



A v. New Zealand

U.N. Doc. CCPR/C/66/D/754/1997 (Aug. 3, 1999).

Country: New Zealand

Region: Oceania

Year: 1999

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

Health Topics: Mental health

Human Rights: Right to due process/fair trial, Right to liberty and security of person

Facts

The applicant had developed an obsession with a young woman he had met and had begun pursuing her persistently. He was convicted of assault after grabbing her by the wrists to make her stop and talk to him. He was subsequently examined by a psychiatrist and was diagnosed as having elements of a paranoid personality. The psychiatrist did not, however, consider him committable under the Mental Health Act. The applicant was sentenced to four months of periodic detention but continued to pursue the young woman and was again arrested and charged. His continued detention was obtained through a court order under the Mental Health Act Section 73(a) cited as necessary for his own good and the good of the public. Eventually, after several of his attempted applications for release, his application under section 79(1)(a) of the Mental Health Act, the Mental Health Review Tribunal discharged him from compulsory status.

The applicant complained that his original detention under the Mental Health Act was unlawful and that authorities, not being convinced that he was mentally disordered, acted unlawfully in not discharging him. He further contended that the yearly review hearings by a panel of psychiatrists were unfair as he was not allowed to call witnesses or access any of the documents being used as the basis of his continued detention. The applicant accordingly claimed violations of his rights under Articles 7 (freedom from cruel, inhuman, and degrading treatment), 9 (right to liberty and security of person), 10 (guaranteed dignity of detained persons), 14 (equal before the law), 17 (right to privacy, family, honor, and reputation), 18 (freedom of thought, conscience, and religion), 19 (right to hold opinions without interference), and 26 (freedom from discrimination) of the International Covenant on Civil and Political Rights (ICCPR).

Decision and Reasoning

"7.3 The Committee further notes that the author's continued detention was regularly reviewed by the Courts and that the facts of the communication thus do not disclose a violation of article 9, paragraph 4, of the Covenant. In this context, the Committee has noted the author's argument that the decision by Unwin J not to dismiss him from compulsory status was arbitrary. The Committee observes, however, that this decision and the author's continued detention were reviewed by other courts, which confirmed Unwin J's findings and the necessity of continuation of compulsory status for the author. The Committee refers to its constant jurisprudence that it is for the courts of States parties concerned to review the evaluation of the facts as well as the application of the law in a particular case, and not for the Committee, unless the Courts' decisions are manifestly arbitrary or amount to a denial of justice. On the basis of the material before it, the Committee finds that the Courts' reviews of the author's compulsory status under the Mental Health Act did not suffer from such defects."

Decision Excerpts