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CCPR/C/46/D/337/1988
13 November 1992

Original: ENGLISH

HUMAN RIGHTS COMMITTEE
Forty-sixth session

DECISIONS

Communication No. 337/1988

Submitted by : E.E.
[represented by counsel]

Alleged victim : The author

State party : Jamaica

Date of communication : 1 November 1988 (initial submission)

Documentation references : Prior decisions -
CCPR/C/WG/35/D/337/1988
(Working Group's
combined rule 86/91
decision, dated
14 March 1989)

Date of present decision : 23 October 1992

Decision on admissibility

[See annex]

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ANNEX */

Decision of the Human Rights Committee under the Optional
Protocol
to the International Covenant on Civil and Political Rights
- Forty-sixth session -

concerning

Communication No. 337/1988

Submitted by : E.E. (name deleted)

Alleged victim : The author

State party : Jamaica

Date of communication : 1 November 1988

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

Meeting on 23 October 1992,

Adopts the following:

Decision on admissibility

1. The author of the communication (initial submission dated 1 November 1988) is E.E., a Jamaican citizen currently awaiting execution at St. Catherine District Prison, Jamaica. He claims to be a victim of violations of his human rights by Jamaica. He is represented by counsel.

The facts as submitted by the author :

2.1 The author states that on 4 June 1987 he was detained and on 14 July 1987 charged with the murder of Ms. G.S. He was assigned a legal aid attorney, whom he saw only once for 30 minutes before the trial and who allegedly showed no interest in his case. At the conclusion of the trial in the Home Circuit Court, on 23

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March 1988, the author was found guilty and sentenced to death.

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

2.2 The author appealed to the Jamaican Court of Appeal on 29 March 1988. Although the date for the hearing of the appeal was set for 26 September 1988, the author states that he was only informed of this the day after the appeal had been heard. On 10 October 1988, he learned that his appeal had been dismissed. He states that the attorney who represented him in the Court of Appeal told him that his case had been poorly handled at the trial stage and that there were no grounds for appeal.

2.3 The author concedes that he has not yet exhausted all domestic remedies available to him. He contends that he cannot afford to pay a lawyer to file a petition for special leave to appeal to the Judicial Committee of the Privy Council.

The complaint :

3. Although the author does not invoke any article of the International Covenant on Civil and Political Rights, it appears from his submission that he claims to be a victim of a violation by Jamaica of article 14 of the Covenant.

State party's observations and author's comments :

4.1 The State party argues that the author's communication is inadmissible on the ground of failure to exhaust domestic remedies as required by article 5, paragraph 2, of the Optional Protocol, since the author's case has not been adjudicated upon by the Judicial Committee of the Privy Council.

4.2 The State party encloses a copy of the written judgment by the Court of Appeal, from which it transpires that the author was convicted on the evidence of two eyewitnesses. The witnesses had lived on the same premises with the author, and had known him for several years. Although the attack took place at night, a lamp in an adjoining room apparently provided enough light to recognize the author.

4.3 From the Court's judgment it further transpires that the author's counsel conceded that he had no valid complaint either in respect of the evidence or the directions by the judge to the jury.

5.1 In his reply to the State party's observations, the author reiterates that he does not have the financial means to seek the legal assistance of a lawyer to represent him before the Privy Council. Furthermore, he states that the procedure before the Judicial Committee would take an unreasonably long time.

5.2 The author further reiterates his innocence, and states that the evidence presented against him during the trial has not been corroborated. He contends that he was convicted so easily owing to his young age and inexperience. He further states that some of the evidence submitted by him during the trial was not included in the Court documents. Further information was received from counsel, on 13 July 1992, including a copy of the trial transcript.

Issues and proceedings before the Committee :

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 The Committee considers that the author's allegations, which relate primarily to his legal representation during the trial and to the hearing before the Court of Appeal, have not been substantiated, for purposes of admissibility. In this connection the Committee notes that the information before it does not disclose that the author requested and the Court actually denied him adequate time for the preparation of his defence. It further appears that the author's lawyer did cross-examine witnesses, who appeared on behalf of the prosecution, that the author filed grounds for appeal and that counsel was present on behalf of the author at the hearing before the Court of Appeal. Accordingly, the Committee finds that the author has failed to advance a claim under article 2 of the Optional Protocol.

7. The Human Rights Committee therefore decides:

(a) that the communication is inadmissible under article 2 of the Optional Protocol;

(b) that this decision shall be transmitted to the State

party, the author and his counsel.

[Done in English, French, Russian and Spanish, the English text
being the original version.]