



**International covenant  
on civil and political  
rights**

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HUMAN RIGHTS COMMITTEE  
Ninety-third session  
7 – 25 July 2008

**VIEWS**

**Communication No. 1376/2005**

<u>Submitted by:</u>	Mr. Soratha Bandaranayake (represented by counsel, Mr. K. S. Ratnawale)
<u>Alleged victim:</u>	The author
<u>State Party:</u>	Sri Lanka
<u>Date of communication:</u>	21 January 2005 (initial submission)
<u>Document references:</u>	Special Rapporteur's rule 97 decision, transmitted to the State party on 7 April 2005 (not issued in document form)
<u>Date of adoption of views:</u>	24 July 2008

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

*Subject matter:* dismissal of judge

*Procedural issues:* None

*Substantive issues:* unfair hearing, access to public service, inequality

*Articles of the Covenant:* 14, paragraph 1, 25 (c), and 26

*Articles of the Optional Protocol:* 2 and 3

On 24 July 2008 the Human Rights Committee adopted the annexed text as the Committee's Views, under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 1376/2005.

[ANNEX]

## ANNEX

Views of the Human Rights Committee under article 5, paragraph 4, of  
the Optional Protocol to the International Covenant on Civil and Political rights

Ninety-third session

concerning

**Communication No. 1376/2005\***

Submitted by: Mr. Soratha Bandaranayake (represented by counsel,  
Mr. S.R.K. Hewamanna)

Alleged victim: The author

State Party: Sri Lanka

Date of communication: 21 January 2005 (initial submission)

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

Meeting on 24 July 2008,

Having concluded its consideration of communication No. 1376/2005, submitted to the Human Rights Committee on behalf of Mr. Soratha Bandaranayake 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:

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\* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Prafullachandra Natwarlal Bhagwati, Ms. Christine Chanet, Mr. Maurice Glèlè Ahanhanzo, Mr. Yuji Iwasawa, Mr. Ahmed Tawfik Khalil, Ms. Zonke Zanele Majodina, Ms. Elisabeth Palm, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Ivan Shearer and Ms. Ruth Wedgwood.

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

1. The author of the communication is Mr. Soratha Bandaranayake, a Sri Lankan citizen, born on 30 January 1957. He claims to be a victim of violations by the State party of article 14; article 25 (c); and article 26 of the International Covenant on Civil and Political Rights. The author is represented by counsel, Mr. S.R.K. Hewamanna.

#### **The facts as presented by the author**

2.1 The author was appointed District Judge of Negombo with effect from 1 April 1998, after serving for 10 years as a Magistrate. On 17 October 1998, while driving to a religious ceremony in the company of a Tamil Hindu friend, the author and his friend were stopped at a checkpoint and abused by the police. As the policeman did not recognize him, the author presented his identity card. The author subsequently brought the matter to the attention of the officer-in-charge of the Kirulapone police station. On 26 October 1998, under the orders of the officer-in-charge, the police officer in question visited the author in his chambers at the District Court and apologized.

2.2 Following this incident, the author was summoned over the phone to appear before the Judicial Service Commission (JSC) on 18 November 1998 and, without any reference to any particular complaint, was questioned on whether he had claimed to be a High Court Judge at a police checkpoint at Kirulapona. It subsequently transpired that a complaint was dispatched by the local High Court Judge on 20 November 1998, two days after the author had been questioned by the JSC, which, the author claims, is evidence of a conspiracy against him. Under article 114 of the Constitution, the appointment, transfer and discipline of judicial officers is vested in the JSC. Under article 112, the Chief Justice is the Chairman of the JSC. It is also composed of two other judges of the Supreme Court.

2.3 By JSC order of 24 November 1998, the author was sent on compulsory leave without disclosing the nature of the complaint or the complainant. On 1 April 1999, he was served with a disciplinary charge sheet by the JSC, in which it was alleged that, during an altercation with a police officer at a checkpoint, he had “impersonated” a High Court judge, thereby receiving preferential treatment, and subsequently admonished the police officer in question. He was charged with interfering with the performance of the police officer’s duties, making a false statement and of having exceeded his authority<sup>1</sup>. He was requested to put his version of events in writing, which he

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<sup>1</sup> The charges were the following: “(1) You having stated that you were the High Court Judge of Negombo prevented the said vehicle and passengers travelling in it being checked by the said officers, thereby wilfully obstructing and or interfering with the performance of duties of the officer in charge of the said barrier. (2) You made a false statement to Ranjith the RSI of Police who was in charge of the said barrier that you were the High Court Judge of Negombo and interfered and/or obstructed the said officer from performing his duties and thereby acted in a manner to cause injury to the reputation and office of Mr. Gamini A. L. Abeyratne, the High Court Judge of Negombo. (3) During the period between 17.10.98 and 25.10.98, you abused your office by informing the RSI Ranjith to appear in District Judge’s Chambers in Negombo on 26.10.98 and warned him to be

did by letter of 7 July 1999, refuting the charges. Between 13 September 1999 and 21 March 2000, a Committee of Inquiry appointed by the JSC, consisting of a Supreme Court Judge, the President of the Court of Appeal and an Appeal Court Judge, investigated the matter. The author was represented by counsel.

2.4 The author highlights what he considers to have been irregularities in the conduct of the Committee of Inquiry:

- the inquiry did not make documents relevant to the author's defence available at the hearing, including documents from the proceedings held on 18 November 1998, and refused counsel's request to have the Secretary of the JSC testify and produce the documents in question.
- the members were not appointed by law;
- legally inadmissible evidence of witnesses to prove charges was relied upon;
- the affidavits of police officers had not been made under oath or affirmation in accordance with law;
- evidence relied upon to find the author guilty was unsubstantiated, including an undated complaint by the High Court Judge in question, which bore no official stamp;
- the author was questioned extensively on his past conduct in an alleged attempt to incriminate him and he was not given an opportunity to demonstrate that he had been exonerated for past misconduct and subsequently promoted;
- there was no opportunity to cross-examine the chief police witness;
- the inquiry overlooked the fact that the material witness (the police officer in question) had been remanded as a suspect to murder and a drug offence;
- the author was deprived of his right to summon important witnesses, including the officer-in-charge of the police station at the time of the alleged incident;
- the inquiry relied on evidence that was not adduced during the inquiry but came from the interview held by the JSC on 18 November 1998, in particular a document which was alleged to have been an admission by the author, but was not produced during the inquiry and not made available to the author;

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courteous to public when attending to the duties on Public Highway and thereby acted in excess of your authority as District Judge.

- objections made by counsel in respect of the absence of a complaint or of official entries made by the police officers were neither recorded (as required by the rules and regulations of the Police Department) nor was any ruling made in respect of such objections;
- the inquiry did not take into account the fact that the High Court Judge in question habitually makes complaints against junior judges;
- when the High Court judge in question informed the Committee that in view of the tainted witnesses he no longer believed that the alleged incident had taken place, the inquiry refused to terminate the proceedings;
- an application made by author’s counsel to address the inquiry on the question of whether a *prima facie* case had been established was denied;
- the inquiry insisted that the author should give evidence in his own defence as failure to do so would result in disastrous consequences, thus denying him his right to remain silent contrary to article 12 (1) of the Constitution.

2.5 On 12 June 2000, the author was advised that the Committee of Inquiry had found him guilty of the charges in question. No reasons were given for the finding. The letter directed him to appear before the JSC to decide on “consequential steps”, and stated that he was entitled to have counsel present. In advance of the JSC meeting, the author repeatedly applied for access to the investigation file, including certified copies of the proceedings and the reasons for the Committee of Inquiry’s findings. He did not receive any reply. On 31 July 2000, the author appeared before the JSC with counsel. Counsel submitted that there was no basis upon which the author could be found guilty. The Chief Justice, who chaired the hearing, indicated that even if the JSC ignored the findings of the Committee of Inquiry, he was inclined to find the petitioner guilty on other grounds, namely on his past record. When pointing out to the Chief Justice that he had been exonerated with respect to past incidents he was told to “shut up”. The Chief Justice advised the author that he should agree to retirement and directed him to consider the same and give his consent in writing, which the author refused. A request from counsel to make further submissions was denied. On 7 November 2000, the author was notified of his dismissal from office by the JSC. On 15 November 2000, the author sent a letter of appeal to the JSC but did not receive a reply.

2.6 Subsequently, the author filed a complaint with the Sri Lankan Human Rights Commission. On 18 June 2001, the Commission requested the author to make submissions on whether it had jurisdiction to hear complaints against the JSC. On 8 April 2003, the author filed an application in the Court of Appeal to quash the order for his dismissal and to order his reinstatement in service. On 17 July 2003, a “junior judge” of the Court of Appeal dismissed the application on the basis that the author had failed to establish malice on the part of the Chief Justice.<sup>2</sup> According to the author, the

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<sup>2</sup> The judgement refers *inter alia* to Rule 18 of the JSC, which states that “Copies of reports or reasons for findings relating to the inquiry or of confidential office orders or minutes, will not, however be issued.

judge who decided this case had previously worked under the Chief Justice and implies that the latter influenced him in making his decision to dismiss the case. A request for special leave to appeal this decision remains pending in the Supreme Court. According to the author, it is the Chief Justice who has failed to list this case for hearing.

2.7 The author filed a fundamental rights application with the Supreme Court for which leave to appeal was refused by a majority decision on 6 September 2004. According to the author, under the Chief Justice's direction the application was listed before him, despite his involvement in the case before the JSC and objection from counsel. Although he was not one of the judges who presided over this case, the author claims that the Chief Justice had the motion listed before him so that he could select those judges he could easily influence to consider the case, thereby ensuring a dismissal.

2.8 According to the author, the Chief Justice is not well disposed towards him due to several incidents during the Chief Justice's tenure as Attorney General which resulted in personal animosity between them. The author provides examples of cases in which judicial misconduct was sanctioned more lightly than in his case.

### **The complaint**

3.1 The author claims that he did not receive a fair hearing in relation to the charges against him, in violation of his rights under articles 14, paragraph 1, and 25 (c). His dismissal was mainly due to the animosity that the Chief Justice had towards him, who influenced the other members of the JSC. In addition, he refers to the irregularities of the disciplinary proceedings commencing with his address to the JSC on 18 November 1998, throughout the inquiry proceedings (see paragraph 2.4), and leading to his dismissal. In addition, he claims that the charges were trivial and even if they had been proven, none of them fall within the ambit of "improper conduct", as defined in Volume II of the Establishments Code, which deals with the disciplinary control of public officers<sup>3</sup>. His dismissal, he claims, was a disproportionate punishment.

3.2 He claims that he was discriminated against in violation of article 26, as other judges who were found to have been guilty of charges by the Committee of Inquiry were not dismissed from service but received lighter penalties. In addition, he claims he was treated unequally before the law, as incidents for which he was cleared and a single incident in which he was reprimanded, were taken into account by the Committee of Inquiry, in justifying the decision to dismiss him. He claims that the decision to dismiss him was not based on the purported inquiry into the High Court Judge's complaint.

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<sup>3</sup> The Establishment Code reads as follows: "Improper conduct not connected with official duties relates to such matters as habitual drunkenness, use of narcotic drugs, disorderly behaviour, in public places, immorality of a type that becomes a public scandal or any other act which brings the public service or the office he holds into disrepute."

3.3 The author also claims a violation of article 2, paragraph 3, as he was deprived of an effective remedy in as much as the National Human Rights Commission and the Supreme Court refused to grant him leave to proceed with respect to his fundamental rights application.

3.4 The author seeks relief including a declaration on the violation of his rights, reinstatement and compensation.

#### **State party's submission on admissibility and merits**

4.1 By submission of 7 October 2005, the State party submits that the author has failed to establish a *prima facie* case of a violation of any of his rights under the Covenant and that the allegations against the Chief Justice are unsubstantiated. Under the Constitution, the Chief Justice Chairs the JSC but that it is also composed of two other judges of the Supreme Court. Thus, the Chief Justice does not decide alone. On the facts, it states that in 1988, the author became a judicial officer. On 10 January 1997, he was placed on compulsory leave and reinstated on 9 October 1997. On 23 November 1998, he was placed on compulsory leave again and dismissed on 7 November 2000. In the dismissal letter from the JSC, of 7 November 2000, several incidents of misconduct and of conduct unbecoming of a judicial officer were referred to.

4.2 During his career, the author has had his probation extended, was transferred for disciplinary reasons, reprimanded, "interdicted", and placed on compulsory leave prior to his final dismissal. The State party attaches information on the complaints made against the author throughout his career. It explains that all the matters referred to are matters which took place before the current Chief Justice took office, and thus, the claim that the author was singled out for discriminatory treatment by the Chief Justice due to personal animosity is unfounded. In addition, the author's career record makes it clear that he is unsuitable to hold office and that the decision to dismiss him was justified.

4.3 The State party submits that the Committee is not competent to sit on appeal to consider the merits of the Committee of Inquiry. It was conducted in a fair manner, the author was present and represented by counsel, and the decision was fair and reasonable under the circumstances. As to the discrimination claim, the State party submits that the author's case is not comparable to the other cases cited by the author in light of the cases of misconduct against him. Thus, this claim is not made out. As to the claim that he should have been presumed innocent until proven guilty, the State party argues that this concept arises in criminal trials only. In any event, there is no evidence that the author's case was prejudged.

#### **Author's comments on the State party's submission**

5.1 On 15 January 2006, the author responded to the State party's submission. He reiterates his claims and highlights the State party's failure to deny or respond to any of his allegations made. He submits that it tries to divert the deliberation of the Committee with reference to past incidents in his career, which had been dealt with in the past and which are not relevant to the inquiry under issue. In addition, the State party allegedly misrepresented, suppressed and distorted the author's past conduct, in an attempt to prejudice him and give a tainted picture of his judicial career. By reviving



these incidents the author believes that he is being penalized twice for incidents which have long been put to rest.

5.2 The author contests the State party's argument/s about the Committee's inability to grant the relief sought by him, on the argument that the Committee lacks jurisdiction, is not competent to interpret the State party's Constitution and grant relief thereon. He argues that these arguments do not provide a legal basis for rejecting his communication and refusing the relief sought. He notes that the State party has still not provided the proceedings or findings of the inquiry on the basis of which he was dismissed. He also points out that as is evidenced from the Supreme Court judgement of 6 September 2004, one of the three judges dissented from the decision taken by the Committee of Inquiry on this ground. He admits that all the incidents referred to by the State party prior to the incident in question had taken place when the current Chief Justice was Attorney General. However, he claims that the Chief Justice's animosity towards him is demonstrated by the fact that he took into account past incidents, to dismiss him from service.

5.3 With respect to the past incidents of misconduct cited by the State party, the author contests the allegation that the Supreme Court found him to have violated the fundamental rights of the person in question. He submits that he was not even a respondent to the proceedings in question and quotes from the judgement which states that "although learned counsel for the petitioner did submit that the learned magistrate had acted "mechanically" and complied with the proposal made by the police, there is insufficient evidence adduced before us to arrive at such a conclusion". However, the judgement went on to direct that a copy of the judgement be submitted to the JSC for such action as it may deem to be appropriate. This issue was one of seven in a charge sheet served on the author, for which he was subsequently exonerated.

5.4 The author denies that he was ever "interdicted" and, in the only incident in which he was transferred, the High Court judge who conducted the preliminary inquiry exonerated him of all allegations against him and recommended that he be reinstated in his prior post. As to the extension of his probationary period, the author argues that this was done in "curious circumstances". As to his compulsory leave from 10 July 1997, he submits that several charges in the charge sheet related to orders made by other judicial officers and, when this as pointed out, the JSC ordered that the compulsory leave be withdrawn and that the author be paid his salary increments. Within a year he was given his promotion to a higher grade. The author admits that he was reprimanded by the JSC in an interview on 28 July 1991. However, according to the Establishment Code, this is only a minor punishment and should not have affected his career adversely. Furthermore, there had been no warning placed on record that any future lapse would entail dismissal.

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

### **Consideration of admissibility**

6.1 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.

6.2 With regard to the question of exhaustion of domestic remedies, while noting that neither the author nor the State party provided information on the outcome of the author's application for leave to appeal the decision of the Court of Appeal to the Supreme Court (paragraph 2.6), the Committee notes that the State party has not argued that the communication is inadmissible on this ground. It therefore considers that it is not precluded from considering the communication by the requirements of article 5, paragraph 2 (b), of the Optional Protocol.

6.3 With respect to the claim of a violation of article 26 of the Covenant, the Committee notes that insufficient information has been provided on comparable cases, to demonstrate that the author's dismissal amounted to discrimination or unequal treatment under this provision. As noted by the State party and as is evident from the material provided by the author, none of the circumstances of the judges referred to by him would appear to compare to the author's situation. Thus, the Committee finds that the author has failed to substantiate sufficiently, for purposes of admissibility, any claim of a potential violation of article 26, and this claim is inadmissible under article 2 of the Optional Protocol.

6.4 The Committee notes that article 25 (c) of the Covenant confers a right of access, on general terms of equality, to public service, and recalls that the right of equal access to public service includes the right not to be arbitrarily dismissed from public service<sup>4</sup>. For this reason, the Committee considers that the claim under article 25 is admissible and should be considered on the merits.

6.5 As to whether the author's remaining claims fall within the purview of article 14, paragraph 1 of the Covenant, the Committee recalls that the concept of a "suit at law" under article 14, paragraph 1, is based on the nature of the right in question, rather than on the status of one of the parties.<sup>5</sup> It also recalls that the imposition of disciplinary measures imposed on civil servants does not of itself necessarily constitute a determination of one's rights and obligations in a "suit at law", nor does it, except in cases of sanctions that, regardless of their qualification in domestic law are penal in nature, amount to a "determination of a criminal charge" within the meaning of the second sentence of article 14, paragraph 1<sup>6</sup>. The same jurisprudence of the Committee goes on to provide that, while a decision on a disciplinary dismissal does not need to be taken by a court or tribunal, whenever a judicial body is entrusted with the task of holding a disciplinary enquiry and deciding on the imposition of disciplinary measures, it must respect the guarantee of equality of all persons before the courts and tribunals as enshrined in article 14, paragraph 1, and the principles of impartiality, fairness and equality of arms implicit in this guarantee. The Committee refers to its General Comment on article 14<sup>7</sup>, which defines the notion of a "tribunal" in this article, and considers that the JSC, to the extent that it is "established by law, is independent of the executive and legislative"

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<sup>4</sup> Stalla Costa v. Uruguay, Case no. 198/1985, Views adopted on 9 July 1987.

<sup>5</sup> Y. L. v. Canada, Case No. 112/1981, Decision adopted on 8 April 1986, Robert Casanovas v. France, Case No. 441/1990, Views adopted on 19 July 1994.

<sup>6</sup> Perterer v. Austria, Case no. 1015/2001, Views adopted on 20 July 2004.

<sup>7</sup> Human Rights Committee General Comment No. 32: Right to equality before courts and tribunals and to a fair trial (article 14), U.N. Doc. CCPR/C/GC/32 (2007), paragraph 18.

is a tribunal within the meaning of article 14, paragraph 1, of the Covenant. The Committee therefore considers that the proceedings before the JSC and subsequent appeals through the courts constitute a determination of the author's rights and obligations in a suit at law within the meaning of article 14, paragraph 1, of the Covenant.

6.6 The Committee observes, however, that the alleged arbitrary nature of the dismissal relates to a large extent to the evaluation of facts and evidence in the course of proceedings before the JSC and the Court of Appeal. The Committee recalls its jurisprudence and notes that it is generally for the courts of States parties to review or to evaluate facts and evidence, or to examine the interpretation of domestic legislation by national courts and tribunals, unless it can be ascertained that the conduct of the proceedings or the evaluation of facts and evidence or interpretation of legislation was manifestly arbitrary or amounted to a denial of justice.<sup>8</sup> The Committee notes that the Court of Appeal reviewed the JSC's decision to dismiss the author. The issues arising from this review which have been sufficiently substantiated, for purposes of admissibility, relate to the failure of the JSC to provide the author with copies of the proceedings from the hearing on 18 November 1998, and the findings and reasoning behind the decision of the Committee of Inquiry on the basis of which the author was dismissed. Accordingly, the Committee considers that, these claims raise issues under articles 14, paragraph 1 and 25 (c) of the Covenant; they have been sufficiently substantiated and should be considered on the merits. The Committee considers the remaining claims inadmissible under article 2 of the Optional Protocol, as they have not been substantiated for purposes of admissibility.

### **Consideration of merits**

7.1 The Committee observes that article 25 (c) of the Covenant confers a right to access, on general terms of equality, to public service, and recalls its jurisprudence that, to ensure access on general terms of equality, not only the criteria but also the "procedures for appointment, promotion, suspension and dismissal must be objective and reasonable"<sup>9</sup>. A procedure is not objective or reasonable if it does not respect the requirements of basic procedural fairness. The Committee also considers that the right of equal access to public service includes the right not to be arbitrarily dismissed from public service<sup>10</sup>. The Committee notes the author's claim that the procedure leading to his dismissal was neither objective nor reasonable. Despite numerous requests, he did not receive a copy of the proceedings from his first hearing before the JSC on 18 November 1998; this is confirmed in the Supreme Court decision of 6 September 2004, and is not contested by the State party. Nor did he receive the findings of the Committee of Inquiry, on the basis of which he was dismissed by the JSC. The decision of the Court of Appeal confirms that these documents were never provided to him, in accordance with the express provision of Rule 18 of the JSC rules.

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<sup>8</sup> Simms v Jamaica, Case No. 541/1993, Decision of 3 April 1995. <sup>9</sup> Rubén Santiago Hinostroza Solís v. Peru, Case no. 1016/2001, Views adopted on 27 March 2006.

<sup>10</sup> Stalla Costa v. Uruguay, supra

7.2 According to Rule 18 of the JSC rules, “[C]opies of reports or reasons for findings relating to the inquiry or of confidential office orders or minutes, will not, however, be issued.” The Committee notes that there is no justification in the JSC rules themselves nor any explanations offered by the courts or the State party, for the failure to provide judicial officers with the reasoning for the findings of the Committee of Inquiry against them. It also notes that the only reasoning provided to the author for his dismissal was set out in the dismissal letter of 7 November 2000, in which the JSC invoked the Committee of Inquiry’s finding that he had been found guilty of the charges against him, without any explanation. The JSC also took cognizance of incidents of alleged past misconduct, for which the author had already been exonerated. It is relevant to note that the State party itself has not provided a copy of the Committee of Inquiry’s findings. The Committee finds that the JSC’s failure to provide the author with all of the documentation necessary to ensure that he had a fair hearing, in particular its failure to inform him of the reasoning behind the Committee of Inquiry’s guilty verdict, on the basis of which he was ultimately dismissed, in their combination, amounts to a dismissal procedure which did not respect the requirements of basic procedural fairness and thus was unreasonable and arbitrary. For these reasons, the Committee finds that the conduct of the dismissal procedure was conducted neither objectively nor reasonably and it failed to respect the author’s right of access, on general terms of equality, to public service in his country. Consequently, there has been a violation of article 25 (c) of the Covenant.

7.3 The Committee recalls its general comment on article 14,<sup>11</sup> that a dismissal of a judge in violation of article 25 (c) of the Covenant, may amount to a violation of this guarantee, read in conjunction with article 14, paragraph 1 providing for the independence of the judiciary. As set out in the same general comment, the Committee recalls that “judges may be dismissed only on serious grounds of misconduct or incompetence, in accordance with fair procedures ensuring objectivity and impartiality set out in the constitution or the law.” For the reasons set out in paragraph 7.2 above, the dismissal procedure did not respect the requirements of basic procedural fairness and failed to ensure that the author benefited from the necessary guarantees to which he was entitled in his capacity as a judge, thus constituting an attack on the independence of the judiciary. For this reason the Committee concludes that the author’s rights under article 25 (c) in conjunction with article 14, paragraph 1, have been violated.

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 disclose a violation of article 25 (c), in conjunction with 14, paragraph 1, of the Covenant.

9. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the author with an effective remedy, including, appropriate compensation.

10. Bearing in mind that, by becoming a party to the Optional Protocol, Sri Lanka has recognised the competence of the Committee to determine whether there has been a violation of the Covenant and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all

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<sup>11</sup> Human Rights Committee General Comment No. 32: Right to equality before courts and tribunals and to a fair trial (article 14), U.N. Doc. CCPR/C/GC/32 (2007), paragraph 64.

individuals within its territory and subject to its jurisdiction the rights recognised in the Covenant, and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive, within 180 days, information from the State party about the measures taken to give effect to the Committee's Views. The State party is requested also to give wide publicity 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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