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Human Rights Committee

Communication No. 1816/2008

Decision adopted by the Committee at its 104th session, 12 to 30 March 2012

Submitted by:	K. A. L. and A. A. M. L. (represented by counsel, Ms. Nataliya Dzera)
Alleged victim:	The authors and their minor sons
State Party:	Canada
Date of communication:	17 September 2008 (initial submission)
Document references:	Special Rapporteur's rule 92 and 97 decision, transmitted to the State Party on 10 October 2008 (not issued in document form)
Date of adoption of decision:	26 March 2012
Subject matter:	Removal of the authors and their sons to Pakistan
Procedural issues:	Failure to exhaust domestic remedies; failure to substantiate allegations
Substantive issues:	Risk of arbitrary deprivation of life, and other human rights violations if returned.
Articles of the Covenant:	6, paragraph 1; 7; 9, paragraph 1; 18; 24, paragraph 1; and 27
Articles of the Optional Protocol:	2, 3, 5, paragraph 2 (b)

Annex

Decision of the Human Rights Committee under the Optional Protocol to the International Covenant on Civil and Political rights (104th session)

concerning

Communication No. 1816/2008*

Submitted by:	K. A. L. and A. A. M. L. (represented by counsel, Nataliya Dzera)
Alleged victim:	The authors and their minor sons
State Party:	Canada
Date of communication:	17 September 2008 (initial submission)

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

Meeting on 26 March 2012,

Adopts the following:

Decision on admissibility

1.1 The authors of the communication are K. A. L. and A. A. M. L., Pakistani nationals born in 1970 and 1963 respectively. They submitted the communication on their behalf and on that of their minor sons A. L. and K. L., Pakistani nationals born in 1992 and 1995 respectively. They claim that their deportation from Canada to Pakistan would violate their rights under articles 6, paragraph 1; 7; 9, paragraph 1; 18; 24, paragraph 1; and 27, of the Covenant. They are represented by counsel, Nataliya Dzera.

1.2 On 10 October 2008, the Special Rapporteur on new communications and interim measures, acting on behalf of the Committee, decided not to issue a request for interim measures under rule 92 of the Committee's rules of procedure.

The facts as presented by the authors

2.1 The authors and their minor sons lived in Pakistan until 2001. They are Ismaili Shias, a religious minority within Pakistan. On 25 August 2001, the authors and their two sons arrived in Canada, under a business immigration category (entrepreneur visa regime). Upon their arrival K. A. L. started working as assistant educator in a private day-care centre

* The following members of the Committee participated in the examination of the present communication: Lazhari Bouzid, Christine Chanet, Ahmad Amin Fathalla, Cornelis Flinterman, Yuji Iwasawa, Walter Kaelin, Zonke Zanele Majodina, Iulia Antoanella Motoc, Gerald L. Neuman, Michael O'Flaherty, Rafael Rivas Posada, Nigel Rodley, Fabian Omar Salvioli, Marat Sarsembayev, Krister Thelin and Margo Waterval.

and A. A. M. L. was hired by a private firm, Bensus International, as person in charge of the shipping department.

2.2 On 3 February 2004, the Immigration Division of the Immigration and Refugee Board issued departure orders against them because they had not met the conditions to stay in Canada as entrepreneurs within the two-year period after arrival prescribed by the Immigration and Refugee Protection Act (IRPA, or the Immigration Act), in force at the time. The authors, pursuant to subsection 63(3) of IRPA, appealed to the Immigration Appeal Division (IAD). The Division considered A. A. M. L.'s investment of Can$100,000 into Bensus International, in which he was initially an employee, did not make "a significant contribution to the Canadian economy", neither did K. A. L.'s job as an assistant educator. Their appeal and subsequent application for leave to apply for judicial review were dismissed on 22 September 2005 and 13 January 2006 respectively. On 13 April 2006, the authors filed an application for permanent residence on humanitarian and compassionate grounds (H&C), which was refused on 30 April 2007. Further to this, on 21 September 2007, the authors filed an application for leave to apply for judicial review on the H&C refusal, and, on 31 October 2007, a motion to stay their removal to Pakistan. Leave was denied on 10 January 2008. In parallel to these proceedings, in February 2006, the authors filed a first application for a Pre-Removal Risk Assessment (PRRA). They claimed that the "[p]urpose of their application [was] to seek protection from Immigration Canada due to the fact of their investment in Canada".[1] In particular, they highlighted the fact that they had closed their business in Pakistan in order to move to Canada; that they had made an investment four months after the two-year condition had expired; and that this business was creating employment for Canadians. They further noted that their family was well established and integrated into Canadian society. No claim as to a possible risk in Pakistan was made. On 26 April 2006, the application was refused, by a PRRA officer. The officer recalled that the PRRA was not intended to serve as an appeal mechanism to a prior decision, but rather intended to be an assessment based on facts or evidence of the risk of persecution, risk of torture, risk to life, or risk of cruel and unusual treatment or punishment. The officer noted that the authors did not refer to any risk related to returning to Pakistan, limiting their allegations to their wish to stay in Canada and invest in a viable business, so that they could comply with the regulations for entrepreneur migrants.

2.3 In October 2007, a few days after filing the application for leave for review of the H&C refusal, the authors filed a second PRRA application, claiming that their removal to Pakistan would put them at risk of persecution, torture, risk to life or risk of cruel and unusual treatment, due to their religious minority status, and that they would not be able to request the Pakistani authorities to provide them with protection. Therefore, they asked to be recognized as refugees and persons in need of protection based on their fear of return, pursuant to sections 96 and 97 of the IRPA. They explained that they had failed to invoke these reasons within the H&C and the initial PRRA because their first counsel, who was not a lawyer, told them they had no chance for a PRRA on these grounds, as they were not refugee claimants.

2.4 The authors claim that, since they left Pakistan, the situation had deteriorated with regard to religious minorities and to the safety of young women. The situation of the Ismail Shia community had deteriorated in 2006 and 2007, as victims of discrimination and lack of protection by the Pakistani authorities. Women were not only discriminated against by the law, but also faced serious risk of rape or other forms of violence, even while in police detention. They described some forms of discrimination they had experienced before arriving in Canada. They had been called "Kaafir" by Sunnis, a derogatory word meaning

[1] Letter from M.P. Consulting Inc., the authors' first advisors, dated 28 February 2006.

"infidels", and treated like inferiors, and were at risk of becoming involved in fights if they tried to defend their faith. A. A. M. L. was also harassed for money at his business and was threatened that his sons would be kidnapped. When she was eight months pregnant with her first son, K. A. L. had to run from someone following her on a street in a neighbourhood in Karachi where many Ismailis lived, as it was close to their mosque. As a result, she decided never to go out alone on the street. The authors also referred to an incident that took place on 23 April 2007, when four armed men stormed into the house of A. A. M. L.'s mother and stole a number of valuable articles, threatening to kidnap her grandchildren if they did not obtain all the valuables inside the house. This indicates the difficulties they faced in relation to professing their religious belief. They note that the house is located in an Ismaili neighbourhood, that their mosque was close by and that three other Ismaili families had also been victims of robberies. The authors provided reports about the deteriorating situation for religious minorities in Pakistan, in particular, on the authorities' failure to take action to control hostile acts against those who practised a minority faith, and the inability of the police and the judiciary to protect them.[2] They stated that there was therefore no safe place for Ismaili Shias in Pakistan.

2.5 On 31 October 2007, the refusal of the second PRRA was communicated to the authors, giving them a departure date of 25 January 2008. In his report the PRRA officer indicated, inter alia, that the authors had not shown that they had been particularly targeted as members of a religious minority and that the incidents they described were not serious enough to constitute "persecution". Accordingly, the authors postponed the hearing of the motion to stay removal in the application for review of the H&C refusal and, on 12 November 2007, filed an application for leave to appeal and judicial review of the PRRA decision at the Federal Court of Canada, pursuant to subsection 72(1) of IRPA. On 21 January 2008, the authors lodged an application for stay of removal that was granted by the Federal Court of Canada, on 22 January 2008, until a final decision was rendered on the application for leave and judicial review of the PRRA. On 26 May 2008, the Federal Court dismissed the application of judicial review of the PRRA, stating that "[t]he incidents in question were not serious enough to constitute a fundamental violation of the applicants' human dignity, nor did they demonstrate that the applicants were targeted as members of a religious minority." The Court also added that it was not the role of the Court on judicial review to reweigh the evidence provided, in particular "to address the issue of State protection in Pakistan, as it is not a determinative element of the PRRA officer's reasons for dismissing the PRRA application."

The complaint

3.1 The authors assert that articles 6, paragraph 1; 7; 9, paragraph 1; 18; 24, paragraph 1; and 27, of the Covenant would be violated by Canada, if they were forced to return to Pakistan.[3]

3.2 The authors claim that the State party failed to assess adequately their fear of persecution, the risk to life and to safety and thus the irreparable harm that a removal to Pakistan would inflict on them.

3.3 The authors highlight that the State party's authorities, including the second PRRA officer, found their arguments and evidence credible, notably the fact that they belonged to a minority religious community, their explanation of the reasons why they did not invoke

[2] U.S Department of State, US Country Report on Human Rights Practice – Pakistan 2006 and International Religious Freedoms Report – Pakistan 2007; Amnesty International Report – Pakistan 2007.

[3] They do not link each of these articles with specific allegations.

these circumstances in their first PRRA and H&C, the events described in the affidavit of the author's mother, as well as those in which they were victims before coming to Canada, and the risk of rape for a young woman in Pakistan, especially while in police detention.

3.4 The authors hold that the second PRRA officer's decision relied too heavily on the fact that they had come to Canada under the entrepreneurs visa regime and had omitted to invoke fear of persecution within their first PRRA application. The decision put an exaggerated emphasis on the need for the incidents that had occurred to them to have been repeated in order to consider that they would be at real and serious risk in Pakistan. They further note that the officer did not take into consideration the deteriorating situation of religious minorities and women in Pakistan by 2006-2007, on the basis of a document dated 1 April 2004 in which the situation in Pakistan was considered to be one of generally peaceful coexistence among groups with the exception of some instances of violence. They conclude that the PRRA failed to assess adequately the gravity of the incidents and the danger that they would face in case of returning to their home country.

3.5 The authors argue that the reasoning in the decision of the Federal Court of Canada, dated 22 January 2008, granting provisional stay of removal and the subsequent decision on judicial review led to an absurd result.

3.6 After receiving the dismissal of their second H&C application, on 9 September 2008, the authors did not submit any application to contest it before the Canadian courts but lodged a communication with the Human Rights Committee, on 17 September 2008. They point out that, even if they had filed another application before the Federal Court for a stay of removal, for instance, until their second H&C was studied, the application would have been denied, as a final decision had already been taken by the Federal Court on their application for protection, and the same matter cannot be presented to the Court twice.

State party's observations on admissibility and merits

4.1 On 6 April 2009, the State party submitted its comments on admissibility and merits. It remarks that on 22 May 2008, the authors made a second application for permanent residence on the basis of humanitarian and compassionate (H&C) considerations, based on the same allegations of risk argued in their second PRRA application of 2007, that is, risk of persecution, torture, risk to life, risk of cruel and unusual treatment or punishment, due to their faith and their belonging to a minority religious community. They also based their application on their integration into Canadian society. On 9 September 2008, the H&C application was denied. The Canadian authorities did not find evidence to conclude that the authors would face unusual, undeserved, or disproportionate hardship if they had to apply for a permanent residence visa from outside Canada.

4.2 The authors could have filed applications for leave to apply for judicial review of the negative PRRA decision of 26 April 2006, and of the negative H&C decision of 9 September 2008. They failed to do so and, instead, submitted their communication to the Committee. Therefore, the whole communication should be declared inadmissible for failure to exhaust domestic remedies pursuant to articles 2 and 5, paragraph (2)b, of the Optional Protocol.[4] The State party recalls that in the past the Committee has declared

[4] The State party asserts that judicial review is widely recognized to be an effective remedy that must be exhausted for the purpose of admissibility of a communication. Its submission refers to the Committee's jurisprudence in Communication No. 654/1995, *Adu v. Canada*, Views adopted on 18 July 1997, para. 6.2; communication No. 603/1994, *Badu v. Canada*, Views adopted on 18 July 1997, para. 6.2; communication No. 604/1994, *Nartey v. Canada*, Decision on admissibility adopted on 18 July 1997, para 6.2; communication No. 939/2000, *Dupuy v. Canada*, Decision on admissibility

communications inadmissible for non-exhaustion of domestic remedies when the authors had failed to seek leave to apply for judicial review at the Federal Court;[5] and that the Committee Against Torture has referred to the effectiveness of judicial review by the Federal Court to ensure the fairness of the refugee determination system.[6] It also denies that the two decisions of its Federal Court would lead to an absurd result. The tests applied for a temporary stay of removal and for a judicial review responded to different purposes and, therefore, may lead to different results, which does not make these proceedings incoherent or absurd. It finally holds that the judicial review dismissal of the second PRRA can have no impact, in fact or in law, on the Federal Court's potential review of the H&C decision and its effectiveness. It recalls the Committee's jurisprudence that mere doubt about the effectiveness of a domestic remedy is not an excuse for not exhausting it.

4.3 As to the claims of violations of articles 6; 7; and 9, paragraph 1, of the Covenant, these should be declared inadmissible for lack of sufficient substantiation, pursuant to article 2 of the Optional Protocol and rule 96(b) of the Committee's rules of procedure. With regard to articles 6 and 7 of the Covenant, the State party argues that in cases of extradition or deportation, it is its responsibility to ensure that individuals will not be exposed to real risk of a violation of their rights. It upholds that there is no evidence to show that the authors would be at real risk beyond that of mere suspicion, meaning that the necessary and foreseeable consequence of the deportation would be that they would be killed, tortured or suffer inhuman or degrading treatment or punishment, or that the Pakistani State could not protect them. The main reports on the human rights situation in Pakistan did not indicate that the Ismaili Shia minority were at personal risk and that the existence of human rights abuses per se was not sufficient to ground the authors' allegations. The 2007 U.S. Department of State Country Report on Human Rights Practices, for instance, referred only to an isolated attack against an Ismaili worship place in 2006 and sectarian violence between Sunnis and Shias in areas other than Karachi – mostly in the Federally Administered Tribal Areas. As to the situation of women, the U.S. Department of State Report showed that there has been a high incidence of rape, including by police; sometimes rape is used for punishment. Nevertheless, the Pakistani authorities enacted the Women's Protection Bill, which could be expected to reduce the incidence of rape. Concerning compliance with article 9, paragraph 1, of the Covenant, it is submitted that the author did not specify how this right would be violated, nor did they refer to any risk of detention upon arrival in Pakistan. The State party holds that even if the authors' allegations refer to the right to security of the person, which exists outside the formal deprivation of liberty,[7] they lack substantiation. It is also upheld that the authors have not

adopted on 18 March 2005, para. 7.3; and communication No. 982/2001, *Bhullar v. Canada*, Decision on admissibility adopted on 31 October 2006.

[5] The State party's submission refers to the Committee's jurisprudence in communication No. 1580/2007, *F.M. v. Canada*, Decision on admissibility adopted on 30 October 2008, para. 6.3; and communication No. 1578/2007, *Dastgir. v. Canada*, Decision on admissibility adopted on 30 October 2008, para. 6.2.

[6] The State party's submission refers to the jurisprudence of the Committee against Torture in communication No. 66/1997, *P.S.S. v. Canada*, Decision on admissibility adopted on 13 November 1998, para. 6.2; communication No. 86/1997, *P.S. v. Canada*, Decision on admissibility adopted on 18 November 1999, para. 6.2; communication No. 42/1996, *R.K. v. Canada*, Decision on admissibility adopted on 20 November 1997, para. 7.2; communication No. 95/1997, *L.O. v. Canada*, Decision on admissibility adopted on 19 May 2000, para. 6.5; communication No. 183/2001, *B.S.S. v. Canada*, Decision adopted on 12 May 2004, para. 11.6; and communication No. 273/2005, *T.A. v. Canada*, Decision adopted on 15 May 2006, para. 6.3.

[7] The State party's submission refers to the Committee's jurisprudence in communication No. 195/1985, *Delgado Paez v. Colombia*, Decision on admissibility adopted on 4 April 1998, para. 5.5 and communication No. 711/1996, *Dias v. Angola*, Views adopted on 20 March 2000, para. 8.3.

proved that they could not be relocated to another part of their country.[8] The State party further points out that the authors have based their communication on the same facts and evidence provided to the Canadian authorities in the domestic proceedings to prove their real and personal risk. It recalls that it is not the role of the Committee to re-evaluate the facts and evidence assessed by the State party's domestic bodies unless it is manifest that the domestic tribunal's evaluation was arbitrary or amounted to a denial of justice.

4.4 As to compliance with articles 18; 24, paragraph 1; and 27, of the Covenant, the State party submits that the authors' claims should be declared inadmissible for lack of substantiation. With regard to article 18, it relies on its arguments with respect to the authors' allegations regarding articles 6; 7; and 9, paragraph 1, of the Covenant. It notes that the authors had never complained to the police that their rights under article 18 had been violated by extremist members of the Sunni religion. In addition, it recalls the Committee's jurisprudence in *Dawood Khan v. Canada*,[9] submitting that the authors in the present case have never provided evidence to establish the absence or unavailability of protection by the Government of Pakistan. Regarding articles 24, paragraph 1, and 27, the authors fail to specify how these rights would be violated upon their return to Pakistan. The H&C proceedings carefully considered the particular situation of the authors' children and the impact of their return to Pakistan. Furthermore, article 24 has no role independent of articles 6, 7 and 9(1). Hence, if the latter rights were not violated, the former were similarly not violated.[10] In addition, the State party argues that the claims of violations of articles 18; 24, paragraph 1; and 27, of the Covenant, are incompatible with the Covenant and, therefore, should be declared inadmissible *ratione materiae*, pursuant to article 3 of the Optional Protocol and Rule 96(d) of the Committee's rules of procedure. First of all, the extraterritorial application of the Covenant is exceptional and the rights guaranteed therein are essentially of a territorial nature. Secondly, the Committee's general comment No. 31 (2004), which clarifies the scope of application of the Covenant, limits the State party's obligation with regard to persons who are not nationals and are subject to removal, to situations where there would be a real risk of irreparable harm, which may raise issues as to articles 6 and 7 of the Covenant.[11] Nonetheless, articles 18, 24, paragraph 1, and 27 do not ban a State party from removing a person to another State that may not adequately adhere to their protection; otherwise, giving extraterritorial power to all articles of the Covenant would effectively deny a State's sovereignty over removal of foreigners from its territory.

[8] The State party's submission refers to the jurisprudence of the Committee against Torture in communication No. 183/2001; *B.S.S. v. Canada*, Views adopted on 12 May 2004; and communication No. 245/2004, *S.S.S. v. Canada*, Decision adopted on 16 November 2005, in which it was laid down that resettlement to another part of a country, although causing hardship, was not found to amount to torture.

[9] Communication No. 1302/2004, *Khan v. Canada,* Views adopted on 25 July 2006, para. 5.6, in which the Committee held, in relation to article 18, that "even if non-State agents were motivated to subject the author to coercion in Pakistan that would impair his enjoyment of the freedom to have or adopt a religion or belief of his choice, he has not demonstrated that State authorities were unable or unwilling to protect him."

[10] The State party submission refers to general comment No. 17 (1989) on article 24: Rights of the child; and to the Committee's jurisprudence in communication No. 1069/2002, *Bakhtiyari v. Australia*, Views adopted on 29 October 2003, para. 9.7.

[11] General comment No. 31 (2004) on article 2 of the Covenant: The nature of the general legal obligation imposed on States parties to the Covenant. The State party's submission also refers to the European Court of Human Rights case law in *Soering v. United Kingdom*, Application no. 14038/88 (1989), para. 86; *Z and T v. United Kingdom*, Application no. 27034/05 (2006).

5. Despite a request to counsel for comments on the State party's submission, dated 17 April 2009, as well as three subsequent reminders, dated 23 February 2010, 17 December 2010, and 15 June 2011, the authors did not comment on the State party's observations.

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 article 93 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

6.2 As required under article 5, paragraph 2 (a), of the Optional Protocol, the Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 With regard to the exhaustion of domestic remedies, as required under article 5, paragraph 2 (b), of the Optional Protocol, the Committee notes the arguments by the State party that the authors failed to apply for judicial review of the negative PRRA decision of 26 April 2006 and of the negative H&C decision of 9 September 2008. It also notes the authors' claim that an application for judicial review of the H&C decision of 9 September 2008 and another application for stay of removal would be denied because the Federal Court has already set out a decision on the alleged risk and the need for protection in its dismissal of their application of judicial review of the second PRRA, issued on 26 May 2008.

6.4 With regard to the authors' failure to make an application for judicial review of the negative PRRA decision of 26 April 2006, the Committee notes that the authors' application was not based on the same allegations brought to the Committee, but on their wish to stay in Canada and on K.A.L.'s situation concerning the obligations of making investments in Canada according to paragraph 23.1(1)(a) to (d) of the former Immigration Act. The Committee takes note that, according to the State party, a PRRA is not meant to serve as an appeal mechanism to a prior decision, but rather is intended as an assessment to determine whether the applicant is at risk of persecution, torture, risk to life or risk of cruel and unusual treatment or punishment; and that within a judicial review "the Federal Court needs only to consider that the PRRA officer's decision was "reasonable", meaning that it falls within the range of possible, acceptable outcomes which are defensible in respect of the facts and the law." It also notes that the authors filed a second PRRA application in which they alleged that their removal to Pakistan would put them at personal risk of persecution, torture, risk to life, or risk of cruel and inhuman treatment or punishment. This application was denied by the PRRA officer, on 31 October 2007. An application for judicial review was rejected by the Federal Court, on 26 May 2008. No argument based on non-exhaustion of domestic remedies has been submitted by the State party with respect to the decision of the Federal Court.

6.5 Regarding the authors' failure to apply for a judicial review of the 9 September 2008 negative H&C decision, the Committee observes that this second H&C application was based on the risk of persecution, torture, risk to life or risk of cruel and unusual treatment or punishment. It also notes that the authors believed that an application for judicial review of this decision by the Federal Court would be dismissed after the court's denial of judicial review of the second PRRA, on 26 May 2008. In view of the discretionary feature of the

H&C proceedings[12] the Committee does not consider it necessary, for the purposes of article 5, paragraph 2 (b), of the Optional Protocol, that the authors make an application for judicial review of the 9 September 2008 negative H&C decision. Accordingly, the Committee concludes that the requirements under this provision have been met.

6.6 The Committee notes that the State party challenged the admissibility of the communication on the authors' failure to sufficiently substantiate their claims under articles 6, paragraph 1; 7; 9, paragraph 1; 18; 24, paragraph 1; and 27; of the Covenant. As to the three latter articles, it also notes that the State party contested their admissibility as incompatible with the Covenant pursuant to article 3 of the Optional Protocol.

6.7 The Committee recalls that States parties are under an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant, either in the country to which removal is to be effected or in any country to which the person may subsequently be removed.[13] The Committee notes the authors' allegations on the deteriorating situation in Pakistan with regard to religious minorities, the risk of rape or other forms of violence against women, and the lack of effective protection by the authorities. It also notes the events that affected the authors before leaving Pakistan. These claims were examined by the Canadian authorities, who concluded that the authors did not face a real risk of persecution, torture, risk to life, or risk of cruel and inhuman treatment or punishment. In the circumstances and in the absence of comments by the authors on the State party's observations, the Committee considers that the authors have failed to provide sufficient evidence in support of their claims to the effect that they would be exposed to a real risk if they were removed to Pakistan. Consequently, in accordance with article 2 of the Optional Protocol, the Committee considers that the authors' claims under articles 6, paragraph 1; 7; 9, paragraph 1; 18; 24, paragraph 1; and 27, of the Covenant, are not sufficiently substantiated for the purpose of admissibility.

7. The Committee hence decides:

(a) That the communication is inadmissible under article 2 of the Optional Protocol.

(b) That this decision shall be communicated to the State party and to the authors, through counsel.

[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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[12] See communication No. 1959/2010, *Jama Warsame v. Canada*, Views adopted on 21 July 2011, para. 7.4. See also communication No. 333/2007, *T.I. v. Canada*, Committee against Torture, decision adopted on 15 November 2010, para. 6.3; and communication No. 304/2006, *L.Z.B. v. Canada*, Committee against Torture, decision adopted on 8 November 2007, para. 6.4.

[13] General comment No. 31 (2004) on article 2 of the Covenant: The nature of the general legal obligation imposed on States parties to the Covenant (2004), para. 12.