

Date:

Communication to:
The Human Rights Committee
c/o OHCHR-UNOG
1211 Geneva 10, Switzerland,

submitted for consideration under the Optional Protocol to the International Covenant on Civil and Political Rights.

I. SUPPLEMENTARY INFORMATION PROVIDED BY THE AUTHOR OF THE COMMUNICATION, A. E. WILSON.

Submitting the communication as: **alleged victim**

An initial correspondence was submitted to the Commission while the alleged victim [“the complainant”] was on death row in the Philippines, seeking its urgent attention and requesting it to take provisional measures to stop the application of the death penalty. After his release, the complainant wrote to the Committee advising it of steps he had taken to seek reparation for the harm suffered as a result of the breach of his rights. He now submits additional information regarding the steps taken and respectfully requests the Committee to take them into account in determining the rights that were violated and the appropriate recourse.

II. STATE CONCERNED

The State concerned is the Republic of the Philippines. While the complainant made reference to both the Republic of the Philippines and the United Kingdom in his previous correspondence of February 2001, he recognizes that the Committee is competent only in respect of the those States who have adopted the Optional Protocol allowing for individual complaints, and therefore confirms that this communication relates to the Republic of the Philippines, only.

III. ARTICLES VIOLATED

The articles of the International Covenant on Civil and Political Rights allegedly violated:

ARTICLES 2(3), 7, 9, 14(1), (2), (3) and (6)

IV. EXHAUSTION OF DOMESTIC REMEDIES

In the case at issue, the lack of an appropriate domestic remedy for violations suffered is the substantive core of this Complaint. In summary, the complainant was convicted of rape and sentenced to death by a Philippines trial court, in a trial which afforded him virtually no procedural guarantees and violated his most basic rights to a

fair trial. The complainant took steps to appeal the verdict, and the Supreme Court of the Philippines eventually overturned the trial court decision and a verdict of acquittal was entered. In addition, the Complainant sought by all possible means to seek a remedy for the various human rights violations he suffered during the course of the proceedings. In this respect, he maintains that he has been denied an effective domestic remedy. On his release from death row, the complainant was ordered to pay the Bureau of Immigration fees and fines amounting to **P22,740.00** for overstaying on his tourist visa. This order covered the entirety of the time spent incarcerated, and had he not paid, he would not have been allowed to leave the country. On his return to the United Kingdom, the complainant sought compensation pursuant to Philippines law for miscarriage of justice and unjust imprisonment. The law provides for the amount of compensation to be determined by month of imprisonment, and the amount offered to the complaint was approximately ¼ of the amount he should have been awarded pursuant to this law. The complainant was also put on a list of excludable aliens for having overstayed his tourist visa and having been convicted of a crime involving mortal turpitude.

The complainant made use of all domestic judicial or administrative avenues that offered him a reasonable prospect of redress:

Immigration fees and fines: The immigration fees and fines were paid by the Embassy of the United Kingdom, which had, at the time, full control over the complainant's personal finances. There was no opportunity for the complainant to dispute these fees or fines when he was first ordered to pay them, as he was emerging from death row and was told that he would only be able to leave the country if they were paid. Immediately on his return to the United Kingdom, the complainant sought to be reimbursed for repayment of immigration fees and fines (denoted as tourist visa fees), and sent a number of correspondences to the Philippines Bureau of Immigration. A series of diplomatic measures were undertaken by the United Kingdom Ambassador to no avail. Additionally, the organization REDRESS sought clarification from the Bureau of Immigration on the matter and received no response.

Compensation: The complainant applied for his award of compensation to be reconsidered. The Philippines government replied to the complainant's communication by return letter, though the substance of the complainant's request for reconsideration was not addressed. The letter merely set out the payment schedule for awards but did not specify why the complainant's award was not consistent with that schedule. No formal decision on appeal was ever received by the complainant, despite the additional requests for clarification made by the organization REDRESS.

Excludable Alien: The complainant was also excluded from the Philippines on the grounds that he was convicted of a crime involving moral turpitude and that he had overstayed his tourist visa. The complainant applied for a temporary visitor's visa to return to the Philippines to visit his family. The organization REDRESS made inquiries on his behalf into the reasons for his name being included in the list of excludable aliens when in fact he was acquitted of all charges, and explaining the reason for his prior overstay of his tourist visa, and received a reply on 22 August 2001 which provided that: "if you want to secure travel certification, you may visit our verification and certification section located at the ground floor of the Bureau of Immigration

building. The processing fee is P510.00 per person.” It would clearly not be feasible for the complainant to attend in the Philippines to determine why he cannot be granted entry, and to lodge a dispute regarding entry from within the Philippines. It is submitted that such an imposition could not constitute a remedy which would need to be exhausted for the purposes of admissibility.

Treatment and conditions of detention: The complainant attempted to raise concerns regarding the treatment he received and the conditions of detention with prison authorities though this remedy was not effective in that the prison guards to which the complainant had access to were those responsible for the ill-treatment and conditions he was subjected to.

Civil Remedies: The complainant additionally sought to lodge a civil suit for reparation, in recognition that the administrative remedy of compensation provided by the State, as detailed above, would not take into account the extent of physical and psychological suffering that the complainant continues to endure. He was not eligible for legal aid to pursue this action in the Philippines, nor was he able to secure the assistance of pro-bono Philippines lawyers from outside of the country, though he made numerous attempts.

V. OTHER INTERNATIONAL PROCEDURES

This matter has not been submitted for examination under any other procedure of international investigation or settlement.

VI. FACTS OF THE CLAIM

The complainant is a British national who first came to the Republic of the Philippines as a tourist in 1990. He formed a close relationship with a Philippines national during this visit, and based himself in the Philippines from then on, aside from short trips to the United Kingdom. The complainant lived in the Philippines with the Philippines national and her two children from a previous marriage.

As a result of a complaint filed by the natural father of the complainant’s step-daughter, the complainant was arrested without warrant on 16 September 1996. At the time of the ‘arrest’, the complainant was traveling on foot along a public road in the direction of his home in the company of his partner and a friend. A group of men heavily armed and dressed entirely in black jumped out at him and took control of him by force. He was not advised of his rights in accordance with relevant domestic law and international standards. The complainant was taken by force to a police station, without understanding what was going on or why he was being taken. At the time, the complainant spoke almost none of the national language, and therefore had no idea of what was transpiring.

At the police station, he was held in a 4 x 4 ft cage with three others for two days. The complainant was charged with attempted rape on the second day, 17 September 1996, then transferred to Valenzuela Municipal jail whereafter the charge was changed to rape. At the Valenzuela jail, the complainant was beaten and ill-treated in

what he describes as a concrete coffin. This 'cell' (approximately 16 x 16 ft) held over 40 prisoners with only a six inch air gap some 10 ft from the floor. The complainant witnessed one inmate being shot by a guard, simply because the guard was drunk. The complainant himself had a gun placed to his head on more than one occasion by a drunken guard. He had the bottom of his feet struck by a guard's baton, and was hit by other inmates on the order of guards. The complainant was ordered to strike other prisoners and was beaten when he refused to do so.

The trial

The complainant maintained from the outset that the allegation regarding the rape of his step-daughter had been fabricated, and entered a plea of not guilty when brought before a judge. Trial on the merits took place between 6 November 1996 and 15 July 1998. The complainant's step-son and partner (mother of 'victim') both testified to having been in the house at the time the incident was alleged to have taken place, and indicated that it would not have been possible for the incident as alleged by the step-daughter, to take place without their knowledge. Medical evidence procured during the trial contradicted the allegation. Not only was there no evidence to support the allegation, the evidence that was procured demonstrated that the act could not have taken place as alleged.¹ The testimony of Dr. Renato Bautista, the supervising medical legal officer of the National Bureau of Investigation was not given any weight, given that he did not examine the victim.² The defense tried to call Dr. Lyra Ruth Clemente-Teodoro, head of the Obstetrics and Gynecology Dept at Manila Central University to give expert testimony on the medical evidence, though the trial court judge decided that she "is not the proper authority to dispute the findings of Doctor Rosaline Cosidon, a qualified medico legal officer of the PNPCL who actually conducted the physical and the genital examination of the victim."³

On 17 January 1997, J/Sr Supt Virgillio Tenebro, of the IMCB Inspection Team of the Republic of the Philippines Department of the Interior and Local Government wrote to the Special Assistant for Law Enforcement regarding the evidence in the complainant's

¹ The day after the event was alleged to have occurred, the complainant's step-daughter was brought to the Philippine National Police Crime Laboratory for a physical examination and it was found that there were no signs of external application of trauma. The evidence showed that she had healed lacerations at 5 and 7 o'clock and that her hymen had been broken. Medical evidence presented was that vaginal lacerations take at least a few days to heal and that had the event taken place as alleged, fresh lacerations would have been found. At p. 41 of the judgment of the trial court, the judge grossly misapplied the testimony of experts, and overruled their conclusions with his own lay opinion.

² . Dr. Bautista testified "that with the said findings, the introduction of a 2.5 blunt object and inserted inside the vagina without jelly or foreplay or when the vagina canal is dry will definitely create fresh lacerations noticeable within 24 hours at the time of the examination. That the elasticity of the hymen is only to a certain extent. That in the examiner's report, it states that the subject is no longer a virgin. That if there was complete penetration or full introduction of a 2.5 cm object into the private part of the victim together with the pumping action on the day prior to the examination, there will be a fresh laceration despite the fact that the subject is no longer a virgin. That the allegations of the victim that the accused forcibly had sexual intercourse with her 24 hours prior to the examination is not true." Decision of the trial Court, p. 32.

³ See Decision of the Trial Court, p. 30. See also letter dated 17 April 1998 from Dr. Clemente-Teodoro to Mr. Wilson.

case, requesting a background investigation on the complainant, stating that "there is a great possibility that the husband (Pio Sr) performed the carnal act with his own daughter and to cover this, he intimidated and forced his daughter to file a complaint against Albert Ernest [the complainant] in order to extort money from the suspect to sustain his vice, besides being a drug addict can do anything just to satisfy his wants."

Despite glaring discrepancies and inconsistencies in the evidence before the trial court, and evidence of several witnesses including the closest relatives of the supposed victim, to the effect that the story of rape had been fabricated as part of a plot by her father to extort money from the complainant, the trial resulted in a finding of guilt by the trial court, and a sentence of death was imposed, and the complainant was ordered to indemnify the offended party to the sum of P50,000.00.⁴

Death Row

The complainant was immediately placed on death row in Muntinlupa, a State prison containing over 10,000 inmates in total. Death row inmates were kept in three dormitories housing over a thousand inmates.

The conditions of detention on death row were excruciatingly difficult for all death row inmates, but particularly for foreigners, who were continually extorted by other inmates with the acquiescence and in some cases on the direct instruction of the prison authorities. Media records of the time in which the complainant was incarcerated demonstrate that the Muntinlupa prison was controlled by gangs and corrupt officials. Several high-ranking prison officials were sentenced for extortion of prisoners during that time and large amounts of weapons including guns and grenades were discovered in cells. The complainant was entirely at the mercy of criminal gangs that ran the prison with the acquiescence of prison officials. Great pressure was placed on the complainant to obtain money to support both gangs and prison officials with various forms of mental and physical torture used to "persuade" him.

There were no guards within the dormitory and the individual cells, which contained over 200 inmates, both those under appeal and those who had exhausted all appeals, remained unlocked at all times. All money and personal items had been taken from the complainant during his transportation to the Prison and for the first three weeks the complainant had no visitors, and therefore no basic necessities such as soap or bedding. His only food consisted of cooked unwashed rice and other non-digestible foods such as small dried fish. Water on death row was non-potable and came from open stand-pipes for a few hours a day. Sanitation consisted of two non flushing toilet bowls in an area which was also the communal shower shared by over two hundred prisoners.

The complainant was forced to pay for the 8ft by 8ft area in which he slept and to financially support the eight nationals who shared it with him. The complainant was

⁴ Section 11 of Republic Act No. 7659 provides that: "... the death penalty shall also be imposed if the crime of rape is committed with any of the following attendant circumstances: 1. When the victim is under eighteen (18) years of age and the offender is a parent, ascendant, step parent, guardian..."

forced to sleep alongside drug deranged individuals and persons who would deliberately deprive him of sleep constantly. He was forcibly tattooed with the mark of a gang, which he will now carry for life. Inmates were stretched out on a bench on public display and beaten across the back of the thighs with a two by two piece of wood. Others were taken aside to be "taught a lesson". The fear was such that one supporter petitioned the government for segregation of foreign nationals and disclosed that petition to the media.

The complainant characterizes his time on death row as living like an animal in constant fear, living by his wits and the charity of his visitors. He watched six inmates walk to their own execution while he was imprisoned there, while five others died from violent prison death during the same time. One inmate seen running across the prison compound with a knife was simply shot by guards. On another occasion the Embassy chaplain was held, locked in, on death row by inmates as a violent incident took place in the compound outside. One visitor felt so badly threatened by inmates that he was never able to return to visit on death row.

Even now, the complainant is not able to sleep for any period or in any regular pattern; he is not able to move freely without the ever present fear that will not leave him; he is always wary and looking over his shoulder; and has lost all ability to place trust in others. The complainant went into prison the owner of several properties and comfortable in life and came out destroyed both financially and in many ways emotionally. He considers himself a "dead man," just a shell that exists with no "life" inside for him. During his time on death row he came close to death through the prison conditions and suicidal depression. He was saved only by the charity of a nun who visited death row itself.

The complainant suffered physically and psychologically while on death row. In addition to the treatment and awful conditions that he was subjected to, he was tormented by the fact that he would be executed for a crime that he knew he did not commit, and powerless in the face of a justice system that not only let him down, but proved itself to be brutally unfair and biased in his case. His suffering was severe, in that he felt total helplessness and hopelessness.

Appeal

After the complainant was on death row for approximately 1.5 years, on 25 October 1999, the Solicitor General lodged a manifestation and motion with the Supreme Court acknowledging that the rape charge was a fabrication, and recommending a reversal of the lower court's decision. On 21 December 1999, the Supreme Court reversed the decision of the trial court and set aside the conviction, and ordered the complainant's immediate release from custody. It described the accusation made against the complainant and which resulted in the charges leading to his conviction as "not worthy of credence".

Tourist Visa Fees

On his release, the Immigration Commissioner ordered that the complainant be required to pay fees and fines to the Bureau of Immigration for overstaying on his tourist visa. Specifically, on 22 December 1999, the Bureau of Immigration ordered

the lifting of a Hold Departure Order, on condition of the payment of the fees and fines, amounting to **P22,740.00**. The order covered the entirety of the time spent incarcerated. He was forced to pay these fees and fines in order to leave the country, and in fact, the Embassy of the United Kingdom, which had custody of the complainant's monies and personal possessions, paid these fines on the complainant's behalf.

Tourist Visa Fees

The assessment of immigration and alien registration fees and other charges placed him in a situation of double jeopardy, particularly given the fact that the reason for his overstay on his visa related specifically to the fact that he was detained by the Philippines authorities. The British Embassy and the British Ambassador tried through diplomatic means to recover these funds to no avail. The complainant wrote to the Bureau of Immigration on 19 December 2000 to request that this situation be remedied, though he did not get a reply. On 24 July 2001, a subsequent letter was written to the Philippines Supreme Court, through the Commissioner of the Bureau of Immigration by the organization REDRESS, on behalf of the complainant contesting the requirement that the complainant pay immigration fees and fines for the time he was incarcerated and requesting an immediate reimbursement. No reply was received to this correspondence.

Excludable Alien

The Complainant was also excluded from the Philippines on the grounds of this conviction and that he had overstayed his tourist visa. Commonwealth Act No. 613 [The Philippines Immigration Act of 1940] Section 29, Paragraph 15 which provides that "Persons who have been excluded or deported from the Philippines, but this provision may be waived in the discretion of the Commissioner of Immigration: provided however that the Commissioner of Immigration shall not exercise his discretion in favor of aliens excluded or deported on the ground of conviction for any crime involving mortal turpitude ..." The Complainant applied for a temporary visitor's visa to return to the Philippines to visit his family and was advised on 9 August 2001 that his name was included on the Bureau of Immigration's list of excludable aliens. The organization REDRESS made inquiries on his behalf into the reasons for his name being included in the list of excludable aliens when in fact he was acquitted of all charges, and received a reply on 22 August 2001 which provided that: "if you want to secure travel certification, you may visit our verification and certification section located at the ground floor of the Bureau of Immigration building. The processing fee is P510.00 per person." It would clearly not be feasible for the complainant to attend in the Philippines to determine why he cannot be granted entry, and to dispute same. The decision denying the complainant entry into the Philippines sought to further punish the complainant for a crime of which he had been acquitted (and for which compensation had been awarded) and which contravened his entitlements under Philippines legislation regarding "the rights of the family."

Compensation

Republic Act 7309 creates a board of claims under the department of justice for victims of unjust imprisonment or detention and victims of violent crimes and for

other purposes. Under s. 4 of this Act, for victims of unjust imprisonment or detention, the compensation shall be based on the number of months of imprisonment or detention and every fraction thereof shall be considered one month. The complainant applied for compensation under this act, and on 1 January 2001, he was awarded p14,000.00 (approx £200). He was not advised of this award until he wrote to the Department of Justice on 7 February 2001. In response to this inquiry, he received a reply dated 21 February 201 from the Ministry of Justice stating that his application was successful and that a cheque was ready to be picked up in the Philippines: "It has been a policy that only the name registered on the BOC [Board of Claims] check is allowed to pick-up the same with corresponding identification card for proper identity." The complainant wrote to the Board of Claims on 12 March 2001 asking them to reconsider the award issued, given that the amount of the award did not correspond with the amount that he should have received under the law [he was incarcerated for 40 months, this should have resulted in an award of P40,000.00]. On 23 April 2001, he received a response which specified that:

"on August 2, 2000, former Secretary of Justice, Artemio Tuquero issued a Memorandum (copy attached) directing the Board of Claims to raise the maximum amount that can be paid to those who are unjustly imprisoned or detained to P60,000.00 at the rate of P1,000.00 for each month of incarceration, subject to the availability of funds. ... However, be informed that the person liable for your misfortune is the complainant who accused you of rape."

The complainant did not receive any additional replies, or clarifications regarding the discrepancy of his award. On 25 July 2001, the organization REDRESS wrote to the Board of Claims on behalf of the complainant confirming the length of time that the complainant was incarcerated and advising them.

VII. ANALYSIS REGARDING BREACHES OF CERTAIN ARTICLES OF THE COVENANT

Article 14(1), (2) and (3) Right to a fair trial and to be presumed innocent

The right to a fair trial is an absolute right that may suffer no exception. Article 14(2) of the ICCPR provides that "Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law." The Human Rights Committee's General Comment specifies that: "By reason of the presumption of innocence, the burden of proof of the charge is on the prosecution and the accused has the benefit of doubt. No guilt can be presumed until the charge has been proved beyond reasonable doubt. Further, the presumption of innocence implies a right to be treated in accordance with this principle. It is, therefore, a duty for all public authorities to refrain from prejudging the outcome of a trial".⁵

It is the position of the complainant that the conduct of the trial violated his right to be presumed innocent in accordance with Article 14(2) of the ICCPR. In weighting the evidence, the trial court provided that: "The Accused's defense is denial. He denied

⁵ Equality before the courts and the right to a fair and public hearing by an independent court established by law (Art. 14) : . 13/04/84. CCPR General comment 13, par. 7.

having sexually molested/abused the minor complainant Veronica Pasco (Nica). His denial, however, cannot prevail over the positive assertions of the minor-victim." While it is acknowledged that it is not the role of the Human Rights Committee to evaluate facts and evidence in any given case, a review of the trial court transcript would demonstrate, it is submitted, that the procedure employed by the trial court judge and the analysis and findings made by the trial court judge were manifestly unsound and contravened the complainant's right to be presumed innocent.

In view of the irreversible nature of the death penalty, trials in capital cases must scrupulously observe all international standards protecting the right to a fair trial. All safeguards and due process guarantees set out in international standards applicable during pre-trial, trial and appellate stages must be fully respected. Paragraph 4 of the United Nations Safeguards guaranteeing protection of the rights of those facing the death penalty⁶ provides that the death penalty may be imposed only when the guilt of the accused person "is based upon clear and convincing evidence leaving no room for an alternative explanation of the facts."

Article 7: Torture Or Cruel, Inhuman And Degrading Treatment Or Punishment

It is submitted that the complainant's time spent on death row constituted torture or cruel, inhuman and degrading treatment or punishment, in contravention of Article 7 of the Covenant. The death row phenomenon is caused by prolonged detention on death row, which causes ever-increasing mental anxiety and mounting tension over one's impending death. The death row phenomenon therefore constitutes a form of mental distress which might raise article 7 issues.⁷ In General Comment 20, the Human Rights Committee made the following general statements on the definition of the acts prohibited by Article 7: "... The aim of the provisions of Article 7 of the ICCPR is to protect both the dignity and the physical and mental integrity of the individual. It is the duty of the State Party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by article 7... The determination of whether article 7 treatment has occurred is in part a subjective evaluation."⁸

It is noted that in the jurisprudence of the Human Rights Committee, the 'death row phenomena' is not found to be in and of itself torture or cruel, inhuman and degrading treatment or punishment, nor is the length of time spent on death row necessarily determinative of whether or not a violation of Article 7 will be found. However, the Committee has taken the view, reflected in the second optional protocol to the Covenant, that article 6 'refers generally to abolition in terms which strongly suggest that abolition is desirable'.⁹ Following from this, and other UN statements and resolutions limiting recourse to the death penalty to the most serious offenses, and ensuring the utmost of procedural guarantees, it would be necessary to analyse the

⁶ Adopted by the UN Economic and Social Council and endorsed by the UN General Assembly in 1984.

⁷ Soering v. UK, Judgment of 7 July 1989, Series A, No 161 (1989) 11 EHRR 439; Pratt and Morgan v. Attorney-General for Jamaica [1993] 2 AC 1.

⁸ Vuolanne v. Finland, 265/87.

⁹ See General Comment 6 (16) of 27 July 1982 and Preamble to the Second Optional Protocol to the Covenant Aiming at the Abolition of the Death Penalty.)

implications of the complainant's time on death row in light of the massive procedural deficiencies of the complainant's trial. It is argued that in this particular instance, there was a violation of Article 7 of the Covenant because of the patently unfair proceedings before the trial court and the manifestly unsound verdict which resulted and the helplessness and anxiety this placed on the complainant given that he knew he was wrongly convicted. This was further aggravated by the specific treatment and conditions the complainant was subjected to while on death row, as described earlier in this submission.

Article 9 – Right to Liberty and Security of the Person

The complainant's initial arrest took place without warrant and in contravention of Philippines law governing arrests without warrant. Furthermore, at the time of his arrest, the complainant was not informed of the reasons for his arrest in a language that he could understand, nor was he brought promptly before a judge to challenge the legality of his detention.

Article 14(6) – Right To Compensation For Miscarriage Of Justice

An article 14(6) right to compensation may arise in relation to criminal proceedings if either the conviction of a person has been reversed or if he or she 'has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice.'¹⁰ The Committee has elsewhere observed that the conditions for the application of Article 14(6) are: (i) A final conviction for a criminal offence; (ii) Suffering or punishment as a consequence of such conviction; (iii) A subsequent reversal or pardon on the ground of a new or newly discovered fact showing conclusively that there has been a miscarriage of justice.¹¹

The Republic of the Philippines recognized that the complainant was entitled to compensation for miscarriage of justice in accordance with Republic Act 7309. The complainant submits that once having put in place a procedure which recognized the complainant's right to compensation, the Republic of the Philippines had an obligation to ensure that any compensation that was awarded was fair and adequate in the circumstances. In this case, the award of compensation was approximately ¼ of what he should have been accorded in respect of Philippines law. The requirement to pay immigration fees and fines virtually negated all compensation awarded – the complainant was forced to pay the Republic of Philippines on his release from death row.

Article 2(3): Right to an effective and enforceable remedy

Article 2(3) requires each State party to undertake to ensure that any person whose rights or freedoms have been violated shall have an effective and enforceable remedy.¹² In the case at issue, the Republic of the Philippines has to the contrary, ensured that the complainant has received no remedy. Instead of being adequately compensated for miscarriage of justice and other violations of his fundamental rights

¹⁰ Muhonen v. Finland (89/81). See also, WJH v. Netherlands (408/90).

¹¹ See, for example W.J.H. v. the Netherlands, Communication No. 408/1990, UN Doc CCPR/C/45/D/408/1990 (1992).

¹² See Ex-Philibert v. Zaire, where the Committee found a separate violation of Article 2(3).

including torture and unlawful detention, he was forced to pay the Republic of Philippines for the time he was unjustly held in prison, and remains on the list of excludable aliens, despite having fully cleared his name and having no outstanding charges against him. The complainant respectfully submits that this amounted to double jeopardy in that it constituted an additional form of punishment for a crime of which he was acquitted.

The Human Rights Committee in its General Comment 7 regarding the prohibition of torture, noted at paragraph 14 that: "Article 7 should be read in conjunction with article 2, paragraph 3, of the Covenant. In their reports, States parties should indicate how their legal system effectively guarantees the immediate termination of all the acts prohibited by article 7 as well as appropriate redress.

All of which is respectfully submitted.

Albert Ernest Wilson

Date