

**S. Communication No. 369/1989, G. S. v. Jamaica
(Decision of 9 November 1989, adopted at the
thirty-seventh session)**

Submitted by: G. S. [name deleted]
Alleged victim: The author
State party concerned: Jamaica
Date of communication: 25 May 1989 (date of initial letter)

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

Meeting on 8 November 1989,

Adopts the following:

Decision on admissibility*

1. The author of the communication (initial submission dated 25 May 1989 and subsequent submission) is G. S., a Jamaican citizen currently awaiting execution at St. Catherine District Prison, Jamaica. He claims to be the victim of a violation by Jamaica of articles 6, 7 and 14 of the International Covenant on Civil and Political Rights. He is represented by counsel.

2.1 The author states that he was arrested on 14 June 1983 and charged, together with Mr. A. W. G/, with murder, on 13 June 1983, of one R. H. He was tried in the Westmoreland Circuit Court, convicted and sentenced to death on 7 June 1984. The Court of Appeal dismissed his appeal on 7 April 1986. A subsequent petition for special leave to appeal to the Judicial Committee of the Privy Council was dismissed on 4 May 1989.

2.2 The author states that on 13 June 1983 he was working in his cane field, when Mr. H. approached him and attacked him with a knife. In the course of the ensuing struggle, the assailant sustained head injuries. Afterwards, he stopped a passing police car and informed the police officer of the incident. This officer reportedly asked the author and his co-defendant to carry the wounded man to the back of the police car and then drove to the hospital. Later that day, the same officer informed the author that Mr. H. had died and proceeded to arrest him. The following day he was charged with murder.

2.3 According to the author, his trial in the Circuit Court was unfair. Thus, the judge is said to have solicited evidence which would not be admissible in law. Furthermore, the judge allegedly misdirected the jury on the issue of self-defence, thus depriving the author of the possibility of a conviction of manslaughter or of an acquittal.

* The text of an individual opinion by Ms. Christine Chanet is reproduced in the appendix.

2.4 It is stated that the case has not been submitted to any other instance of international investigation or settlement.

3.1 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.

3.2 The Committee has considered the material submitted by the author's counsel, including the author's petition for special leave to appeal to the Judicial Committee of the Privy Council. From this information, it appears that the author claims bias of the court, in particular in respect of the adequacy or otherwise of the judge's instructions to the jury, in the light of the evidence that was put before the jury and which it was for the jury to accept or reject. While article 14 of the Covenant guarantees the right to a fair trial, it is for the appellate courts of the States parties of the Covenant to evaluate facts and evidence in a particular case. ^{b/} Thus the review, by the Committee, of specific instructions to the jury by the judge in a trial by jury or of generalised claims of bias is beyond the scope of application of article 14. In the circumstances, the Committee concludes that the communication is inadmissible as incompatible with the provisions of the Covenant, pursuant to article 3 of the Optional Protocol.

4. The Human Rights Committee therefore decides:

(a) The communication is inadmissible;

(b) This decision shall be transmitted to the author, to his counsel and, for information, to the State party.

Notes

^{a/} Mr. W's communication No. 290/1988 was declared inadmissible by the Committee on 8 November 1989.

^{b/} For an application of this principle, see communication No. 201/1985 (Hendriks v. Netherlands), final views adopted on 27 July 1988, para. 10.4.

APPENDIX

Individual opinion: submitted by Ms. Christine Chanet pursuant to rule 92, paragraph 3, of the Committee's rules of procedure, concerning the admissibility of communication No. 369/1989 (G. S. v. Jamaica)

As emphasized by the Committee in the case of communication No. 369/1989, it is within the competence of national courts, particularly appeal courts, to assess the fairness of the conditions in which a trial takes place.

However, this competence cannot exclude that of the Committee in implementation of the International Covenant on Civil and Political Rights. When a communication is submitted to it, the Committee assesses whether the trial was conducted in accordance with the provisions of article 14 of the Covenant.

At the admissibility stage, the Committee proceeds to a prima facie review of the applicant's grievances. The author of this communication challenges the regularity of the judge's conduct of the hearing.

It is therefore my view that, while the facts adduced by the applicant could be regarded as insufficiently substantiated, they could not be declared incompatible with the provisions of the Covenant on the basis of article 3 of the Optional Protocol.