**Blessington and Elliot v. Australia**

**Imposition of life sentence on juvenile**

**Substantive Issues**
- Cruel, inhuman and degrading treatment
- Essential aims of the penitentiary system
- Retroactive application of penal legislation
- Right of minors to protection

**Facts**

The authors are nationals of Australia who are serving sentences of life imprisonment. Both the authors had unstable childhood years, were subjected to violence and sexual assault and suffered from psychological problems. At the age of 14 and 15 respectively, the authors committed assault and were sentenced for that crime in 1990. They had also abducted, raped and killed a second victim and it was for this crime that they were convicted to life imprisonment also in 1990. The authors appeals were dismissed. Since their conviction there have been several amendments to the Sentencing Law.

The authors claim that their rights under articles 24(1), 10, 7, and 15(1) have been violated. Under article 24 they claim that the imposition of the life sentence without possibility of parole for their crimes as juveniles is incompatible with the Covenant. Under article 10(3) they question the essential aims of the penitentiary system of Australia in relation to its reformation and social rehabilitation role. Under article 7 they claim that the imposition of a life sentence on juveniles constitutes cruel, inhuman and/or degrading punishment. Under article 15(1) they claimed to be adversely affected by the retroactive effect of the new law in the country amending the previous Sentencing Law.

**Committee’s View**

**Consideration of admissibility**

The State party did not challenge the admissibility of the communication and the Committee considered that all admissibility criteria have been met and proceeded to the merits.
Consideration of merits
The Committee considered that the imposition of life sentences on the authors as juveniles can only be compatible with article 7, read together with article 10(3) and 24 if there is a possibility of review and prospect of release notwithstanding the gravity of the crime committed. The Committee referred to General Comment 21 indicating “that no penitentiary system should be only retributory and that it should essentially seek the reformation and social rehabilitation of the prisoner stressing that this principle has particular force in connection to juveniles”. The Committee did not question the measures of protection of juveniles that have been put in place by the State party however the main claim under article 24(1) is the imposition of life sentence without real possibility of release.

Moreover the Committee referred to article 37 (a) of the Convention on the Rights of the Child which stipulates that “neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences” committed by juveniles.

The Committee concluded that the lengthy period prescribed before being eligible to apply for parole, the restrictive conditions to apply for such a release and the fact the authors were minors at the time they committed the crime make the life sentences imposed on them contrary to article 7 read together with article 10(3) and 24 of the Covenant.

Recommendation
The Human Rights Committee therefore decided:
  a. The State Party should provide an effective remedy, including compensation
  b. The State party should also review its legislation to ensure conformity with the relevant articles of the Covenant and allow the authors to benefit from the reviewed legislation

Deadline to Submit the Report on the Implementation of the Recommendations

180 days from the adoption of the views: 20 April 2015