

L. Communication No. 360/1989. A newspaper publishing company v. Trinidad and Tobago (Decision of 14 July 1989, adopted at the thirty-sixth session)

Submitted by: A newspaper publishing company

Alleged victim: The company

State party concerned: Trinidad and Tobago

Date of communication: 2 March 1989

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

Meeting on 14 July 1989,

Adopts the following:

Decision on admissibility

1. The communication, dated 2 March 1989, is submitted by a newspaper company registered in Trinidad. The company claims to be the victim of a violation by the Government of Trinidad and Tobago of articles 2, 14 and 19 of the International Covenant of Civil and Political Rights. It is represented by counsel.

2.1 The managing director of the company, Mr. D. C., states that the company publishes a bi-weekly and a weekly newspaper, with wide circulation in Trinidad and throughout the Caribbean. As the material necessary for the publication of the paper has to be imported, the company requires the permission of the Central Bank of Trinidad and Tobago to purchase the foreign currency needed for payment. Every year the Central Bank determines the allocation of foreign exchange for newspapers published in the country, usually at a level which would allow the companies to purchase sufficient raw material for publication purposes. It is stated that in 1988 the Central Bank allocated to the company an amount of foreign exchange wholly insufficient for the purpose of maintaining its annual production and guaranteeing the publication of the newspapers; allocation for other publishers are said to have been sufficient. The company unsuccessfully sought approval of the same amount of foreign exchange allocated to other publishers.

2.2 On 27 April 1988, the company requested the grant of a supplementary allocation from the Central Bank, which was refused. On 13 July 1988, it commenced a Constitutional Motion in the High Court of Trinidad and Tobago under section 14 of the Constitution, alleging that "the Central Bank acted as an arm of the State and directly affected the supply of newsprint and accessories of the company, thus violating an integral part of the freedom of the press, freedom of expression and the right to express political views". It is submitted that the newspapers published by the company have been critical of the policies pursued by the present Government of Trinidad, which has been in power since December 1986 and that as a consequence the company has been discriminated against. While the High Court deemed the case to be urgent, it heard it on several separate days during the period from September to December 1988, when it reserved its judgement. Since that day, the High Court has failed to produce a judgement. On December 1988, the

company reiterated its request to the Central Bank for a supplementary allocation of foreign exchange. This was again denied. According to the company's director, the allocation obtained only enables the company to sustain the production and the publication of its newspapers through the first quarter of 1989.

2.3 With respect to the requirement of exhaustion of domestic remedies, it is submitted that there are no effective remedies within the meaning of article 2 of the Covenant, since the High Court has failed to act expeditiously. It is stated that the matter has not been submitted for examination under another procedure of international investigation or settlement. a/

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

3.2 The present communication is submitted on behalf of a company incorporated under the laws of Trinidad and Tobago. While counsel has indicated that Mr. D. C., the company's managing director, has been duly "authorized to make the complaint on behalf of the company", it is not indicated whether and to what extent his individual rights under the Covenant have been violated by the events referred to in the communication. Under article 1 of the Optional Protocol, only individuals may submit a communication to the Human Rights Committee. A company incorporated under the laws of a State party to the Optional Protocol, as such, has no standing under article 1, regardless of whether its allegations appear to raise issues under the Covenant.

4. The Human Rights Committee therefore decides:

(a) The communication is inadmissible;

(b) This decision shall be communicated to the representative of the alleged victim, and, for information, to the State party.

#### Notes

a/ The Secretariat has ascertained that the same matter has not been submitted to the Inter-American Commission on Human Rights.