



**International covenant  
on civil and political  
rights**

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HUMAN RIGHTS COMMITTEE  
Ninety-first session  
15 October to 2 November 2007

**VIEWS**

**Communication No. 1426/2005**

<u>Submitted by:</u>	Raththinde Katupollande Gedara Dingiri Banda (represented by counsel, the Asian Legal Resource Centre)
<u>Alleged victim:</u>	The author
<u>State Party:</u>	Sri Lanka
<u>Date of communication:</u>	20 June 2005 (initial submission)
<u>Document references:</u>	Special Rapporteur's rule 97 decision, transmitted to the State party on 23 August 2005 (not issued in document form)
<u>Date of adoption of Views:</u>	26 October 2007

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

*Subject matter:* Ill-treatment of army officer by other members of the armed forces

*Procedural issue:* non-substantiation of claim

*Substantive issues:* prohibition of torture and cruel, inhuman and degrading treatment: right to security of the person; right to an effective remedy

*Articles of the Covenant:* article 7; article 9; article 2, paragraph 3

*Article of the Optional Protocol:* article 2

On 26 October 2007, the Human Rights adopted the annexed text as the Committee's Views, under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 1426/2005.

[ANNEX]

**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

Ninety-first session

concerning

**Communication No. 1426/2005\***

<u>Submitted by:</u>	Raththinde Katupollande Gedara Dingiri Banda (represented by counsel, the Asian Legal Resource Centre)
<u>Alleged victim:</u>	The author
<u>State Party:</u>	Sri Lanka
<u>Date of communication:</u>	20 June 2005 (initial submission)

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

Meeting on 26 October 2007,

Having concluded its consideration of communication No. 1426/2005, submitted to the  
Human Rights Committee by Raththinde Katupollande Gedara Dingiri Banda, 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 author of the communication, dated 20 June 2005, is Raththinde Katupollande Gedara  
Dingiri Banda, a Sri Lankan national born on 24 February 1962. He claims to be a victim of  
violations by Sri Lanka of article 7; article 9, paragraph 1; and article 2, paragraph 3, of the

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\* The following members of the Committee participated in the examination of the present  
communication: Mr. Prafullachandra Natwarlal Bhagwati, Ms. Christine Chanet, Mr. Maurice  
Glèlè Ahanhanzo, Mr. Yuji Iwasawa, Mr. Edwin Johnson, Mr. Ahmed Tawfik Khalil,  
Mr. Rajsoomer Lallah, Ms. Zonke Zanele Majodina, Ms. Iulia Antoanella Motoc, Ms. Elisabeth  
Palm, Mr. José Luis Pérez Sanchez-Cerro, Mr. Rafael Rivas Posada, Sir Nigel Rodley, Mr. Ivan  
Shearer and Ms. Ruth Wedgwood.

Covenant. He is represented by counsel, the Asian Legal Resource Centre. The Covenant and the Optional Protocol entered into force for the State party on 11 September 1980 and 3 January 1998, respectively.

### **The facts as presented by the author**

2.1 The author was an officer in the Gajaba regiment of the Sri Lanka Army. On the night of 21 October 2000, he was asleep at his quarters at the Saliyapura camp. Just after midnight, two superior officers came and physically assaulted him. As a result of the assault, the author suffered severe injuries and was admitted to the Military Hospital of Anuradhapura the following day. He was soon moved to the General Hospital of Anuradhapura for further treatment, since his condition was deemed critical. On 3 November 2000, he was moved to the intensive care unit of the General Hospital of Kandy where he remained for one month. He remained at this hospital until 26 January 2001. The injuries sustained by the author included renal and respiratory failures, genital bleeding and impairment of liver functions.

2.2 The author was granted leave for medical reasons until 16 February 2001. After that date, he was moved to the Army Hospital in Colombo for a week and granted a further period of sick leave until 20 April 2001. On 21 April 2001, he was admitted to the Centre for Rehabilitation of the Saliyapura Army Camp. Since his health was still deteriorating, he was re-admitted at the Military Hospital of Anuradhapura on 30 April 2001. He was then categorised as a person “not fit enough to handle firearms” by the psychiatrist of the General Hospital of Kandy. On 20 October 2001, he was also categorised as a person destined to “sedentary duties”, since his left kneecap had calcified as a result of the injuries he had suffered. Since then, the author has lost his position in the Sri Lanka army because he was declared unfit to serve in the military.

2.3 The author filed a complaint against the perpetrators of the assault before the Military Court. As a result, the Regimental Commander of the Gajaba Regiment Detachment at the Saliyapura camp ordered an inquiry into the incident. However, the author was not granted any opportunity to present evidence during that inquiry. The Court of Inquiry, composed of officers from the Gajaba Regiment, concluded that the two perpetrators of the assault had acted in an offensive and scandalous manner that caused disrepute to the Sri Lanka Army. Nevertheless, no Court Martial was subsequently convened and the perpetrators were only given a temporary suspension of their promotion. The perpetrators were later promoted and serve today as captains in the Sri Lanka Army.

2.4 Following the submission of a police report, a non-summary inquiry was initiated before the Magistrate’s Court of Anuradhapura against the two perpetrators on charges of attempted murder.<sup>1</sup> On 13 June 2003, the author gave a statement before the court, providing all details about the incident. The inquiry is still on-going after five years. The delay has been caused by the failure of the Medical Officer to send his medical report on the author’s injuries, despite several requests from the Court.

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<sup>1</sup> A non-summary inquiry is a preliminary inquiry for the recording of statements by a magistrate before the indictment is filed at the High Court for a serious crime, e.g. murder or attempted murder.

2.5 On 19 August 2002, the author filed a fundamental rights application in the Supreme Court of Sri Lanka. He was assisted by a *pro bono* counsel assigned to him by the Human Rights Centre of the Colombo Bar Association. In view of several attempts made by the perpetrators to reach a friendly settlement in the matter, the author sent a letter to his counsel dated 25 June 2004 giving him specific instructions not to agree to any settlement with the perpetrators. However, on 28 June 2004, he learnt that his counsel had appeared before the Supreme Court and withdrawn his application. The proceedings before the Supreme Court were thus terminated. He immediately wrote to the Chief Justice and to his counsel to have the case resumed for hearing. He has not received any reply. The author also filed a complaint against his counsel with the Colombo Bar Association. However, no inquiry in this matter has been conducted so far.

2.6 On 14 October 2002, the author filed a civil complaint before the District Court of Anuradhapura, claiming civil damages from the perpetrators. This procedure has also been repeatedly adjourned and no decision has been handed down.

2.7 On 3 September 2004, two unknown persons called at the author's house asking for him. When his sister replied that she did not know where he was, they warned her that they knew how to trace him. Following this incident, the author started to receive death threats, warning him not to proceed with his case. He has been in hiding since 3 September 2004. Despite several requests to this effect from his current counsel, he has not yet been provided with any protection by the authorities.

### **The complaint**

3.1 The author alleges a violation of article 7 of the Covenant, because he was severely assaulted by two Army officers on 21 October 2000. The resulting injuries were so severe that they led to the author being certified as unfit to serve in the Army.

3.2 The author claims a violation of article 9, paragraph 1, of the Covenant because he is under continued threat from his assailants who have successfully evaded any form of punishment for injuring him. He argues that it is not rare for victims of torture in Sri Lanka to be harassed for the mere reason that they pursue their torture case against the police. By failing to take adequate action to ensure that he is protected from threats by those who tortured him or other persons acting on their behalf, the State party has breached article 9, paragraph 1.

3.3 The author further alleges a violation of article 2, paragraph 3, of the Covenant. He recalls that despite four different proceedings initiated by the author, none of the domestic bodies has provided him with an effective remedy against the violation of his rights under the Covenant. He also recalls that the Committee has concluded in the past that the lack of effective remedies was in itself a violation of the Covenant<sup>2</sup> and invokes General Comment No.20 on article 7. In his own case, investigations into the acts of torture were not initiated after five years since the incident. No disciplinary or other action was taken against the alleged perpetrators and the existing proceedings are at a standstill. Moreover, the author has been the object of threats and other acts of intimidation.

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<sup>2</sup> See Communication No. 90/1981, *Luyeye c. Zaire*, Views adopted on 21 July 1983, para.8.

3.4 The author states that his complaint has not been submitted to another procedure of international investigation or settlement. With regard to the issue of exhaustion of domestic remedies, he recalls that he has attempted to obtain redress through a fundamental rights application and before the criminal and civil courts. He has not obtained any result after five years and has even been subjected to threats and other acts of intimidation because he has initiated these procedures. He therefore considers that the remedies are not effective and need not be exhausted.<sup>3</sup>

3.5 The author invites the Committee to recommend that the State party take necessary action to ensure

- that he receives full reparation, including rehabilitation without delay;
- that criminal procedures relating to his assault and torture be concluded promptly;
- that he is not subjected to further threats in connection with the procedures that he has initiated;
- and that appropriate legislative changes be adopted to provide effective, impartial and adequate remedies for the violations of individual rights without delay by ensuring a prompt investigation and trial.

#### **State party's observations on admissibility and merits**

4.1 On 22 February 2006, the State party contested the sequence of events as presented by the author. It recalled that having served at several formations in the Sri Lanka Army, the author had reported for duties to the Saliyapura camp on 20 October 2000. On 24 October 2000, he requested sick leave because he had been found at "fault for unusual rhythm in saluting". Since his behaviour had been thought suspicious, he was brought before the Centre Commander. He did not complain of any assault then. On the same day, he was admitted to the Military Hospital of Anuradhapura. He was later transferred to the General Hospital of Anuradhapura, and then to the General Hospital of Kandy.

4.2 On a complaint made by the author, the Military Police and the civil police initiated investigations into the alleged assault by Captains Bandusena and Rajapaksha from the Gajaba regiment. On 6 November 2000, the Military Police handed the two officers over to the civil police. The following day, they appeared before the Magistrate's Court of Anuradhapura and were remanded in custody. They were released on bail on 22 November 2000. On a complaint made by the author's wife, the Human Rights Commission of Sri Lanka called for a report from the Commander of the Army with regard to the alleged assault. This report was submitted on 20 November 2000. The author also filed a fundamental rights application to the Supreme Court. On 28 June 2004, proceedings in this case were terminated.

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<sup>3</sup> See Communication No.986/2001, *Semey v. Spain*, Views adopted on 30 July 2003, para.8.2; and Communication No. 859/1999, *Jiménez Vaca v. Colombia*, Views adopted on 25 March 2002, para.6.3.

4.3 The Gajaba regiment appointed a Court of Inquiry to investigate the alleged assault. The Court found that the two officers mentioned above had assaulted the author on 21 October 2000. Upon the recommendation of the Commander of the Army, summary trials were held against the two officers who pleaded guilty to the charges against them. By way of punishment, they were awarded forfeiture of seniority of 10 and 9 places in the Officers' Seniority List of the Regular Force of Sri Lanka Army. They were also denied promotions, local and foreign courses and other privileges.

4.4 The State party submits that it was the author who requested, on 16 March 2001, that he appear before an Army Medical Board in order to retire from military service. The Board recommended that he be discharged from the Army on medical grounds and he accordingly retired from the Army on 23 February 2002. He was paid a lump sum and started receiving a monthly pension, as well as an annual disability pension.

4.5 On the alleged violation of article 7, the State party submits that the two officers who assaulted the author were allegedly "ragging" him, as he was a newcomer to the regiment. It notes that the author does not describe the background to this assault and that instead he submitted to the Committee selected extracts of the proceedings before the Magistrate's Court of Anuradhapura. It claims that the text of the full proceedings would have shown why the case was postponed and would have highlighted the weakness of the author's evidence. The State party also submits that any form of ragging newcomers by the seniors is contrary to the rules and regulations pertaining to discipline in the Sri Lanka Army which has established a Court of inquiry and conducted trials against the officers responsible. Since the two officers held the rank of Captain, they were tried summarily. This is normal practice for all officers below the rank of Major. The State party explains that the accused officers received the highest possible punishment which could be given at a summary trial, namely forfeiture of seniority. It also explains that the summary trial held under the Army Act is for all purposes a criminal trial. Therefore, since the two officers were tried and punished, it is now impossible to hold another criminal trial against them based on the same facts. The State party submits that the author has failed to establish a violation of article 7, that the accused officers have been tried and punished, that the maximum possible sentence has been imposed on them, that the Supreme Court has terminated the proceedings on the basis that the author agreed to receive compensation and that the author has claimed damages from the two officers before the District Court.

4.6 On the alleged violation of article 9, paragraph 1, the State party argues that the author never claimed or alleged that he was subjected to any arrest or detention. He has made a vague allegation of being subjected to threats from those who had assaulted him. While he claims that he has made some written requests for protection, he does not state where such complaints were directed to, nor does he submit copies of them. In any case, he should have directed them to the nearest police station or to the Commander of the Army. He thus cannot complain of a violation of article 9, paragraph 1.

4.7 On the alleged violation of article 2, paragraph 3, the State party notes that the author himself admits that he had recourse to four different proceedings. With regard to the summary trial conducted by the Sri Lanka Army, it explains that since the offences were not of the category which had to be tried only by a court martial and on the basis of the ranks held by the accused officers, they could be tried only by a summary trial since they did not make any request

for a court martial. As the officers pleaded guilty, there was no need to present evidence against them. The Court imposed the maximum possible punishment that could be imposed at a summary trial. With regard to the Magistrate's Court proceedings, the State party submits that the author has "failed to provide all the proceedings at this trial" and that in any case, the same accused should not be tried again for the same incident under the "double jeopardy" rule. With regard to the District Court proceedings, it notes that it has not been named as a party to these proceedings and that it cannot be held liable for any delay if any.

4.8 With regard to the Supreme Court proceedings, the State party notes that since these proceedings were not criminal proceedings, it was not possible to either convict or sentence those who violated the author's fundamental rights: the Supreme Court can only grant a declaration that the author's fundamental rights have been violated and any further relief in a just and equitable manner. It submits an affidavit from the author's counsel dated 16 February 2006 in which he denies having received the letter from the author prior to the settlement entered in court on 28 June 2004. Counsel recalls that the author was present in court on that day and never instructed him against the settlement. The State party claims that the author has tried to mislead the Committee by hiding the following facts. Firstly, he did write to the Supreme Court on 23 July 2004 requesting that his case be re-listed and this request was to be examined by the Court on 27 September 2004. However, he did not appear in court that day and consequently, the Court decided not to take any further action on the request. Secondly, the author made a second attempt on 20 October 2004 to have his case re-listed. This request was denied by the Chief Justice in the light of the Order made by the Court on 27 September 2004.

4.9 The State party added that the wife also made a complaint to the National Human Rights Commission. As a result, the Commission requested on 7 November 2000 that the Sri Lanka Army submit a full report on the incident. The Army submitted its report to the Commission on 20 November 2000, in which it explained that a Court of inquiry had been established to look into the matter. The Human Rights Commission appeared to be satisfied with the action taken by the Army, since it did not send any further communication afterwards.

4.10 The State party implicitly argues that domestic remedies have not been exhausted in the case, by asserting that the domestic mechanisms available provide more than adequate avenues of redress for any person, such as the author, who claims that his human rights have been violated.

#### **Author's comments on the State party's submissions**

5.1 On 12 May 2006, the author notes that the State party accepts that two officers had assaulted him and argues that, in the light of the detailed medical evidence on the injuries that he suffered as a result, this assault amounts to torture or cruel and inhuman treatment under article 7 of the Covenant. He recalls that the Convention against Torture has been incorporated into Sri Lankan law through Act No.22 of 1994 and this Act provides that a person committing torture should be tried by the High Court. He argues that the State party has breached its obligation to provide him with a remedy since he was given no remedy under criminal law and has received no compensation.

5.2 The author submits that the arguments raised by the State party on the basis of the summary trial held against the two alleged perpetrators, i.e. the issue of double jeopardy and the



issue of the pending civil case, are not valid defences against his claim of violations of his rights. The officers were charged only for breach of military discipline and had the option of choosing court martial proceedings or a summary trial. During the trial, the author had no choice to advance his case. The punishment given to the two officers was a forfeiture of seniority, which was not effective since both have since been promoted. The two officers were neither tried, nor convicted for torturing the author, because the military court had no jurisdiction to try anyone for acts of torture. Only the High Court can do so. On the issue of double jeopardy, the author recalls that section 77 of the Army Act does not limit the jurisdiction of a civil court to try the two officers for committing acts of torture.<sup>4</sup> Consequently, there is no obstacle for the two officers to be tried by the appropriate High Court. Besides, the author notes that the two officers have not raised the defence of double jeopardy before the Magistrate's Court where the initial proceedings have been pending for the last five years.

5.3 With regard to the fundamental rights case filed by the author before the Supreme Court, he recalls that proceedings were terminated on 28 June 2006 without explanation. It is not mentioned anywhere in the journal entries of the Court that proceedings were terminated with the consent of the parties. The author also explains that where a person applies to withdraw the case, the Supreme Court has held that it will in each case use its discretion to allow or not such an application for withdrawal. In the present case, there is no indication that the Court has allowed what the parties had consented to. The author did not consent to any form of termination of the proceedings and has not accepted any money as part of a settlement. While the State party seems to suggest that a friendly settlement was reached between the parties, the author denies this. In any case, in a fundamental rights case, the Supreme Court can only dismiss the case under article 126 of the Constitution for lack of merits or grant the relief claimed by the petitioner.<sup>5</sup> Therefore, the word "terminated" has no legal meaning within the Constitution of Sri

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<sup>4</sup> Section 77 of the Army Act provides that "Save as provided in subsection (2) of this section, nothing in this Act shall affect the jurisdiction of a civil court to try, arrest, or to punish of any civil offence any person subjected to military law". Section 162 of the ACT defines a "civil court" as "any court other than courts martial" and a "civil offence" as "an offence against any law of Sri Lanka which is not a military offence".

<sup>5</sup> Article 126 of the Constitution provides that

"(1) The Supreme Court shall have sole and exclusive jurisdiction to hear and determine any question relating to the infringement or imminent infringement by executive or administrative action of any fundamental right or language right declared and recognized by Chapter III or Chapter IV.

(2) Where any person alleges that any such fundamental right or language right relating to such person has been infringed or is about to be infringed by executive or administrative action, he may himself or by an attorney-at-law on his behalf, within one month thereof, in accordance with such rules of court as may be in force, apply to the Supreme Court by way of petition in writing addressed to such Court praying for relief or redress in respect of such infringement. Such application may be proceeded with only with leave to proceed first had and obtained from the Supreme Court, which leave may be granted or refused, as the case may be, by not less than two Judges.

(3) Where in the course of hearing in the Court of Appeal into an application for orders in the nature of a writ of habeas corpus, *certiorari*, prohibition, *procedendo*, *mandamus* or *quo warranto*, it appears to such Court that there is prima facie evidence of an infringement or

Lanka. The author had filed before the Court all the relevant documents and the Court could only have made a decision on merits.

5.4 The author tried to get the case reopened before the Supreme Court on two occasions. On the first occasion, the court allowed the case to be called. However, as the author received the notice after the date in which he was called to appear in court, he filed a further motion seeking another occasion to request the Court to proceed with his case. This time, the Court did not issue notice for the author to come before it.

5.5 With regard to the case pending before the Magistrate's Court, the author recalls that proceedings have not been concluded five years and six months after the incident. This cannot be considered an effective remedy. With regard to the civil case pending before the District Court of Anuradhapura, he notes that the State party affirms that since it is not a party to these proceedings, it does not acknowledge its obligation to provide an effective civil remedy to human rights violations.

5.6 With regard to the alleged violation of article 9, paragraph 1, the author reiterates that he has been repeatedly threatened and has made several complaints to the police and military authorities. On one occasion, he even received death threats from unidentified persons. He regularly moves places in order to evade danger.

## **Issues and proceedings before the Committee**

### **Consideration of admissibility**

6.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with article 93 of its rules and procedures, decide whether or not it is admissible under the Optional Protocol of the Covenant.

6.2 The Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement for the purposes of article 5, paragraph 2(a), of the Optional Protocol.

6.3 On the alleged violation of article 9, paragraph 1, the Committee notes the State party's argument that the author has never claimed or alleged that he was subjected to any arrest or detention. With regard to the author's allegation of being subjected to threats from those who had assaulted him, the State party argued that the author does not state where such complaints were directed to, nor does he submit copies of these complaints. The Committee notes that the author merely reiterated that he had made several complaints to the police and military

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imminent infringement of the provisions of Chapter III or Chapter IV by a party to such application, such Court shall forthwith refer such matter for determination by the Supreme Court.

(4) The Supreme Court shall have power to grant such relief or make such directions as it may deem just and equitable in the circumstance in respect of any petition or reference referred to in paragraphs (2) and (3) of this Article or refer the matter back to the Court of Appeal if in its opinion there is no infringement of a fundamental right or language right.

(5) The Supreme Court shall hear and finally dispose of any petition or reference under this Article within two months of the filing of such petition or the making of such reference.”

authorities, without providing any further details. It therefore concludes that the author has not substantiated his claim under the Covenant, for purposes of admissibility, and finds that this part of the communication is inadmissible under article 2 of the Optional Protocol.

6.4 In relation to the State party's contention that domestic mechanisms available provide more than adequate redress to any person complaining about a violation of his or her human rights, the Committee recalls its jurisprudence that domestic remedies must not only be available but also effective. It considers that in the present case, the remedies relied upon by the State party have either been unduly prolonged or appear to be ineffective.

6.5 On the basis of the information available to it, the Committee concludes that the claims based on article 7 and article 2, paragraph 3, are sufficiently substantiated, for purposes of admissibility, and it finds the rest of the communication admissible.

### **Consideration of the merits**

7.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it, as provided under article 5, paragraph 1, of the Optional Protocol.

7.2 With regard to the alleged violation of article 2, paragraph 3, the Committee notes that the proceedings against the two alleged perpetrators have been pending in the Magistrate's Court of Anuradhapura since 2003, and that the proceedings concerning the author's fundamental rights application before the Supreme Court have been terminated in unclear circumstances. The Committee reiterates its jurisprudence that the State party is under a duty to investigate thoroughly alleged violations of human rights, and to prosecute and punish those held responsible for such violations.<sup>6</sup> (renumber footnotes)

7.3 The Committee notes the State party's argument that the two perpetrators have already been tried and punished by a Military Court of Inquiry and cannot be tried again. The Committee observes that this Court of Inquiry had no jurisdiction to try anyone for acts of torture, that the author was not represented and that the punishment given to the two perpetrators was only forfeiture of seniority, despite the fact that the author had to be hospitalized for several months and had several medical reports describing his injuries. With regard to the proceedings before the Magistrate's Court, the Committee notes that while both parties accuse each other of responsibility for certain delays in these proceedings, they are still ongoing after more than seven years. The delay is further compounded by the State party's failure to provide any timeframe for the consideration of the case. With regard to the proceedings before the District Court which are still pending after five years, the Committee notes that the State party merely argues that it has not been named as a party to these proceedings and that it cannot be held liable for any delay if any. However, the Committee reiterates the settled rule of general international law that all branches of government, including the judicial branch, may be in a position to engage the responsibility of a State party.<sup>7</sup>

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<sup>6</sup> See Communication No. 1250/2004, *Rajapakse v. Sri Lanka*, Views adopted on 14 July 2006, para.9.3.

<sup>7</sup> See General Comment No.31 (2004), para.4.

7.4 Under article 2, paragraph 3, the State party has an obligation to ensure that remedies are effective. Expedition and effectiveness are particularly important in the adjudication of cases involving torture and other forms of mistreatment. The Committee considers that the State party may not avoid its responsibilities under the Covenant with the argument that the domestic courts have already dealt or are still dealing with the matter, when it is clear that the remedies relied upon by the State party have been unduly prolonged and would appear to be ineffective. For these reasons, the Committee finds that the State party has violated article 2, paragraph 3, read together with article 7 of the Covenant. Having found a violation of article 2, paragraph 3, read together with article 7, and in light of the fact that the consideration of this case, as it relates to the claim of torture, remains pending before the Magistrate's Court, the Committee does not consider it necessary, in this particular case, to determine the issue of a possible violation of article 7 alone of the Covenant.<sup>8</sup>

8. 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 reveal violations by the State party of article 2, paragraph 3, read together with article 7 of the Covenant.

9. In accordance with article 2, paragraph 3, of the Covenant, the State party is under an obligation to provide the author with an effective remedy, including adequate compensation. The State party is under an obligation to take effective measures to ensure that the Magistrate's Court proceedings are expeditiously completed and that the author is granted full reparation. The State party is also under an obligation to take measures to prevent similar violations in the future.

10. Bearing in mind that, by becoming a 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, that State party has undertaken to ensure all individuals within its territory or 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 180 days, information about the measures taken to give effect to the Committee's Views. The State party is also requested to publish 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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<sup>8</sup> See Footnote 6, *Rajapakse v. Sri Lanka*, para.9.5.