 of the Covenant, in the absence of some further compelling circumstances. [3]

The Committee observes that the author has not shown how the length of his detention on death row affected him as to raise an issue under articles 7 and 10 of the Covenant. While it would be desirable for appeal proceedings to be conducted as expeditiously as possible,in the circumstances of the present case, the Committee concludes that a delay of three years and seven months does not constitute a violation of articles 7 and 10, paragraph 1.

8.2 With regard to the author's allegation that he was ill-treated the Committee considers that there are two separate issues, the ill-treatment the author suffered during pre-trial detention and later at St. Catherine District Prison. With respect to the ill-treatment during pre-trial detention the Committee notes that the State party has not denied the ill-treatment but has simply stated that the author received medical attention. With regard to the author's alleged ill-treatment at St. Catherine District Prison, the Committee notes that the author has made very precise allegations, which he documented in complaints to the Parliamentary Ombudsman of Jamaica and to the Jamaica Council for Human Rights. The State party has promised to investigate these claims, but has failed to forward to the Committee its findings, almost ten months after promising to do so. In the circumstances, the Committee finds that the author's claims concerning the treatment he was subjected to both during pre-trial detention and at St. Catherine's prison have been substantiated and concludes that articles

7 and 10, paragraph 1, of the Covenant have been violated.

8.3 The author has alleged a violation of article 14, paragraphs 1, 2, 3 (b) and (e), in that the non-disclosure, by the prosecution, of the statement made by Mr. Wilson to the police, denied him the possibility of cross-examining witnesses on the same terms as the prosecution, and thus denied him adequate facilities for the preparation of his defence. The Committee, however, notes that even though counsel objected to its submission into evidence, from the record it appears that he did not request an adjournment or even ask for a copy of the statement. The Committee considers therefore that the claim has not been substantiated, and consequently there is no violation of the Covenant in this respect.

8.4 The author contends that he was unable to obtain the attendance and examination of witnesses on his behalf on equal terms as witnesses against him, as the witnesses were "warned off" by the police. The State party has not explained why statements were not taken from three potential alibi witnesses, who had on different occasions indicated their willingness to testify on behalf of the author, as attested to by affidavits signed by all three of them. However, the Committee considers that as the witnesses were available to the author, it was counsel's professional choice not to call them. The Committee reaffirms its standard jurisprudence where it has held that it is not for the Committee to question counsel's professional judgment, unless it was or should have been manifest to the judge that the lawyer's behaviour was incompatible with the interests of justice. In the instant case, there is no reason to believe that counsel was not using his best judgement. In the circumstances, the Committee finds that the facts before it do not reveal a violation of the Covenant.

9. 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 disclose violations of articles 7 and 10, paragraph 1, of the Covenant.

10. Pursuant to article 2, paragraph 3 (a), of the Covenant, the author is entitled to an effective remedy, entailing compensation.

11. 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, pursuant to 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 ninety 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.]

Footnotes

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

**/ Pursuant to rule 85 of the rules of procedure, Committee member Laurel Francis did not participate in the examination of the communication.

1/ Ivan Fergus (1994) 98 Cr App R,(Failure of the police to carry out the instructions of the Crown Prosecution Service to take statements from alibi witnesses contributed to the miscarriage of justice).

2/ Earl Pratt and Ivan Morgan v. Attorney-General of Jamaica; PC Appeal No. 10 of 1993, judgment delivered on 2 November 1993.

3/ See Committee's Views on communication No. 588/1994 (Errol Johnson v.Jamaica), adopted on 22 March 1996, paragraphs 8.2 to 8.5.