

HUMAN RIGHTS COMMITTEE

A. Z. v. Colombia

Communication No. 244/1987

3 November 1989

ADMISSIBILITY

Submitted by: G. G. [name deleted]

Alleged victim: A. Z.

State party concerned: Colombia

Date of communication: 18 September 1987

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

Meeting on 3 November 1989,

Adopts the following:

Decision on admissibility

1. The author of the communication (letter dated 18 September 1987; no further submissions) is G. G., a Colombian lawyer writing on behalf of A. Z., a Colombian student and labourer, born in 1963, at the time of the submission of the communication detained at a prison in Bogotá. The lawyer (who states that she is A. Z.'s female companion) alleges that he is a victim of a violation of article 7 of the Covenant by Colombian police authorities.

2.1 It is stated that A. Z. was arrested on 31 August 1987 and that no reasons for his arrest were given by the authorities until 2 September 1987. (The lawyer does not indicate what reasons were then given). It is alleged that A. Z. has been subjected to serious ill-treatment, including a severe beating, evidenced by a hematoma in his upper right arm, and by bruised ribs and legs. These injuries were allegedly caused by blows with rifle butts and by kicks. It is further alleged that A. Z. was blindfolded, that he was forced to breathe smoke, that he was subjected to psychological torture in the form of death threats if he refused to answer questions, and that medical attention was refused.

2.2 With respect to the exhaustion of domestic remedies, it is stated that A. Z. requested an examination by an expert in forensic medicine but that the judge did not order any medico-legal investigation. Furthermore, A. Z. is said to have requested the Attorney General's Office (Procuraduría General de la Nación) to investigate his allegations of torture, hitherto without success.

3. By its decision of 20 October 1987, the Working Group of the Human Rights Committee transmitted the communication to the State party, requesting it, under rule 91 of the rules of procedure, to provide information and observations relevant to the question of the admissibility of the communication.

4. In its submission under rule 91, dated 20 October 1988, the State party confirms that A. Z. was arrested on 31 August 1987 and adds that he was charged with the offences of homicide and rebellion. He was released on parole and subsequently left the country, residing at present in France. The court of first instance, however, has indicted him and will proceed to judge him in absentia if he fails to appear in court. The State party contends that the communication should be declared inadmissible under article 5, paragraph 2 (b), of the Optional Protocol, since the author has not exhausted domestic remedies. In particular, the State party affirms that a thorough search of the files of the Procuraduría General de la Nación and of the Procedurías Delegadas did not reveal that the author had filed any complaint. If the author claims to have been subjected to ill-treatment, he may still file a complaint with the competent authorities with a view to the investigation of the case and eventual prosecution of the responsible officials.

5. On 6 December 1988 the Secretariat transmitted the State party's observations to the author, requesting comments thereon. The deadline for the author's comments expired on 3 January 1989. No further submission has been received from the author.

6.1 Before considering any claims contained in a communication, the Human Rights Committee must, in accordance with rule 87 of its rules of procedure, decide whether or not it is admissible under the Optional Protocol to the Covenant.

6.2 With regard to the requirement of exhaustion of domestic remedies in article 5, paragraph 2 (b), of the Optional Protocol, the Committee has noted the State party's contention that A. Z. has not exhausted them. As to A. Z.'s arrest, the Committee takes into account that criminal proceedings on charges of homicide have been opened against A. Z.; as to A. Z.'s allegations of ill-treatment, he has not contested the State party's contention that he has not filed an official complaint and that he may still do so. Thus the Committee concludes that the author's communication does not meet the requirements of article 5, paragraph 2 (b), of the Optional Protocol.

7. The Human Rights Committee therefore decides:

(a) That the communication is inadmissible;

(b) That this decision shall be transmitted to the State party and to the author.