



Finn v. Jamaica

Communication No. 617/1995

Country: Jamaica

Region: Americas

Year: 1998

Court: United Nations Human Rights Committee United Nations Human Rights Committee

Health Topics: Prisons

Human Rights: Freedom from torture and cruel, inhuman or degrading treatment, Right to due process/fair trial, Right to liberty and security of person

Facts

Finn (F) was arrested in 1987 and alleged that he was beaten on his way to the police lock up. He also alleged that threats were then made against his life and that he was given no medical treatment. F claimed that complaints about this ill treatment were not responded to. He was charged, together with two others, with the murder of a woman and her son.

F alleged that a lawyer was first made available to him one month and two weeks after his arrest and that he did not meet with him before the preliminary hearing. He further alleged that he only met another lawyer assigned for the trial once - for fifteen minutes - before it was held and was not able to discuss its progress during the hearing. The prosecution relied on testimony from the deceased's relatives who had identified F as being involved in the killings. No identification parade had been held and F, who had presented an alibi defence, was identified by one of the relatives from the dock. F claimed that there was an improper admission of an inculpatory statement made by one of the deceased to the investigating officer and that the trial judge had aggravated this prejudice by suggesting to the jury that he had been arrested because of that evidence. No witnesses were called on his behalf.

F was convicted in 1990 and sentenced to death but the third accused was acquitted on the judge's direction. Although F's application for leave to appeal was subsequently abandoned, it was considered with that of L and dismissed by the appeal court. F claimed that he only met the lawyer acting for the appeal (who had also represented him at the trial) once before the hearing. This lawyer had stated to the appeal court that he had consulted with F prior to the hearing and had advised him that there were no grounds to argue on his behalf. F claimed that he signed the abandonment in the belief that this was only to put off the case.

F alleged that the prison in which he was being held was holding more than twice its intended capacity, had no mattresses, other bedding or furniture in the cells, was constantly short of soap, toothpaste and toilet paper, and had no integral sanitation in the cells. He also alleged that the quality of food and drink was very poor, there were only small air vents through which natural light could enter the cells, there were no recreational, rehabilitation, and other facilities, and medical problems were generally treated by warders with limited training as there was no doctor attached to the prison. F claimed that he was confined to his cell for twenty-two hours each and every day and that he spent this time in darkness with nothing to keep him occupied.

F's death sentence was commuted to life imprisonment in 1995. F complained about the length of his detention on death row (almost five years), the conditions in which he had been detained, the undue delay in the judicial proceedings against him, the admission of the prejudicial statement, the judge's instructions to the jury, the dock identification, the inadequate time to prepare his defense and the prejudicial effect of the notice of abandonment of appeal. He alleged violations of the International Covenant on Civil and Political Rights ("ICCPR").

[Adapted from INTERIGHTS summary, with permission]

Decision and Reasoning

The Committee held that, given the very precise allegations relating to the instance where F was beaten and Jamaica's simple statement that there had been no breach of the ICCPR, due weight must be given to the former and there was, therefore, a violation of Articles 7 and 10(1). The Committee further held that, given

the very precise allegations relating to the deplorable conditions of his detention and the failure of Jamaica to address them, this confinement was a violation of Article 10(1). Finally, the Committee found that the delay in bringing F to trial was a violation of Articles 9(3) and 14(3)(c) since this was not sufficiently explained by Jamaica's mere affirmation that it did not constitute a violation of the ICCPR.

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Decision Excerpts

"With regard to the author's complaints of ill-treatment while in police detention, the Committee notes that author has made very precise allegations relating to the incident in which he was beaten (see paragraph 3.2 supra). It notes the State party's contention that if despite the issue being put to defence counsel nothing was done, it must mean that the author was not truly ill. The Committee reiterates its jurisprudence where it has held that it is insufficient for the State party to simply say that there has been no breach of the Covenant. Consequently, the Committee finds that in the circumstances where the State party has not provided any evidence in respect of the investigation it alleges to have carried out, due weight must be given to the author's allegations. Accordingly, the Committee finds that there has been a violation of articles 7 and 10, paragraph 1, of the Covenant." Para. 9.2.

"With regard to the conditions of detention while on death row at St. Catherine's District Prison, the Committee notes that the author has made specific allegations about the deplorable conditions of his detention. He claims that he is kept in a cell for twenty-two hours a day, most of the time in enforced darkness with nothing to occupy himself with. The State party has not addressed these specific allegations. In these circumstances, the Committee finds that confining the author under such circumstances constitutes a violation of article 10, paragraph 1, of the Covenant." Para. 9.3.

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