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Fifty-seventh session
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VIEWS

Communication No. 546/1993

Submitted by: Philip Leach

Victim: Rickly Burrell

State party: Jamaica

Date of communication: 28 April 1993 (initial submission)

Documentation references: Prior decisions - Special Rapporteur's rule 91 decision, transmitted to the State party on 9 June 1993 (not issued in document form)
- CCPR/C/53/D/546/1993 (Decision on admissibility, dated 4 April 1995)

Date of adoption of Views: 18 July 1996

On 18 July 1996, the Human Rights Committee adopted its Views under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 546/1993. The text of the Views is appended to the present document.

[ANNEX]

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

ANNEX

Views of the Human Rights Committee under article 5, paragraph 4,
of the Optional Protocol to the International Covenant
on Civil and Political Rights
- Fifty-seventh session -

concerning

Communication No. 546/1993 **/

Submitted by: Philip Leach
Victim: Rickly Burrell
State party: Jamaica
Date of communication: 28 April 1993 (initial submission)
Date of decision on admissibility: 4 April 1995

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

Meeting on 18 July 1996,

Having concluded its consideration of communication No. 546/1993 submitted to the Human Rights Committee on behalf of Mr. Rickly Burrell under the Optional Protocol to the International Covenant on Civil and Political Rights,

Having taken into account all written information made available to it by the author of the communication and the State party,

Adopts the following:

Views under article 5, paragraph 4, of the Optional Protocol

1. The communication is submitted by Mr. Philip Leach, a solicitor in London, on behalf of Mr. Rickly Burrell, a Jamaican citizen, at the time of submission of the communication awaiting execution at St. Catherine District Prison, Jamaica, and subsequently killed during a prison disturbance. Mr. Burrell is said to be a victim of violations by Jamaica of articles 6; 7; 9, paragraphs 2, 3 and 4; 10; 14, paragraphs 1, 3(b), (c), (d) and (e), and 5; and 17, paragraph 1, of the International Covenant on Civil and Political Rights.

**/ Pursuant to rule 85 of the Committee's rules of procedure, Committee member Laurel Francis did not participate in the examination of the communication.

Facts as submitted

2.1 In the initial communication, dated 28 April 1993, counsel states that Mr. Burrell was accused of the murder on 11 July 1987 of one Wilbert Wilson. He was convicted and sentenced to death in the St. James Circuit Court on 26 July 1988. His application for leave to appeal was heard by the Jamaican Court of Appeal on 23 July 1990 and dismissed on 24 September 1990. The Judicial Committee of the Privy Council denied him special leave to appeal on 10 February 1993. With this, it is submitted, domestic remedies have been exhausted.

2.2 The case for the prosecution was that, on 11 July 1987, at about 11.30 p.m., Mr. Burrell and his two co-accused, after having robbed several people, entered Black Shop in the parish of St. James. Mr. Burrell carried two guns; he first fired at the shop assistant, one Rick Taylor, who was hit in his left thigh, and then at Wilbert Wilson, who died as a result of the gunshot. Mr. Burrell's co-accused, who were said to have been on the lookout at the time the shots were fired, were convicted of manslaughter.

2.3 The prosecution relied on the testimony of three eyewitnesses, who had known Mr. Burrell for some years and who identified each of the accused on separate identification parades held on 18 September 1987. Mr. Burrell's defence was based on an alibi. He testified that he was at home on the night of the murder.

2.4 It is stated that after the arrest, on the way to the police station, the truck in which Mr. Burrell and about 26 other men were transported stopped at the locus in quo, where they were seen by a number of people. Mr. Burrell was then taken to the police station and detained in a cell together with 14 other men. He states that he was detained for about two months without being charged. It is further stated that on the day the identification parade was due to take place, Mr. Burrell was released from his cell to have a meal. He talked to several persons, whom he assumed to be visitors. The identification parade was then postponed and held one week later. Counsel claims that the persons brought in to identify Mr. Burrell were the ones he had met the week before.

2.5 In a further submission, dated 14 February 1994, counsel informs the Committee that Mr. Burrell was killed in St. Catherine's Prison on 31 October 1993. Counsel requests the Committee to examine the circumstances of his death in respect of a possible violation of article 6, paragraph 1.

2.6 Counsel refers to a press release by Amnesty International, reporting that four death-row prisoners, among them Rickly Burrell, were killed during a disturbance in St. Catherine's Prison. Reports indicated that the prisoners were shot dead after they had tried to take prison guards hostage. However, prior to the incident, some prisoners had been receiving death threats from prison personnel because they had complained about maltreatment.

2.7 Counsel states that, on 25 November 1993, he wrote to the Jamaican Parliamentary Ombudsman requesting confirmation of Mr. Burrell's death and calling for an official investigation. A copy of the letter was sent to the Superintendent in charge of St. Catherine's Prison and to the London solicitors of the Jamaican Government. No reply was received from either the Ombudsman or the Superintendent; the solicitors replied that they had no information about the incident.

2.8 On 5 January 1994, Amnesty International published a report about the incident following its investigation in Jamaica conducted in November 1993. Counsel includes the report as part of his submission. According to the report, the prisoners were killed on the first floor of Gibraltar Block, where death-row prisoners are held. The circumstances of the incident remain unclear, but prison authorities contend that two warders were taken hostage while they were serving the prisoners lunch at around 12.30 p.m. It is also contended that three warders were injured during the incident, and that the throat of one was cut with a knife, but none of the warders were hospitalized and the injuries appear to have been minor. Apart from the one knife, none of the prisoners was armed. Alarm apparently was quickly raised, backup warders appeared and the prisoners were shot. At least three other inmates were wounded and had to be hospitalized.

2.9 Eyewitnesses among the prisoners submit that the incident started on the ground floor, when an inmate was beaten by a warder during an argument, after which the prisoner ran upstairs. They further state that the four prisoners were shot in their cells when they no longer posed a threat to the warders. It is also contended that warders shot at other inmates through the bars of their cells and that some of them were beaten. It is stated that the injuries of the surviving inmates are consistent with these claims, and that one warder has testified that he interfered to save one prisoner from being severely beaten. It is further claimed that, because of the confined space, it is difficult to see how prisoners could have been shot without injuring the warders, if they were still being held hostage. It is further stated that at least three of the warders named by prisoners as having been involved in the shootings have been named repeatedly in other allegations involving threats or maltreatment of prisoners on death row.

2.10 It is submitted that warders are normally armed only with batons, but that there is an armoury just inside the gate-lodge of the prison. It remains unclear who authorized the use of arms on 31 October 1993, which was a Sunday when the Superintendent was not present. It is submitted that although prison officers receive training in the use of firearms, they do not receive training in physical self-defence or control-and-restraint techniques or in the use of different levels of force.

2.11 Counsel submits that, although the state pathologist had carried out autopsies and a police investigation took place, no report has been made available.

2.12 Counsel contends that many incidents of excessive violence by prison warders have occurred in the past years and that complaints are not adequately dealt with but that, on the contrary, prisoners who complain about maltreatment are subjected to threats by warders. If investigations are held, the results are not made public. It is further submitted that the Parliamentary Ombudsman, although constituting the main independent procedure for investigation of complaints from inmates, has no powers of enforcement and his recommendations are not binding. Counsel points out that the last annual report from the Ombudsman to Parliament dates from 1988.

2.13 Counsel submits that he has received a letter from an inmate explaining the circumstances under which Mr. Burrell was killed. According to the letter, Mr. Burrell had been threatened with death by a warder whose relative Mr. Burrell was convicted of having murdered and Mr. Burrell had consequently lodged a complaint with the Superintendent. The letter further states that the incident on 31 October 1993 was started by the same warder, and that that warder shot and killed Mr. Burrell, who was in his cell, "in cold blood". Counsel states that other letters from inmates also mention the same warder as being involved.

Complaint

3.1 Counsel claims that Mr. Burrell's detention for over two months without being charged amounts to a violation of article 9, paragraphs 2, 3, and 4, of the Covenant.

3.2 It is contended that Mr. Burrell's legal-aid lawyer did not raise the irregularities in respect of Mr. Burrell's identification in the Court of Appeal. It is submitted that the lawyer never contacted Mr. Burrell despite numerous efforts on Mr. Burrell's part to get an appointment. Moreover, at the hearing before the Court of Appeal, the lawyer remarked that he could not support his client's application for leave to appeal. He conceded that the trial judge had adequately directed the jury on the issue of identification, and that in the light of the positive identification evidence of three eyewitnesses, he could advance no arguable ground of appeal in his client's favour. It is stated that, because of counsel's failure to adequately represent Mr. Burrell, relatives who could have supported his alibi were not called to the Court of Appeal to testify on his behalf. It is argued that the above amounts to a violation of article 14, paragraphs 1, 3(b), (c), (d) and (e) and 5, of the Covenant. It is further submitted that a delay of two years and two months between conviction and dismissal of appeal amounts to a violation of article 14, paragraph 3(c).

3.3 Counsel further claims that the frequent delays with correspondence sent from St. Catherine District Prison and with the receipt of letters at the prison, if they arrived at all, made it extremely difficult to obtain instructions from his client and to represent him adequately. The presumed interference with the mail by prison authorities is said to constitute a violation of article 17 of the Covenant.

3.4 Counsel claims that, because Mr. Burrell was threatened and ill-treated by warders at St. Catherine prison, the State party has violated articles 7 and 10 of the Covenant. It is further alleged that Mr. Burrell's death constitutes a violation of article 6, paragraph 1, of the Covenant. In this context, counsel refers to the Committee's prior jurisprudence¹ and submits that there is a prima facie case that Mr. Burrell was arbitrarily deprived of his life by the authorities of the State and that the law in Jamaica fails strictly to control and limit circumstances in which a person may be deprived of his life. It is submitted that in view of the evidence, the burden of proof now lies on the State to refute that article 6 has been breached. In this context, counsel submits that the State party has sole access to the most significant information, such as the autopsy reports.

3.5 It is also submitted that the warders who killed Mr. Burrell either had the intent to kill him or acted negligently or recklessly as to whether he would be killed; in this connection, it is argued that the shooting was not necessary in the particular circumstances and not proportional to the requirements of law enforcement. Counsel claims that no warnings were given to Mr. Burrell or to the three other inmates who were shot.

3.6 It is argued that the State party failed to take adequate measures to protect Mr. Burrell's life while he was held in custody. In this context, reference is made to a series of previously reported abuse and killings with regard to which no proper investigations were conducted by the State party, to the lack of training received by warders in restraint techniques and the use of different levels of force, and to the ready access warders have to weapons. Counsel also refers to international norms with regard to the use of force.²

3.7 Counsel submits that the State party is under a duty to make a full and thorough inquiry into the allegations and to bring to justice any person found to be responsible for Mr. Burrell's death and to pay compensation to Mr. Burrell's family.

3.8 It is stated that the same matter has not been submitted to another procedure of international investigation or settlement.

State party's observations on admissibility and counsel's comments

4.1 By submission of 22 July 1994, the State party provides a copy of a report, dated 15 May 1994, from Senior Inspector B.R. Newman about the circumstances of Mr. Burrell's death. The report states that Mr. Burrell occupied cell No. 10 at Gibraltar 1 in St. Catherine Prison. Gibraltar Block

¹ Communication No. 45/1979 (Guerrero v. Colombia), Views adopted on 31 March 1982; and Nos. 146/1983 and 148-154/1983 (Suriname cases), Views adopted on 4 April 1985.

² Such as the United Nations Code of Conduct for Law Enforcement Officials, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

is a two-storey-high building divided into four sections, each section containing about 26 cells without any functioning sanitary facilities. Each section is supervised by a different team of warders. Sanitary facilities are found in the yard. Inmates are unlocked, five at a time, to slop and to exercise and also for meals.

4.2 The report states that on 31 October 1993 the serving of lunch was at its final stage by about 12.30 p.m. Some inmates, including Mr. Burrell, were still in the passage of Gibraltar 1 and the four warders on duty were engaged in locking them in their cells. Unknown to them, an altercation between two inmates from Gibraltar 2 and the members of a patrol party had occurred in the yard. These inmates suddenly rushed from outside into the passage and overpowered the warders. The report states that other inmates, including Mr. Burrell, joined them in relieving the warders of their batons and their keys, and in opening some of the cells. The warders were dragged into cells 9 and 10, where they were assaulted. Other warders quickly appeared on the scene and ordered the inmates to release their hostages. The inmates reportedly refused, whereupon shots were fired. The injured warders and inmates were taken to Spanish Town Hospital, where Mr. Burrell and three other inmates were pronounced dead.

4.3 The State party states that the post-mortem report shows that Mr. Burrell died as a result of shotgun and blunt force injuries. It is also stated that according to eyewitnesses, the shooting continued after the warders were rescued.

4.4 The State party submits that it is evident that the death of Rickly Burrell was the sequel to altercations between two death-row prisoners from Gibraltar 2 and certain warders of the patrol party. The State party states that it appears that Mr. Burrell was not aware of this incident, which seems to have ignited hostile reactions in the inmates, who then turned against the four warders in Gibraltar 1. The State party submits that the warders were in serious danger, since one of the prisoners tried to cut a warder's throat and others tried to hang a warder by a towel. The State party submits that the other warders, apparently after having ordered the inmates to release their colleagues, panicked upon realizing that their colleagues were in danger of losing their lives and opened fire. The State party submits that the use of necessary force may have been justified under section 15 (3) of the Corrections Act (1985), which reads: "Every correctional officer may use force against any inmate using violence to any person, if such officer has reasonable grounds to believe that such a person is in danger of life or limb, or that other grievous bodily hurt is likely to be caused by him." In this context, the State party submits that, although none of the warders was hospitalized, two of them were rendered unfit for work for two months, as a result of the injuries received. One of them is said to have a long scar at his throat, where an inmate cut him. The State party concludes: "Like Burrell, none of these four warders was involved in the commencement of the altercation, but became victims. For Burrell, it was fatal."

5.1 In his comments on the State party's submission, counsel points out that the State party has failed to indicate what role Mr. Burrell played in the incident which led to his death. In this context, counsel notes that only one of the three warders refers to Mr. Burrell in his statement, saying that he was among the inmates who pushed him into the cell. In Inspector Newman's report it is stated that Mr. Burrell joined in with the others who were trying to overpower the warders. No further reference to Mr. Burrell's conduct is made. Counsel further notes that the Inspector's report was drawn up more than six months after the incident, and that the only disclosed sources of information are statements by three of the four warders who were kept in the cell by the inmates, although it seems that other sources were also used. In particular, counsel asserts that no statement has been submitted from the fourth warder involved in the incident and from the Staff Warder who was in charge on 31 October 1993. Nor have statements been taken from any of the warders who came to their colleagues' rescue.

5.2 As to the cause of Mr. Burrell's death, counsel notes that the pathologist's report, of which the State party has provided no copy, states that he died of shotgun and blunt force injuries, but that the State party has given no details as to how Mr. Burrell was killed. Counsel notes that the Inspector's report states that warders panicked and opened fire; he argues that if Mr. Burrell's death resulted from this, it would constitute a violation of article 6 of the Covenant. Furthermore, counsel submits that if the State party contends that Mr. Burrell was shot to prevent further injuries to the warders in the cell, the pathologist's evidence would suggest that he was beaten to death after there was no longer any danger, in flagrant breach of article 6 of the Covenant.

5.3 Counsel further submits that there is evidence which indicates that Mr. Burrell was not shot to prevent injury to the warders in the cell, but that he was shot after there was no more threat. In this context, counsel refers to statements from inmates and to press articles. He claims that relatives of some of the prisoners killed saw that the shot wounds were at the back of the body, and that the body showed signs of heavy beating. Inmates who survived further allege that they were brutally assaulted by the warders and shot at after the four warders were released. It is also alleged that the supervisor told the investigating police that he had not been consulted about the use of guns and that the warders had taken the guns without his permission. Finally, counsel also refers to the report of Amnesty International, in which it was stated that it was difficult to see how the inmates could have been shot dead in such a confined space without warders also being injured if they were still being held at that time.

5.4 Counsel also submits that the regulations for the use of force would have required the use of non-lethal force.

5.5 Counsel further notes that the Inspector's report suggests that the warders did not obtain the consent of the senior officer before fetching firearms. Counsel refers to article 2 of the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions which requires a clear chain of command over all officials authorized by law

to use force and firearms. Counsel argues that the incident of 31 October 1993 and previous incidents at St. Catherine's District Prison show that there was no such clear chain of command or that it was utterly ineffective. In this context, counsel also argues that if the warders had received proper training in control and restraint techniques, they might not have panicked and shot Mr. Burrell and three other inmates.

5.6 Counsel argues that the State party's investigation falls short of its obligations under the Covenant. In this context, he notes that he has never received a reply from the Parliamentary Ombudsman, that the report of the Forensic Pathologist has not been submitted to the Committee and that the State party does not refer to the coroner's inquest, although section 79 of the Corrections Act (1985) requires that a coroner's inquest be held on the death of any inmate in a correctional institution. Counsel refers to the Committee's jurisprudence in the Uruguayan cases³ and argues that the State party is under the obligation to make a full and thorough inquiry.

5.7 Finally, counsel refers to a letter, dated 16 June 1994, from the Jamaican Ministry of National Security and Justice to Amnesty International, in which the Ministry states that the Inspectorate's report on the incident of October 1993 has been referred to the Director of Public Prosecutions for a ruling on the question of criminal responsibility and that it is not considered necessary to set up an independent commission of inquiry. In this connection, counsel notes with concern that the Director of Public Prosecutions has not yet made a decision in relation to a report concerning disturbances in 1991.

The Committee's decision on admissibility

6.1 At its 53rd session, the Committee considered the admissibility of the communication.

6.2 The Committee noted that the State party in its observations had addressed the events leading to Mr. Burrell's death, but that it had not addressed the complaints under articles 9, 14 and 17 of the Covenant, nor raised any objections to the admissibility of the communication. Nevertheless, the Committee had to ascertain whether all the admissibility criteria laid down in the Optional Protocol had been met.

6.3 The Committee noted that counsel had continued to represent Mr. Burrell after his death, and that he had indicated that he had been instructed to do so by the Jamaica Council for Human Rights, which had been in contact with Mr. Burrell's family. In the circumstances, the Committee considered that counsel had sufficiently justified his authority to submit and maintain the communication.

³ Inter alia: No. 30/1978 (Bleir v. Uruguay), Views adopted on 29 March 1982; and No. 84/1981 (Barbato v. Uruguay), Views adopted on 21 October 1982.

6.4 The Committee noted that counsel had claimed that Mr. Burrell was held in detention for two months before being charged, but that he had failed to provide any information in corroboration. The Committee considered therefore that he had failed to substantiate, for purposes of admissibility, his claim that article 9 of the Covenant had been violated in Mr. Burrell's case. This part of the communication was thus inadmissible under article 2 of the Optional Protocol.

6.5 With regard to the claim that the interference with the mail in St. Catherine District Prison violated Mr. Burrell's rights under article 17 of the Covenant, the Committee considered that counsel had failed to show what steps were taken to bring this complaint to the attention of the authorities in Jamaica. In this respect, the communication did not fulfil the requirement of exhaustion of domestic remedies set out in article 5, paragraph 2(b), of the Optional Protocol.

6.6 With regard to the claim concerning Mr. Burrell's appeal, the Committee considered that whether, in the particular circumstances of the case, the delay of two years between conviction and the dismissal of the appeal by the Jamaican Court of Appeal constituted undue delay, in violation of article 14, paragraph 3(c), juncto paragraph 5, of the Covenant, was a question which should be examined on the merits.

6.7 With regard to the claim that Mr. Burrell's representation on appeal was inadequate, the Committee considered that this might raise issues under article 14, in particular paragraphs 3(b) and 5, of the Covenant, which should be examined on the merits.

6.8 The Committee then turned to the issue of the circumstances of Mr. Burrell's death, raised by counsel after his initial communication. It notes that the State party had forwarded its observations with regard to Mr. Burrell's death and that it had not raised any objections to admissibility of this part of the communication. In particular, the State party had not indicated domestic remedies that Mr. Burrell's family would still be required to exhaust. In the circumstances, the Committee considered that it was not precluded by article 5, paragraph 2(b), of the Optional Protocol from examining whether the circumstances of Mr. Burrell's death might raise issues under articles 6, 7 and 10 of the Covenant.

7. Accordingly, the Human Rights Committee decided that the communication was admissible in so far as it might raise issues under articles 6, paragraph 1; 7; 10, paragraph 1; and 14, paragraphs 3(b), (c), and 5, of the Covenant.

Further submissions from counsel

8.1 By letter of 5 July 1995, counsel informs the Committee that the Office of the Parliamentary Ombudsman in Jamaica has informed him that the Director of Public Prosecution has ruled that the Coroner of the parish of St. Catherine held an inquest into Mr. Burrell's death.

8.2 By letter of 6 October 1995, counsel informs the Committee that he has been notified that the Coroner's inquest will commence on 6 November 1995.

Issues and proceedings before the Committee

9.1 The Committee has considered the communication in the light of all the information provided by the parties. It notes with concern that, following the transmittal of the Committee's decision on admissibility, no further information has been received from the State party clarifying the matter raised by the present communication. The Committee recalls that it is implicit in article 4, paragraph 2, of the Optional Protocol, that a State party examine in good faith all the allegations brought against it, and that it provide the Committee with all the information at its disposal. In the light of the failure of the State party to cooperate with the Committee on the matter before it, due weight must be given to the allegations submitted on behalf of Mr. Burrell, to the extent that they have been substantiated.

9.2 As regards the claim that the period of two years between Mr. Burrell's conviction and the appeal hearing constituted undue delay, the Committee considers that the information before it does not allow it, in the present case, to make a finding whether or not the delay was in violation of article 14, paragraph 3(c) juncto paragraph 5, of the Covenant.

9.3 As regards the claim that Mr. Burrell's representation on appeal was inadequate, the Committee notes that it appears from the judgment of the Court of Appeal that Mr. Burrell's legal aid counsel for the appeal (who had not represented him at the trial) conceded at the hearing that there was no merit in the appeal. The Committee recalls its jurisprudence that under article 14, the Court should ensure that the conduct of a case by the lawyer is not incompatible with the interests of justice. While it is not for the Committee to question counsel's professional judgment, the Committee considers that in a capital case, when counsel for the accused concedes that there is no merit in the appeal, the Court should ascertain whether counsel has consulted with the accused and informed him accordingly. If not, the Court must ensure that the accused is so informed and given an opportunity to engage other counsel. The Committee is of the opinion that in the instant case, Mr. Burrell should have been informed that his legal aid counsel was not going to argue any grounds in support of the appeal so that he could have considered any remaining options open to him. In the circumstances, the Committee finds that Mr. Burrell was not effectively represented on appeal, in violation of article 14, paragraph 3(b) juncto 5.

9.4 The Committee is of the opinion that the imposition of a sentence of death upon conclusion of a trial in which the provisions of the Covenant have not been respected constitutes, when no further appeal against the sentence is possible, a violation of article 6 of the Covenant. As the Committee noted in its General Comment 6(16), the provision that a sentence of death may be imposed only in accordance with the law and not contrary to the provisions of the Covenant implies that "the procedural guarantees therein prescribed must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defence, and the

right to review of conviction and sentence by a higher tribunal."⁴ In the present case, since the final sentence of death was passed without effective representation for Mr. Burrell on appeal, there has consequently also been a violation of article 6 of the Covenant.

9.5 The Committee has carefully examined all information forwarded by both counsel and the State party in relation to Mr. Burrell's death following the hostage taking of some warders at St. Catherine prison's death row section, on 31 October 1993. It regrets that the State party has not made available the autopsy report nor the results of the Coroner's inquest in the case. The Committee notes that counsel has alleged, on the basis of letters received from other inmates in St. Catherine Prison, that Mr. Burrell was shot after the warders were already released, and thus the need for force no longer existed. The Committee notes that the State party itself has acknowledged that Mr. Burrell's death was the unfortunate result of confusion on the side of the warders, who panicked when seeing some of their colleagues being threatened by the inmates, and that the report submitted by the State party acknowledges that the shooting continued after the warders were rescued. In the circumstances, the Committee concludes that the State party has failed in taking effective measures to protect Mr. Burrell's life, in violation of article 6, paragraph 1, of the Covenant.

10. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it disclose (a) a violation of article 14, paragraph 3(b) juncto 5, and consequently of article 6, paragraph 2, and (b) of article 6, paragraph 1, of the International Covenant on Civil and Political Rights.

11. Under article 2, paragraph 3(a), of the Covenant, the State party is under an obligation to provide an effective remedy for the violations of which Mr. Burrell became the victim. The Committee is of the opinion that in the circumstances of the case, this entails the payment of compensation to the family of Mr. Burrell. The State party is under an obligation to ensure that similar violations do not occur in the future.

12. Bearing in mind that, by becoming a State party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case a violation has been established, the Committee wishes to receive from the State party, within ninety days, information about the measures taken to give effect to the Committee's Views.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

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⁴ See CCPR/C/21/Rev.1, page 7, paragraph 7.