



Griffin v. Spain

U.N. H.R. Comm., U.N. Doc. CCPR/C/53/D/493/1992 (Apr. 5, 1995).

Country: Spain

Region: Europe

Year: 1995

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

Health Topics: Controlled substances, Mental health, Prisons

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

Facts

The petitioner, a Canadian citizen, was arrested along with two acquaintances when the group attempted to enter Spain with large quantities of hashish concealed in their vehicle. The petitioner claimed to have no knowledge of the contraband, and his acquaintances also told police that he was innocent of any wrongdoing. Nevertheless, the examining magistrate incarcerated the petitioner when he admitted to having a drug-related conviction twenty years prior. The petitioner claimed that he managed to retain a lawyer, but she demanded unreasonable fees, did not work with the petitioner to prepare his defense, and proceeded to work with the petitioner without a translator despite the fact that he could not communicate with her in Spanish. The petitioner subsequently received a sentence of more than eight years imprisonment. The court later assigned him a legal aid lawyer to represent his appeal, but he was unable to find out the identity of his new attorney despite numerous attempts. He subsequently began a hunger strike to enforce his right to a fair trial, which he decided to end after the Supreme Court dismissed his appeal without his presence.

The petitioner claimed that he suffered extreme depression as a result of his treatment. In addition, he claimed that the conditions of his detention constituted cruel, inhuman and degrading treatment and punishment. More specifically, he claimed that, prior to his trial, authorities held him in detention with inmates convicted of serious crimes; that authorities later transferred him to a 500 year-old prison that was infested with vermin and diseases; held 30 prisoners in single cells; did not separate men from women; had a high rate of suicides, self-mutilation and violence; had feces on the floor due to overflowed toilets; used sea-water for showers and even drinking water; and provided urine-soaked blankets despite the availability of clean linens.

The petitioner claimed that the difficulties he experienced with his attorney and with the Spanish judiciary violated Article 14 (right to fair trial) of the International Covenant on Civil and Political Rights (ICCPR), as well as Article 26 (right to equal protection) and Article 9 (1) and (2) (right to liberty and security of person). The petitioner also claimed that the treatment he experienced in detention constituted cruel, inhuman, and degrading treatment and punishment in violation of Article 7 of the ICCPR, in addition to violations of his rights under Articles 10 (a person deprived of liberty's right to be treated with humanity and with respect for the inherent dignity of the human person), 17 (right to privacy) and 26 (right to equal protection).

The State claimed that the complaint was inadmissible because the petitioner had not exhausted domestic remedies insofar as he could have filed a further appeal to the Constitutional Court. The State also claimed that its Ombudsman sufficiently monitored and eliminated instances of ill treatment in its prisons. The U.N. Human Rights Committee declared the complaints made under Articles 9(1) (right to liberty and security of person), 17 (right to privacy) and 26 (right to equal protection) of the ICCPR inadmissible. However, it found the petitioner's allegations concerning the prison conditions admissible under Article 10 (a person deprived of liberty's right to be treated with humanity and with respect for the inherent dignity of the human person), instead of Article 7 (freedom from torture and cruel, inhuman and degrading treatment) declared his claims made under Articles 9(2) (right to be informed, at the time of arrest, of the reasons for his arrest and be promptly informed of any charges) and 14 (right to fair trial) admissible as well.

Decision and Reasoning

The Committee concluded that Spain did not violate Article 9(2) (informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges), insofar as it promptly notified the

petitioner, in English, of the charges held against him. Spain also did not violate any provisions under Article 14 (right to fair trial) because the petitioner did not complain about the competence of his interpreter to the judge and because the petitioner did not utilize other options for legal representation available to him.

However, Spain violated the petitioner's right to be treated with respect and human dignity under Article 10(1) and (2), because it failed to provide information on the conditions of detention in the particular prison during the time the petitioner was detained. Additionally, according to the Committee, the petitioner sufficiently substantiated his claim that he was held with individuals already convicted of serious crimes during his pre-trial detention. The petitioner was entitled to compensation for those periods of his detention.

Decision Excerpts

"3.1 The author claims that he has been subjected to cruel, inhuman and degrading treatment and punishment during his incarceration at the prison of Melilla. The living conditions in this prison are said to be "worse than those depicted in the film 'Midnight Express'; a 500-year old prison, virtually unchanged, infested with rats, lice, cockroaches and diseases; 30 persons per cell, among them old men, women, adolescents and an eight-month-old baby; no windows, but only steel bars open to the cold and the wind; high incidence of suicide, self mutilation, violent fights and beatings; human faeces all over the floor as the toilet, a hole in the ground, was flowing over; sea water for showers and often for drink as well; urinesoaked blankets and mattresses to sleep on in spite of the fact that the supply rooms were full of new bed linen, clothes etc. He adds that he has learned that the prison has been "cleaned up" since the riots, but that he can provide the Committee with a list of witnesses and with a more detailed account of conditions and events in the said prison."

"9.3 As to the author's claim of a violation of article 10, on account of his conditions of detention, the Committee notes that they relate primarily to his incarceration at the prison of Melilla, where he was held from 18 April to 28 November 1991. Mr. Griffin has provided a detailed account about those conditions (see para. 3.1 above). The State party has not addressed this part of the author's complaint, confining itself to his treatment in the prison of Malaga, where he was transferred after his detention at Melilla, and to setting out relevant legislation. This apart, it has merely indicated that the old prison of Melilla was replaced by a modern penitentiary in the summer of 1993. In the absence of State party information on the conditions of detention at the prison of Melilla in 1991, and in the light of the author's detailed account of those conditions and their effect on him, the Committee concludes that Mr. Griffin's rights under article 10, paragraph 1, have been violated during his detention from 18 April to 28 November 1991."