

HUMAN RIGHTS COMMITTEE

Boodoo v. Trinidad and Tobago

Communication No. 721/1996

2 April 2002

CCPR/C/74/D/721/1996

VIEWS

Submitted by: Mr. Clement Boodoo

State party concerned: Trinidad and Tobago

Date of registered communication: 13 June 1994 (initial submission)

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

Meeting on 2 April 2002,

Having concluded its consideration of communication No. 721/1996, submitted to the Human Rights Committee by Mr. Clement Boodoo 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, initial submission dated 13 June 1994, is Clement Boodoo, a citizen of Trinidad and Tobago, serving a 10-year prison sentence at the time of submission, at Carrera Convict Prison in Trinidad and Tobago. Although the author does not invoke any specific provisions of the Covenant on Civil and Political Rights, the communication appears to raise issues under articles 7, 9, paragraph 3, 10, paragraph 1, 14, paragraph 3(c), and 18, paragraph 1, of the Covenant. The author is not represented by counsel.

The facts as submitted by the author

2.1 The author states that he has been detained since 21 April 1989. On 24 January 1992, he was convicted and sentenced to ten years imprisonment for larceny. He states that his earliest release date is 31 December 1998.¹

2.2 On 3 December 1990, while still in pre-trial detention, a map of the prison and a hand made weapon were found in the author's cell. As punishment, the author was placed in "cellular confinement" in a special high security cellblock for "escapees" in Carrera Prison. The author has remained in cellular confinement since. Such confinement consists of being locked in his cell for 23 hours a day, where he sleeps on a 1-inch thick carpet. He is allowed out only once a day for his airing and to bathe. His airing takes place in an area where inmate urinal and faecal wastes are disposed of, while other inmates are allowed their airings in a much larger, cleaner facility where they are allowed to exercise, play tennis and football, and engage in other recreational activities. His airing facility is damp, slippery, infested with worms and flies and faecal waste is often scattered on the ground. If the author complains about the conditions of his airing facility, he is left in his cell. In March 1991 his diet was restricted for 21 days.

2.3 As a result of his conditions of detention, the author is going blind. The prison doctor recommended at least 3 hours of sunlight a day for him, but this recommendation is not being implemented. While other inmates in the maximum security cell-block are allowed to take part in entertainment programs and to worship at Christian or Muslim prayer services, the author has been denied these privileges.

2.4 After his conviction, and on having his photograph taken, the photographer forced him to have his beard shaved off, despite the author's claim that his Muslim faith forbids him to do so. Later that day, the author complained to the Inspector of Prisons, who gave the author permission to grow a beard again.

2.5 On 1 December 1992, the author was threatened by the warders, assaulted, and then returned to his cell. On 8 December 1992, he learnt from the prison authorities that an inmate had told them that he was masterminding an escape from prison.

2.6 On 18 January 1993, the author was searched, his prayer clothes were taken from him and his beard was forcibly shaven off. He was then assaulted by prison warders. He received blows to the head, chest, groin and legs and his request for immediate medical attention were ignored. Some weeks later, on complaining of continual pain, the medical officer gave him painkillers. On 27 May 1993, the author complained in writing to the Inspector of Prisons, but no action was taken.

2.7 From time to time, the author is transferred to Port-of-Spain prison for brief periods of incarceration. When at Port-of-Spain Prison, the author is left in a dimly-lit cell 24 hours a day and is not let out for recreation or airing. He does not know the reason why he is shuttled between prisons. Upon returning to Carrera Prison, the author is forced to strip naked, and pull back the foreskin on his penis. He is forced to pull his buttocks apart and squat 3 to 4 times in front of the prison guards. According to the author, no other prisoners are subjected to such humiliation.

2.8 The author has been assaulted by the warders on several occasions. In addition, he has received threats from the warders in connection with his complaint to the United Nations, and correspondence has not always been delivered to him. He further states that he has to request permission before writing to someone, and that on occasion he has been refused permission to write to the United Nations, the President, and his lawyer.

The complaint

3.1 The author claims that his rights have been violated by various aspects of his detention. He claims that the conditions under which he is kept are inhuman and that his eyesight is getting worse as a result.

3.2 He claims that he is being denied his right to exercise his religion as he is forbidden from worshipping at Muslim prayer services, his prayer books were taken from him, and on two occasions his beard was shaven off.

3.3 The author claims that the method employed by the prison warders to search him, as described in paragraph 2.6 and 2.7 is humiliating and no other prisoners are subjected to the same treatment and that the assaults upon his person are unprovoked and inhuman.

3.4 Finally, he claims that he has found it very difficult to receive information from or to forward information to the United Nations and individuals outside the prison service, due to the threats received by the warders and the interference with his mail.

Decision on admissibility

4.1 At its sixty-sixth session, the Committee considered the admissibility of the communication. It noted with concern the lack of cooperation from the State party, which had not submitted any observations on admissibility.

4.2 The Committee ascertained, as required under article 5, paragraph 2(a), of the Optional Protocol, that the same matter was not being examined under another procedure of international investigation or settlement.

4.3 With respect to the exhaustion of domestic remedies, the Committee noted that the State party had not claimed that there are any domestic remedies yet to be exhausted by the author.

4.4 The Committee decided the following, "In the absence of observations from the State party, the Committee is not aware of any obstacles to the admissibility of the communication and considers that the communication may raise issues, in particular under articles 7, 10 and 18 of the Covenant, which should be examined on their merits." Consequently, on 5 July 1999, the Committee declared the communication admissible.

Issues and Proceedings before the Committee

5.1 Notwithstanding reminders dated 25 September 2000, and 11 October 2001, the State party has not submitted any observations or comments on the merits of the case. The Committee regrets the absence of cooperation on the part of the State party and recalls that it is implicit in article 4, paragraph 2, of the Optional Protocol that a State party must furnish the Committee, in good faith and within the imparted deadlines, with all the information at its disposal. In the absence of information from the State party, due weight must be given to the author's allegations, to the extent that they have been substantiated.

5.2 The Committee notes that at the time of submission, Trinidad and Tobago was a party to the Optional Protocol. The withdrawal by the State party from the Optional Protocol on 27 March 2000, with effect as of 27 June 2000, does not affect the competence of the Committee to consider the merits of this communication.

6.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it, as provided for in article 5, paragraph 1, of the Optional Protocol.

6.2 The Committee notes that the author was held in detention for a period of two years and nine months prior to his trial and reaffirms its constant jurisprudence that all stages of judicial proceedings should take place without undue delay. The Committee concludes that a period of 33 months between arrest and trial constituted undue delay, and cannot be deemed compatible with the provisions of article 9, paragraph 3, of the Covenant, in the absence of any explanation from the State party justifying the delay or explaining why the pre-trial investigations could not have been concluded earlier and why the author was detained throughout this period without trial. The Committee therefore finds that there has been a violation of article 9, paragraph 3, of the Covenant.

6.3. The Committee finds that the delay in bringing the author to trial, in the absence of any explanation from the State party, entailed a violation of article 14, paragraph 3(c) of the Covenant.

6.4 The Committee notes the author's complaint in paragraphs 2.2 and 2.6 above that he has been held in appalling and insalubrious conditions as a result of which his eyesight has deteriorated. In the Committee's opinion, the conditions described therein are such as to violate his right to be treated with humanity and with respect for the inherent dignity of the human person and are therefore contrary to article 10, paragraph 1, of the Covenant.

6.5 With respect to the physical assaults on the author's integrity, in particular the incident described in paragraph 2.6 above, the threats of violence against him, and the treatment he received on being searched by the warders (paragraph 2.7), the Committee decides that, in the absence of an explanation from the State party, such treatment amounts to a violation of article 7 of the Covenant.

6.6 As to the author's claim that he has been forbidden from wearing a beard and from worshipping at religious services, and that his prayer books were taken from him, the Committee reaffirms that the freedom to manifest religion or belief in worship, observance, practice and teaching encompasses a broad range of acts and that the concept of worship extends to ritual and ceremonial acts giving expression to belief, as well as various practices integral to such acts. In the absence of any explanation from the State party concerning the author's allegations in paragraphs 2.3 - 2.6, the

Committee concludes that there has been a violation of article 18 of the Covenant.

6.7 As to the author's claims concerning attacks on his privacy and dignity, in the absence of any explanation from the State party, the Committee concludes that his rights under article 17 were violated.

7. 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 articles 7, 9, paragraph 3, 10, paragraph 1, 14(3)(c), 17 and 18, of the International Covenant on Civil and Political Rights.

8. Pursuant to article 2, paragraph 3 (a), of the Covenant, the Committee considers that the author is entitled to an appropriate remedy including compensation for the treatment to which he has been subjected. The State party is under an obligation to ensure that similar violations do not occur in the future.

9. 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 to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within 90 days, information about the measures taken to give effect to its Views. The State party is requested to publish the Committee's Views.

** The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Nisuke Ando, Mr. Prafullachandra Natwarlal Bhagwati, Ms. Christine Chanet, Mr. Maurice Glele Ahanhanzo, Mr. Louis Henkin, Mr. Ahmed Tawfik Khalil, Mr. Eckart Klein, Mr. David Kretzmer, Mr. Rajsoomer Lallah, Ms. Cecilia Medina Quiroga, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Martin Scheinin, Mr. Ivan Shearer, Mr. Hipolito Solari Yrigoyen, Mr. Patrick Vella and Mr. Maxwell Yalden.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

Notes

¹ No up-to-date information has been provided as to whether the author is still in detention.