



**International covenant  
on civil and  
political rights**

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HUMAN RIGHTS COMMITTEE  
Ninety-sixth session  
13 to 31 July 2009

**DECISION**

**Communication No. 1639/2007**

<u>Submitted by:</u>	Mr. Peter Zsolt Vargay (represented by Dr. Istvan Barbalics)
<u>Alleged victim:</u>	The author
<u>State party:</u>	Canada
<u>Date of communication:</u>	9 October 2007 (initial submission)
<u>Document references:</u>	Special Rapporteur's rule 97 decision, transmitted to the State party on 5 December 2007 (not issued in document form).
<u>Date of adoption of decision:</u>	28 July 2009

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

*Subject matter:* Pleadings struck in family law proceeding for child custody.

*Substantive issue:* Unfair trial; discrimination; child protection; servitude; freedom of expression; freedom of thought and religion; equality of spouses.

*Procedural issues:* exhaustion of domestic remedies; non substantiation of claims.

*Articles of the Covenant:* 2 paragraph 3; 8 paragraph 2; 14 paragraph 1; 18 paragraph 2 and 4; 19 paragraph 2; 23 paragraph 4; 26

*Articles of the Optional Protocol:* 2 and 5 paragraph 2 (b).

[ANNEX]

**ANNEX****DECISION OF THE HUMAN RIGHTS COMMITTEE UNDER THE OPTIONAL  
PROTOCOL TO THE INTERNATIONAL COVENANT ON CIVIL AND  
POLITICAL RIGHTS**

Ninety-sixth session

concerning

**Communication No. 1639/2007\***

<u>Submitted by:</u>	Mr. Peter Zsolt Vargay (represented by Dr. Istvan Barbalics)
<u>Alleged victim:</u>	The author
<u>State party:</u>	Canada
<u>Date of communication:</u>	9 October 2007 (initial submission)

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

Meeting on 28 July 2009

Adopts the following:

**DECISION ON ADMISSIBILITY**

1. The author of the communication is Mr. Peter Zsolt Vargay, a Hungarian national born in 1969. He claims to be a victim of a violation, by Canada, of his rights under articles 2(3); 8(2); 14(1); 18(2) and (4); 19(2); 23(4) and 26 of the Covenant. The author is represented by Dr. Istvan Barbalics. The Optional Protocol entered into force for the State Party on 19 May 1976.

**The facts as presented by the author**

2.1 The author and Agnes Vargay had a child, named Tamara Vargay, born on 7 March 2001. They subsequently married on 21 April 2001 in Hungary. On 20 February 2004, they, together

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\* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Mohammed Ayat, Mr. Prafullachandra Natwarlal Bhagwati, Ms. Christine Chanut, Mr. Ahmad Amin Fathalla, Mr. Yuji Iwasawa, Ms. Helen Keller, Mr. Rajsoomer Lallah, Mr. Lazhari Bouzid, Ms. Zonke Zanele Majodina, Ms. Iulia Antoanella Motoc, Mr. Michael O'Flaherty, Mr. José Luis Pérez Sanchez-Cerro, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Fabian Omar Salvioli, Mr. Krister Thelin and Ms. Ruth Wedgwood.

with the child, arrived in Toronto, Ontario (Canada). The spouses' relationship had deteriorated along the years. On 9 April 2004, the spouses had an argument. The following day, Mrs Vargay left their home with the child. The author has not seen his daughter since.

2.2 On 13 April 2004, she initiated proceedings regarding the custody and support for the child. The Ontario Court of Justice issued a temporary order on 14 April 2004, granting Mrs Vargay interim custody of the child, without prejudice to the respondent's rights on return of motion, and restraining the respondent from harassing, molesting or annoying the applicant. The order also specified that the child was not to be removed from the State of Ontario. On 11 May 2004, the author requested the Court to dismiss the claim. He also requested joint custody of the child, access to the child and disclosure of information about her education, health and welfare. On 13 May 2004, Mrs Vargay amended her claim and requested the Court to grant her sole custody of the child; to prohibit the author's access to their daughter; to order the author to pay for child and spousal support; and to issue an order restraining the author from molesting, annoying, harassing and communicating with or coming within 500 meters near her and the child. The Ontario Court acceded to Mrs Vargay's claim and ordered the author to produce copies and records from 2003 to May 2004 of his bank accounts in Hungary; and to produce updated bank statements of his accounts from February to May 2004. The Court gave Mrs Vargay interim custody of the child and the author, interim access to the child.

2.3 On 21 May 2004, Mrs Vargay made an amendment to her financial statement and estimated her needs to 727 CAD per month. On 15 July 2004, the Court ordered the author to provide Mrs Vargay with copies of all records for 2003 and 2004 concerning his business and personal accounts in Hungary as well as proof of the status of his partnership in a computer company he owned in Hungary. The Court authorized the author's access to his child for 3 hours a week under supervision. According to the author, the banks in Hungary gave valid certificates about the balance of his bank accounts. Moreover, the author's father, who is the other owner of the company wrote a letter to the judge stating that the company was making negative profit, had only one part-time employee and had no assets. The Court insisted that the author should provide proof of the status of his partnership in the company. The author refused to disclose the requested information without the other owner's permission. As he did not obtain such permission, the author kept refusing to respond to the Court's request. On 7 October 2004, the Court decided that, if the author failed to provide this information, Mrs Vargay might bring a motion. The Court also ordered the author to provide a job search list.

2.4 The author claims that he provided the Court with documents showing the efforts made to fulfil the Court's request. However, on 27 January 2005, the Court ordered that the author's Answer be struck, that Mrs Vargay should have final custody of the child and that the author should pay both child and spousal support commencing 9 April 2004<sup>1</sup>.

2.5 When trying to appeal the striking order, his lawyer was informed that one of the parties had to reside in Ontario for the Court to be declared competent<sup>2</sup>. As the author no longer resided

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<sup>1</sup> Answer can be struck pursuant to Rule 15(5) of the Canadian Family Law Act.

<sup>2</sup> The pleadings had been struck. Therefore a whole new procedure had to be restarted. For this purpose, the author or his wife had to prove residency in Ontario.

in Ontario, he needed to obtain a declaration of residency from Mrs Vargay. He failed to obtain such declaration and was therefore not entitled to appeal the Ontario Court's order.

### **The complaint**

3.1 The author considers that the State Party has violated his right to fair trial and equality of arms under article 14, paragraph 1. He alleges that the Ontario Court of Justice did not take into account the valid marriage contract, which was in force between the parties and which recognized the applicability of Hungarian law and the jurisdiction of Hungarian Courts for any disagreement arising from the contract itself. He considers that the Court prevented him from being heard and from appealing its decision. He adds that the non-disclosure of the documents requested by the Court resulted from acts beyond his control, namely the negative decision by the co-owner regarding his partnership in the computer company. He further considers that the Court's decision was based only on the other party's arguments and that it lacks reasoning as regards the amount that he was ordered to pay for child and spousal support. The author also considers that the Court acted in a discriminatory manner and therefore alleges a violation of article 26 of the Covenant.

3.2 A violation of article 2, paragraph 3 is said to have occurred in that the author was prevented from filing an appeal against the Ontario Court's decision. The author submits that Mrs Vargay did live in Ontario when the appeal was brought, but she took advantage of her right not to disclose her address. He also submits that the decision of the Court was unfair, as the non-disclosure of the documents requested by the Court resulted from conducts that were beyond his control. He concludes that due to shortcomings in Canadian legislation, he had no access to an effective legal remedy.

3.3 The author alleges a violation of his rights under article 8, paragraph 2 of the Covenant stating that the errors made by the Ontario Court in estimating his income would put him in a situation of servitude because all the money he could possibly earn must be transferred to his child and wife for their support. His estimated income was calculated by the Court based on the income of mathematicians with a Canadian degree and 15 years of work experience in Canada, which is not his case since he just arrived in the country. On this ground, the author also claims a violation of article 26 of the Covenant.

### **State Party's observations on admissibility and merits**

4.1 In its observations dated 7 July 2008, the State Party challenges the admissibility of the communication for non-exhaustion of domestic remedies, incompatibility with the provisions of the Covenant and non-substantiation. Should the Committee declare the communication admissible, the State Party considers that the communication is without merits and groundless.

4.2 According to the State Party, the author has failed to exhaust all available domestic remedies. It is the Human Rights Committee's constant jurisprudence to consider that the author must exercise due diligence in the pursuit of available remedies. In the present case, the author has failed to exercise due diligence despite the availability, in the domestic family legislation of the Province of Ontario, of specific mechanisms to address complaints such as the author's. According to the State Party, the author's lawyers attempted to get him to file the required

material so that his Answer would not be struck, and to get instructions from the author in order to commence the appeal within the statutory deadlines. However, the author appeared not to have responded to his lawyers' requests nor did he take measures on his own behalf to exhaust the remedies available.

4.3 An appeal from a decision of the Ontario Court of Justice in a family law proceeding may be sought at the Superior Court of Justice. Further appeals from decisions of the Superior Court are available to two higher levels of court (the Ontario Court of Appeal and the Supreme Court of Canada), although leave may be required. In order to start an appeal from a Final Order of the Ontario Court, a party must within 30 days serve a Notice of Appeal on the other party affected by the appeal. Then, within ten days of serving the Notice of Appeal, the party must file it with the Court. The Law also provides that a case must be started in the municipality where a party resides, or, if custody and access of a child is in issue, in the municipality where the child ordinarily resides. In order to commence an appeal in the Toronto Superior Court of Justice, the author had to demonstrate that he or Mrs Vargay resided in Toronto. Mrs Vargay's lawyer was willing to provide a sworn statement that Mrs Vargay resided in Toronto. However, the author took no steps to contact Mrs Vargay's lawyer, nor did he seek an extension of the time period for filing an appeal.

4.4 With regard to the author's allegations of lack of equality of arms under articles 14 paragraph 1 and 26 of the Covenant, the State Party submits that the Covenant rights are protected in the Canadian Constitution, which is the supreme body of Law in Canada. Any law that is inconsistent with the provisions of the Constitution is of no force or no effect. The Canadian Charter of Rights and Freedoms is part of the Canadian Constitution and provides for the right to fair trial, equality of arms and prohibition of all forms of discrimination. The author could have applied to a court for a Charter remedy. The State Party emphasizes that the Committee against Torture has recognized that constitutional challenges to legislation are available and effective remedies in Canada. The author's doubts about the effectiveness of domestic remedies do not absolve him from exhausting them.

4.5 The State Party claims that the author's allegations under articles 2 paragraph 3, and 8 paragraph 2 are incompatible with the provisions of the Covenant. In the alternative, these allegations are inadmissible on the grounds of non-substantiation. With regard to article 2 paragraph 3, the State Party understands the author's claim as an attempt to invoke it as an independent right. Article 2 does not establish independent rights but instead impose duties on the State parties based on the rights recognized in the Covenant. Under article 2, the right to a remedy arises only after a violation of a Covenant right has been established. In the alternative, should the Committee choose to examine article 2 in the light of the author's allegations, it maintains that the principle of an effective remedy is tied to the principle of exhaustion of domestic remedies and therefore, the author failed to substantiate his allegation that Canada did not fulfil its obligation under article 2 paragraph 3 of the Covenant.

4.6 With regard to article 8 paragraph 2, it is the State Party's position that neither an obligation to pay child support, in accordance with Canadian Law, nor an obligation to pay spousal support constitutes "servitude" as prohibited in article 8, paragraph 2 of the Covenant. Every parent has an obligation to provide financial support for his or her child during the child's infancy. The Canadian Child Support Guidelines provide standard amounts that a non-custodial

parent must pay, based on the parent's annual income and the number of children subjected to the order for support. If the parent does not provide the Court with proof of his or her income or if the court does not accept that the parent's income reflects his or her ability to pay, a court has the authority to impute a parent's income to such an amount that the parent is deemed capable of earning, based on his or her level of education and market salary. In Mrs Vargay's case, she has limited education, speaks little English and has a young child to take care for. A spousal support is therefore necessary. The factual requirements for servitude imply something more repressive than the author is alleging. The State Party therefore requests that the Committee considers this part of the communication incompatible *ratione materiae* with the provisions of the Covenant. In the alternative, the State Party submits that the author has failed to substantiate his allegations, as the author has not taken any steps to comply with his legal obligation to pay monthly child support. The author could not have suffered any financial detriment since he never complied with the Court's order.

4.7 The State Party takes the position that the author has not sufficiently substantiated, for the purpose of admissibility, his allegations with respect to articles 14 paragraph 1, and 26 of the Covenant. Article 14 of the Covenant guarantees procedural equality and fairness only. It cannot be interpreted as ensuring an absence of error on the part of the competent tribunal. The author does not allege any partiality or lack of independence on the part of the courts. In regards to the author's submission that the Court mistakenly ignored a marriage contract between the author and Mrs Vargay, the State Party maintains that it is up to the domestic courts to review evidence before them and to determine the appropriate weight to give to each piece of evidence.

4.8 The State Party submits that the striking of the author's Answer in the family law proceedings in no way constitutes a denial of justice. Moreover, the author has not demonstrated that he has been treated differently than any other party to a family law proceeding in the Province of Ontario. Equality of arms means that the same procedural rights are to be provided to all parties unless distinctions made are based on law and can be justified on objective and reasonable grounds. Any disadvantage the author suffered was due solely to his failure to comply with the requirements of the law to provide financial disclosure, as well as his failure to participate in the Court hearing on 27 January 2005. The State Party firmly believes in the importance of full financial disclosure in family law proceedings involving support claims. A party who fails to comply with a disclosure order risks being held in contempt and having his or her pleadings struck with costs. The author was given eight months to disclose this information and still did not take any step to provide the necessary disclosure or to provide sufficient evidence to convince the family judge that he was unable to obtain the necessary information despite his lawyer's repeated requests. As for the author's attendance in court, he did not appear to have given advance notice to his lawyer nor did he seek to make a request to the Court to have the matter adjourned until such time as he was able to return to Toronto. Further, the author's subsequent inability to obtain a hearing where he could appeal the Final Order was due to his failure to contact Mrs Vargay's lawyer to obtain the necessary affidavit stating that Mrs Vargay still resided in the jurisdiction.

4.9 The State Party argues that the author alleges, without further explanation, that his right to equality before the law, as protected by article 26 of the Covenant has been violated. As demonstrated above, the author has failed to demonstrate that he was treated differently than any other party to a family law proceeding in Ontario.

**Author's comments on the State party's observations**

5.1 In his comments to the State Party's observations, the author adds, that the State Party has violated articles 18, paragraphs 2 and 4; 19, paragraph 2; and 23, paragraph 4. The author alleges that his rights under article 18 paragraph 4 have been violated because he has never been given access to his daughter since his wife left the family home on 9 April 2004. Moreover, the author considers that his rights under articles 18 paragraph 2 and 19 paragraph 2 were violated on the grounds that Mrs Vargay has received state-funded counsel in her family law matter; Mrs Vargay has sought spousal support from her husband in order to benefit from social assistance benefits and therefore the author felt obliged to express himself during the hearing to protect his own rights. Moreover, his Answer was struck in the family law proceedings and therefore he was denied his right to express himself. At the same time, the author claims that the situation he found himself into where he was forced to communicate with his lawyer's wife in order to obtain a declaration of residency constitutes a violation of his right under article 18 paragraph 2. Finally, the author claims that the State Party has violated article 23, paragraph 4 by denying him access to his child without any valid reason.

5.2 On 19 September 2008, the author requests the Committee to be granted temporary access to his child until the Committee makes a decision on the merits. In addition to the arguments already developed in his initial submission, the author states that the domestic remedies were neither available nor effective. The author failed to contact his wife's lawyer to obtain a declaration of residency because he did not wish to do so. He quotes the Canadian Rules of Professional Conduct which prohibits a lawyer of one of the parties from being engaged in direct coordination, negotiation and bargaining with the client of the other party. The author did not wish to contradict the Rules of Professional Conduct and therefore, decided not to request the declaration of residency to Mrs Vargay's lawyer. The author adds that his lawyer contacted his wife's lawyer to obtain the declaration, however, Mrs Vargay's lawyer interrupted the process as he wished to deal directly with the author and not with his lawyer. Since the author refused, no declaration was obtained and the appeal was barred. Mrs Vargay could have appealed the Ontario Court of Justice's judgement but the author could not, which is a violation of the equality of arms principle. The mere fact that the author was forced to communicate with his wife's lawyer constitutes *per se* a violation of his freedom of thought and expression<sup>3</sup>. In the author's opinion, the Ontario Court of Justice acted partially during the proceedings. The allocation of spousal support to his wife, who had been living in Canada for a year at the time of the initial submission and had taken English classes was not justified. This contravenes the principle of independence of judges. The allocation of spousal support also serves the definition of servitude and violates the right to equality of spouses<sup>4</sup>.

5.3 With regard to the leave to appeal before the Ontario Court of Appeal and the Supreme Court of Canada, the author considers them as "extraordinary remedies" which do not need to be exhausted. They are processes in respect of which the court has discretion to grant or not to grant the remedy. With regard to constitutional challenges, they are also to be qualified as extraordinary remedies as confirmed by the jurisprudence of the European Court for Human Rights. Constitutional challenges imply a change of legislation and do not relate to a specific

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<sup>3</sup> The author refers to articles 18 paragraph 2 and 19 paragraph 2 of the Covenant

<sup>4</sup> The author refers to article 23 paragraph 4 of the Covenant.

case but to a problem deriving from a concrete case. Therefore, it cannot be considered an ordinary remedy.

5.4 The author considers that the striking of his pleadings and the violations deriving from it might be in conformity with Canadian law but not with the Covenant. He is not in a position to find an effective remedy for violations which are in conformity with Canadian law. The fact that the law imposes a serious disadvantage on a group, and is equally applied to everybody within the group, does not mean a lack of discrimination, but only that the entire group suffers an equal degree of discrimination. He considers that he did not fail to provide the financial statements requested by the Court. The financial information was available and only pieces were missing that were not necessary for the decision. The complete bookkeeping and all the bank account statements of the company were missing because the other owner of the company had denied his request to issue them. With the information provided, the judge could have estimated the amount of his income. He claims good faith in trying to obtain the necessary financial documents. The State Party itself recognized that the documents had been requested but did not arrive in time. This good faith should have been taken into account and not led to the author's disqualification of the proceedings. With regard to his appearance in Court, the author emphasizes that both parties have to be present at the hearing. This implies that he or his legal representative should appear before the judge. In the author's situation, his lawyer was present during the hearing. The non-appearance in Court was in any case not among the reasons for his disqualification.

5.5 The author argues that the impossibility for him to challenge the legality of the decision puts him in a state of servitude where he has to work for another person and has no access to his child and no supervision over her education and religious choices. This violates his right to effective remedy and constitutes a denial of justice. The author also claims that the judgement of the Ontario Court of Justice has not been made public.

5.6 The State Party stated that the author had not "demonstrated that he has suffered any detriment as a result of the support order since, to date, he has not taken any steps to comply with the order". The author considers, on the contrary, that he paid a serious price for fighting the Ontario Court's judgement, as a result of which, his health has deteriorated. In addition, he has not seen his child for several years, which should in itself demonstrate the detriment caused by the judgement. The only motive to deprive the author of his right to see his child should depend on whether he has ever harmed his child. This should not, according to the author, depend on his possible failure in the proceedings.

5.7 The State Party has argued that article 2 paragraph 3 could not be invoked independently. The author agrees and emphasizes that he has never intended to raise it separately but in conjunction with the violation of the articles mentioned in his claim.

#### **Additional submission by the State Party**

6.1 In its supplementary response dated 9 February 2009, the State Party addresses in particular the author's allegations in respect of articles 18 paragraph 4; 19 paragraph 2 and 23 paragraph 4 of the Covenant.

6.2 With regard to the author's argument that his rights under article 18 paragraph 4 have been violated because he does not have access to his daughter, the State Party emphasizes that there was no order made as to access by the author to his child. The author could have established regular access with his daughter, as was initially ordered by the Court. His current lack of access is based on his own actions, including his failure to make the arrangements for supervised visits, and ultimately his decision to leave the jurisdiction of Ontario, while court proceedings were ongoing and without giving sufficient instructions to his counsel. This resulted in the Final Order containing no order as to the author's access to his daughter. The author's current lack of participation in his daughter's moral or religious instruction is not a result of any action taken by Canada. It is also still open to the author to return to Ontario to attempt to appeal the Final Order to obtain access to his daughter. For those reasons, the State Party considers that the author has failed to establish a violation of article 18, paragraph 4 of the Covenant and requests the Committee to declare this part of the communication inadmissible.

6.3 The State Party considers that the author's allegation under article 19, paragraph 2 is inadmissible on the grounds of incompatibility with the provisions of the Covenant. In the alternative, the author's claim under article 19 paragraph 2 is inadmissible on the grounds of non-substantiation. According to the State Party, the author includes in the violation of article 19, paragraph 2, the provision of legal aid to Mrs Vargay and not to him, the allowance of social assistance to Mrs Vargay and not to him, and the striking of his Answer during the proceedings. The State Party observes that the availability of legal aid and the requirement to pursue support from a former spouse fall outside the scope of freedom of expression. The author appears to be alleging that the requirement obliged him to respond and his freedom of expression was thus violated. However, the requirement, which exists to ensure the integrity of the social assistance scheme, does not amount to a situation of forced expression. The author was not compelled to express himself. On the third ground, the State Party recalls that several jurisdictions in Canada permit a court to strike a party's pleadings on the basis of inadequate financial disclosure. Such measure is considered the "ultimate sanction" against an uncooperative party. In order to make such a ruling, there must be clear evidence of deliberate default and a complete disdain for orders of the court. Freedom of expression does not, according to the State Party, encompass the freedom to express oneself in any forum and in any manner that one desires. The author is free to express himself in any forum including the court so long as he does so according to the rules which are in place to ensure fair and effective proceedings. The allegations relating to freedom of expression are therefore incompatible *rationae materiae* with the provisions of the Covenant. In the alternative, the restrictions imposed on the author's freedom of expression are justified under article 19 paragraph 3 and are necessary to achieve legitimate purposes.

6.4 As for the author's allegation that the State Party has violated his right under article 23 paragraph 4 by denying him access to his child without any valid reason, the State Party states that the initial order from the Court granted the author access to his child. Despite the Order of the Ontario Court of Justice, it appears that these visits never occurred. On July 2004, a further interim Order was made granting the author weekly supervised access to the child to commence as soon as arrangements were made with the supervised access centre. It appears that no steps were taken to arrange the access since a subsequent order was issued reminding the parties of the arrangements to be made. The author argues that he was denied access to his child due to his failure to provide financial information to the court. According to the State Party, every parent has an obligation to provide financial support for their child during his or her infancy. Canadian

courts have held that the obligation to pay child support is unconditional. However, a child's right to support is independent of a child's right to access, and an access parent may not be denied visits with his or her child by reason only of his or her failure to pay child support. Moreover, since the best interests of children are never static, custody and access orders are never final. If the author wishes to establish access with his daughter in the future, he will need to take the necessary steps to challenge the Final Order<sup>5</sup>. The State Party therefore submits that the author has failed to establish any violation of article 23 paragraph 4 of the Covenant and asks the Committee to declare this part of the communication inadmissible.

## **Issues and proceedings before the Committee**

### **Consideration of admissibility**

7.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 93 of its rules of procedure, decide whether or not the communication is admissible under the Optional Protocol to the Covenant.

7.2 The Committee notes, as required by article 5, paragraph 2 (a) of the Optional Protocol, that the same matter is not being examined under any other international procedure of investigation or settlement.

7.3 The Committee takes note of the author's claims that the decision of the Ontario Court of Justice dated 27 January 2005 to give Mrs Vargay custody of the child and order the author to provide child and spousal support violated a number of his rights under the Covenant. The Committee, however, notes the State Party's argument that the author failed to appeal the Court's decision and that such failure can only be attributed to his own behaviour. The Committee also notes that, the author's claims regarding the conduct of the Court, have not been brought before the domestic authorities either. The Committee further notes the State Party's argument that the author is still in a position to request access to his daughter. While it is true that local remedies must only be exhausted to the extent that they are both available and effective, it is an established principle that authors must exercise due diligence in the pursuit of available remedies<sup>6</sup>. The author's doubts or assumptions about the effectiveness of domestic remedies do not absolve him from exhausting them<sup>7</sup>. The Committee considers that in the present case, the author has failed to demonstrate that he has exhausted all available domestic remedies. The Committee concludes that the requirements of article 5 paragraph 2 (b) of the Optional Protocol have not been met.

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<sup>5</sup> Children's Law Reform Act, R.S.O. 1990, c. C. 12, ss.20, 24.

<sup>6</sup> N.A.J v. Jamaica, Communication 246/1987, adopted on 11 July 1988; Dwayne Hylton v. Jamaica, Communication 407/1990, adopted on 8 July 1994; A.P.A. v. Spain, Communication 433/1990, adopted on 25 March 1994; D.B.B v. Zaire, Communication 463/1991, adopted on 8 November 1991; Jagjit Singh Bhullar v. Canada, Communication 982/2001, adopted on 31 October 2006.

<sup>7</sup> S.H.B v. Canada, Communication 192/1985, adopted on 24 March 1987; A. and S.N v. Norway, Communication 224/1987, adopted on 11 July 1988; R.L et al v. Canada, Communication 358/1989, adopted on 5 November 1991.

8. 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 shall be communicated to the State party and to the author.

[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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