



International Covenant on Civil and Political Rights

Distr.: General
22 August 2017

Original: English

Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2256/2013*, **

<i>Submitted by:</i>	X. (represented by counsel, Sergey A. Golubok and the Redress Trust)
<i>Alleged victim:</i>	The author
<i>State party:</i>	Sri Lanka
<i>Date of communication:</i>	11 February 2013 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 13 June 2013 (not issued in a document form)
<i>Date of adoption of Views:</i>	27 July 2017
<i>Subject matter:</i>	Lack of investigation of rape allegations
<i>Procedural issue:</i>	Exhaustion of domestic remedies — unreasonably prolonged delay
<i>Substantive issue:</i>	Rape as a form of torture, based on discrimination due to ethnicity, minority status and gender
<i>Articles of the Covenant:</i>	2 (1) and (3), 3, 7, 24 (1) and 26
<i>Articles of the Optional Protocol:</i>	2 and 5 (2) (a) and (b)

1. The author of the communication is X, a Sri Lankan national born on 28 August 1983. She claims that Sri Lanka has violated her rights under articles 2 (1) and (3), 3, 7, 24 (1) and 26 of the Covenant. The author is represented by counsel, Sergey A. Golubok and the Redress Trust. The Optional Protocol entered into force for Sri Lanka on 3 January 1998.¹

* Adopted by the Committee at its 120th session (3-28 July 2017).

** The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Yadh Ben Achour, Ilze Brands Kehris, Ahmed Amin Fathalla, Olivier de Frouville, Christof Heyns, Yuji Iwasawa, Bamariam Koita, Marcia V.J. Kran, Duncan Laki Muhumuza, Photini Pazartzis, Mauro Politi, José Manuel Santos Pais, Yuval Shany and Margo Waterval.

¹ The State party did not enter any reservation upon ratification of the Optional Protocol.



The facts as submitted by the author

2.1 The author is an Indian Tamil. On 12 August 2001, when she was 17 years old, she was abducted by two Sinhalese men on her way home from Sunday school in the town of Talawakelle in Nuwara Eliya District, Central Province, Sri Lanka. She was raped by both men inside their car between 2 and 6 p.m. She alleges that Indian Tamils living on tea plantations, such as the author and her family, are historically the most marginalized and socially and economically disadvantaged minority in Sri Lanka.

2.2 On 14 August 2001, the author filed, at the Talawakelle police station, a complaint for rape. She was forced to make her statement through an unofficial interpreter translating into Sinhala, since no facilities to record her statement in Tamil were provided, even though Tamil is an official language of Sri Lanka.² The author was then taken to Kotagala hospital and subsequently to Nuwara Eliya hospital, from where she was discharged on 16 August 2001. The medical records indicated that it was “a case of rape”.³

2.3 The victim identified both perpetrators, who were arrested on 18 August 2001 and held on police remand. The magistrates’ court of Nuwara Eliya initiated non-summary proceedings following the author’s complaint. On 28 August 2001, both suspects were released on bail. During the hearing, the defendants’ counsel publicly referred to the author as a professional prostitute; no judge took action to protect the dignity of the author as a victim of rape, despite being urged to do so by the author’s counsel. Such attitudes reinforced the stigma attached to the author as a woman victim of rape in a conservative society. No mention was made during the proceedings of the fact that she was a minor at the time of the offence.

2.4 In 2005, after more than three years, the magistrates’ court concluded that there was sufficient evidence to charge the alleged perpetrators and referred the case to the Attorney General. On 23 October 2006, both suspects were indicted by the High Court of Kandy under sections 357 and 364 (2) (G), read together with section 32, of the Penal Code.⁴

2.5 On 26 March 2007, the High Court approved new bail conditions for the suspects, and on 27 April 2007, they were released on bail again. On 18 October 2007, the case was called for trial, but the hearing was postponed as the prosecution had failed to produce all the evidence on time.

2.6 The proceedings were then adjourned: on 1 February 2008, due to the absence of the presiding judge; on 30 May 2008, due to the absence of the prosecuting State counsel; on 30 January 2009, due to the absence of a permanent judge; and on 15 May 2009, due to the fact that all the evidence had not yet been received by the court. On 19 October 2009, it was decided that the case had to be transferred to the new High Court of Nuwara Eliya, which had just been established.

2.7 The new High Court was formally seized of the case early in 2010. On 12 July 2010, the case was called for trial, but the hearing was postponed due to delays in the transfer of the case. On 5 October 2010, the case was adjourned because one of the accused failed to present himself in court. On 20 April 2011, the process was postponed again at the request of a lawyer of one of the accused. The presentation of evidence started on 14 June 2011, and was ongoing at the time of submission of the complaint to the Committee.⁵ The author never failed to attend hearings, and she has not been responsible for any of the delays in the proceedings. In 2004, the author lodged a civil claim for damages, which is also still pending before the District Court of Nuwara Eliya.

² Sections 109 and 110 of the Code of Criminal Procedure provide that victims should be allowed to receive information in a language they understand and to give their statement in writing in the language of their choice.

³ Medical records issued by the Nuwara Eliya hospital on 15 August 2001.

⁴ Section 357 of the Penal Code prohibits illicit intercourse; section 364 (2) (G) provides for the punishment of gang rape, and section 32 specifies that when a criminal act is done by several persons in furtherance of the common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone.

⁵ The file does not contain any updates on the current status of the domestic proceedings.

2.8 In addition to the immediate physical harm and trauma caused by the rape, the author has suffered continuing negative psychological consequences. From 2001 onward, the author and her family have been harassed by the perpetrators, who attempted to intimidate her into withdrawing the complaint she had submitted to the police, forcing her to leave her family and miss school to hide in a safe house.⁶ The author also faced strong stigmatization as a rape victim, and she was forced to leave three jobs, where she was perceived as either a prostitute or an “easy” woman. As a result, she was unemployed at the time of submission of her initial communication. The stigmatization she faced also had an impact on her personal life, and she struggled to find a husband; she ultimately did marry. However, the author refrained from having children, out of shame.

2.9 The author claims that she has exhausted all effective domestic remedies insofar as 11 years have passed since her application for a remedy,⁷ which constitutes an “unreasonably prolonged delay”.⁸

The complaint

3.1 The author alleges that she suffered severe physical and mental pain due to being raped. Her suffering was further exacerbated because she was a minor,⁹ a girl and a member of the Indian Tamil minority, making the act of rape severe enough to constitute torture under article 7 of the Covenant. The author contends that, pursuant to the Committee’s general comment No. 20 (1992) on the prohibition of torture or other cruel, inhuman or degrading treatment or punishment, States parties have the obligation to provide protection and legal remedies in cases of rape committed by private persons. The author further claims that the consequences of a rape are not dependent on the status of the perpetrator, and that according to the jurisprudence of international and regional courts and human rights bodies, a State is responsible for a violation of its obligations in relation to the prohibition of torture or other ill-treatment where it has failed to protect against or adequately respond to rape and other forms of violence against women.

3.2 The author argues that she has been waiting more than 11 years for an effective remedy. Such delays are unjustified, as the alleged offenders have been identified, and the case does not involve any complex legal or factual issues. The author does not have any domestic recourse to expedite the criminal or civil proceedings and, considering that both cases were still at first instance at the time of submission of her complaint, proceedings before the superior courts are likely to bring further delays. The author claims that the State party therefore failed in its positive obligations to protect her, to effectively investigate her claim and to prosecute the offenders, thereby violating her rights under article 2 (3), read in conjunction with article 7, of the Covenant.

3.3 The author moreover contends that the State party’s authorities failed to carry out a child-sensitive and effective approach during the investigation and court proceedings, and to provide her with effective remedies, thereby breaching article 2 (3), read in conjunction with article 24 (1), of the Covenant.

3.4 Finally, the author contends that the failure of the State party to take effective action following her rape breached articles 2 (1), 3 and 26 of the Covenant, due to the discriminatory treatment that she has been subjected to by the Sri Lankan authorities, which failed to afford protection to the author as a Tamil woman. She submits that her allegations in that regard should be considered in the context of the long-standing and widespread discrimination against women and Indian Tamils in the State party. She submits that her gender and ethnicity made her an easy target for rape, which is to be considered as an act of discrimination in itself. The author also submits that she was denied the right to make a complaint in her own language, despite legal provisions allowing her to do so. She considers that the general attitude of State officials in the justice system, including the

⁶ The shelter (safe house) was provided by the Human Rights Office of Kandy, a civil society organization.

⁷ At the time of submission.

⁸ For the jurisprudence on “unreasonably prolonged delay”, see, for example, communication No. 1432/2005, *Gunaratna v. Sri Lanka*, Views adopted on 17 March 2009, para. 7.5.

⁹ The victim was allegedly raped on 12 August 2001, i.e., two weeks before she turned 18.

inaction of judges when she was called a prostitute during court proceedings, also constitute discrimination against her as a woman and as a member of the Indian Tamil minority.

3.5 As a remedy, the author requests that an independent investigation be conducted, that the alleged perpetrators be prosecuted, that the civil claim she lodged be expedited and concluded and that a full and adequate compensation be paid to her.¹⁰ The author also makes a request to receive the fullest possible rehabilitation and a public apology acknowledging the violations of her rights.

State party's observations

4.1 On 2 December 2014, in response to the Committee's request for information and observations on admissibility and the merits, the State party informed the Committee that it was unable to submit its observations owing to the Supreme Court's judgment in the *Singarasa* case,¹¹ citing respect for the judgment of its domestic courts as the justification.

4.2 The *Singarasa* case involved the issue of justiciability and enforcement of the Committee's recommendations at the domestic level. The Supreme Court's judgment set an interpretational precedent for dualism in the context of Sri Lanka.¹² The court held that the accession to the Optional Protocol by an act of the President was a "purported exercise of legislative power", and that since no steps were taken to give statutory effect to the rights enshrined in the Covenant, the findings of the Committee would be unenforceable and the court was not expected to give them effect.¹³

Author's further submission

5. In a submission dated 15 June 2017, the author informs the Committee that in December 2015, the two perpetrators of the rape were convicted and sentenced by the High Court of Kandy, both to 23 years of imprisonment. While the conviction of the perpetrators, which had been obtained after extensive delays, was welcome, most of the violations of the author's rights have remained unaddressed and the remedies at the domestic level have remained ineffective. The author recalls the previous jurisprudence of the Committee, arguing that the recent remedy should not hamper the assessment of the merits of her complaint, including the evaluation of whether an appropriate and effective remedy has been provided.¹⁴ In the view of the author, the recent convictions do not alter the fact that the investigations and prosecutions were unduly prolonged and delayed, and that the author has received no civil remedy. The author hence requests the Committee to find the communication admissible, assess the merits of her complaint, consider the adequacy of the remedy provided and identify the need for further action by the State party to provide an appropriate and effective remedy.

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 93 of its rules of procedure, whether the communication is

¹⁰ See communication No. 1610/2007, *L.N.P. v. Argentina*, Views adopted on 18 July 2011, para. 10.1. See also the Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law.

¹¹ Supreme Court of Sri Lanka, *Singarasa v. Attorney General*, judgment of 15 September 2006.

¹² Such interpretational precedent is, however, inconsistent with the doctrine and jurisprudence of the Committee. See in this regard paragraph 4 of the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant. See also article 27 of the Vienna Convention on the Law of Treaties, according to which a State party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.

¹³ On 22 December 2014, the State party's observations were submitted to counsel for information.

¹⁴ See communications No. 868/1999, *Wilson v. Philippines*, Views adopted on 30 October 2003, para. 6.3, and No. 328/1988, *Blanco v. Nicaragua*, Views adopted on 20 July 1994, para. 9.2.

admissible under the Optional Protocol. In the absence of a response by the State party, due weight should be given to the allegations of the author.

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

6.3 The Committee takes note of the author's claim that she has exhausted all effective domestic remedies, as required under article 5 (2) (b) of the Optional Protocol, insofar as her application for a remedy, which had already been delayed for 11 years at the time of submission of the author's initial communication, constitutes an "unreasonably prolonged delay".¹⁵ Firstly, the Committee notes that the alleged perpetrators were identified early on, and the case did not involve complex factual or legal issues that could justify such a delay. Secondly, it notes that the author was not responsible for the delays and did not have access to any domestic recourse to expedite the criminal or civil proceedings. Thirdly, the Committee notes that it took more than five years for the authorities to file (in 2006) the first indictment against the alleged offenders and that, as at the time of submission of the initial communication, the case had been delayed a further seven years amid a series of adjournments. Concerning the civil claim, it has been pending for eight years before the District Court. Additionally, the Committee notes a likelihood of further delay in the domestic proceedings, since the criminal and civil proceedings were at first instance at the time of submission of the initial communication.¹⁶ The Committee recalls that, as highlighted in its previous jurisprudence, proceedings before the superior courts in Sri Lanka, such as the Court of Appeal, have been prolonged.¹⁷ The Committee further recalls its jurisprudence to the effect that a remedy that has no chance of being successful cannot count as such and does not need to be exhausted for the purposes of the Optional Protocol.¹⁸ However, it notes that the perpetrators were finally convicted and sentenced in December 2015, some 14 years after the submission of the author's complaint to the police. Since the State party has not contested the admissibility of any of the author's claims, the Committee considers that due weight must be given to her contentions that the domestic remedies have been unduly prolonged in the circumstances of this case. Consequently, the Committee considers that the requirements of article 5 (2) (b) of the Optional Protocol have been met.

6.4 The Committee notes the author's claims that her rape was of a sufficient severity to constitute torture, and that the State party violated her rights by failing to provide accessible and effective remedies to vindicate her right not to be subjected to torture. The Committee also notes that the author presented medical records as evidence of the rape that resulted in her suffering physical and mental pain. It further notes the author's allegations that the pain and suffering she has faced are attributable to the Sri Lankan authorities because the authorities failed to prevent gender-based violence, to investigate and prosecute those violations successfully and to provide the author with any kind of support or remedy. The author further alleges that the State party has failed to protect her during the proceedings because (a) it has not provided her with an official interpreter, (b) judges failed to acknowledge her vulnerability as a minor member of an ethnic minority, (c) one of the judges acquiesced to manifestly unfounded claims that she was a professional prostitute and

¹⁵ For the criteria for what constitutes an "unreasonably prolonged delay", see *Gunaratna v. Sri Lanka*, para. 7.5.

¹⁶ See, for example, communication No. 747/1997, *Des Fours Walderode and Kammerlander v. Czech Republic*, Views adopted on 30 October 2001, para. 6.4, with respect to the likelihood of a further delay. See also paragraph 5.2 of communication No. 336/1988, *Fillastre and Bizouarn v. Bolivia*, Views adopted on 5 November 1991, in which the Committee determined that a delay of over three years of adjudication at first instance, discounting the availability of subsequent appeals, was unreasonably prolonged within the meaning of article 5 (2) (b) of the Optional Protocol.

¹⁷ See, for example, communication No. 1250/2004, *Rajapakse v. Sri Lanka*, Views adopted on 14 July 2006, para. 9.4, and *Gunaratna v. Sri Lanka*, para. 7.5.

¹⁸ See, for example, communications No. 701/1996, *Gómez Vázquez v. Spain*, Views adopted on 20 July 2000, para. 6.2., and No. 1153/2003, *K.N.L.H. v. Peru*, Views adopted on 24 October 2005, para. 5.2. See also *L.N.P. v. Argentina*, para. 12.3.

(d) the delays in investigation and prosecution have been unduly prolonged.¹⁹ Since the State party failed to protect the author against, or adequately respond to, the rape, the Committee considers that the author's claims of a violation of article 7, read alone and in conjunction with article 2 (3), of the Covenant are sufficiently substantiated for purposes of admissibility.

6.5 As regards the author's allegations related to article 24 (1) of the Covenant, the Committee notes that, according to the author, no mention was made during the proceedings that she was a minor when she was raped, and that the authorities of the State party failed to acknowledge her vulnerability as a minor. Nonetheless, the Committee also considers that the author has failed to sufficiently substantiate the special care that she should have been provided by the State party as a minor, while taking into account that she was represented by a counsel during the investigation and court proceedings and that she became an adult 14 days after the beginning of the investigation of her case. Consequently, the part of the complaint referring to article 24, read in conjunction with article 2 (3), of the Covenant is declared inadmissible under article 2 of the Optional Protocol.

6.6 The Committee further notes the author's claims that the State party violated her rights under articles 2 (1), 3 and 26 of the Covenant not to be subjected to discrimination as a Tamil woman. The Committee considers that the author has sufficiently substantiated this claim for purposes of admissibility and declares it admissible insofar as it raises issues under article 26. As no separate issue arises under articles 2 (1) and 3 of the Covenant, the Committee will not examine the admissibility of the author's claims under those provisions.

6.7 As all admissibility requirements have been met, the Committee declares the communication admissible regarding claims under article 7, read alone and in conjunction with article 2 (3) and article 26 and proceeds to its examination on the merits.

Consideration of the merits

7.1 The Committee has considered the communication in the light of all the information made available to it by the parties, in accordance with article 5 (1) of the Optional Protocol.

7.2 As regards the author's claim of a violation of article 7, read alone and in conjunction with article 2 (3), of the Covenant the Committee notes that criminal and civil proceedings in the present case have been pending since 2001 and 2004, respectively, and are ongoing as regards civil remedies, while the criminal sentence of the perpetrators was handed down in December 2015. The Committee also notes the author's claim that protection against and the investigation of an act of rape cannot be dependent on the status of the perpetrator and that, in accordance with the jurisprudence of international and regional courts and human rights bodies, a State is responsible for a violation of its obligations in relation to the prohibition of torture or other ill-treatment where it has failed to protect against or adequately respond to rape and other forms of violence against women.

7.3 The Committee notes that the author promptly filed a complaint with the police on 14 August 2001, two days after the rape. The suspects were identified and arrested on 18 August 2001; however, they were released on bail on 28 August 2001. It took more than five years for the authorities to file the first indictment against the suspects and, at the time of submission of the initial communication to the Committee, the case had been delayed for a further seven years amid a series of adjournments. The Committee notes that the author has not been responsible for any of the delays in court proceedings and has never failed to attend hearings. Also, the case does not involve complex legal or factual issues that could explain the delay and, furthermore, the perpetrators were identified early on. The

¹⁹ The author cites the Committee's general comment No. 20, para. 2 and general comment No. 28 (2000) on the equality of rights between men and women, para. 11; European Court of Human Rights, *C.A.S. and C.S. v. Romania* (application No. 26692/05), judgment of 20 March 2012, para. 69; Committee on the Elimination of Discrimination against Women, communication No. 18/2008, *Tayag Vertido v. Philippines*, Views adopted on 16 July 2010; Inter-American Court of Human Rights, *Velásquez Rodríguez v. Honduras*, judgment of 29 July 1988, para. 172; and Inter-American Court of Human Rights, *González et al. ("Cotton Field") v. Mexico*, judgment of 16 November 2009, para. 289.

Committee notes the author's claim that the 14 years that passed between the rape and the conviction constitute an unreasonably prolonged delay in the investigation of her complaint and the criminal prosecution of the suspects. The author's civil suit against the perpetrators has also been unreasonably delayed.

7.4 The Committee reiterates its jurisprudence that the Covenant does not provide a right for individuals to require that the State party criminally prosecute another person.²⁰ It considers, nonetheless, that the State party is under a duty to investigate promptly, impartially and thoroughly alleged violations of human rights, to prosecute the suspects and punish those held responsible for such violations²¹ and to provide other forms of reparation, including compensation.²² The Committee has also recognized the obligation to punish violations by both State and non-State actors.²³ Under article 2 (3) of the Covenant, the State party has an obligation to ensure that remedies are effective. Expedition and effectiveness are particularly important in the adjudication of cases involving claims of such gravity as rape. The Committee considers that the State party may not avoid its responsibilities under the Covenant by pointing to the fact that the domestic courts have already dealt or are still dealing with the matter, when it is clear that the remedies granted or pending in the State party have been unduly prolonged and would appear to be ineffective. Regarding the author's allegations concerning the physical and mental suffering that she endured as a consequence of rape and the State party's failure to protect her against or adequately respond to rape, the Committee considers that the lack of effective investigation, the unduly prolonged prosecution of the suspects and the punishment of those held responsible only 14 years on, without adequate reparation, as well as the author's treatment during the court proceedings, when derogatory statements were made against her, contributed to the author's re-victimization, which was aggravated by the fact that she was a minor when she was raped. The Committee recalls that, as pointed out in paragraph 5 of its general comment No. 20 and its jurisprudence, the right protected under article 7 of the Covenant covers not only physical pain but also mental suffering.²⁴ In the circumstances of the present case, the Committee concludes that the author was the victim of treatment that is in breach of article 7, read alone and in conjunction with article 2 (3), of the Covenant.²⁵

7.5 As to the author's claim of discrimination under article 26 of the Covenant on the grounds of sex (gender), language and ethnicity, the Committee refers to its long-standing jurisprudence that a differentiation of treatment will constitute discrimination unless the criteria for such differentiation are reasonable and objective and the aim is to achieve a purpose which is legitimate under the Covenant. In the present case, the author has claimed that she was targeted as a teenaged girl from the most marginalized and impoverished ethnic group in Sri Lanka and that during the investigation of her complaint of rape, the police failed to provide any official interpretation or translation from Tamil to Sinhalese while recording the author's statement, and that she had to make her statement through an unofficial interpreter translating into Sinhala, even though Tamil is an official language of Sri Lanka. The Committee also notes the author's claim that she was not afforded the protection she needed as a woman of Tamil ethnicity, and that judges failed to acknowledge her vulnerability as a minor member of an ethnic minority and to intervene to stop the humiliating treatment of the author, in particular when the defence counsel publicly and repeatedly called her a "professional prostitute". The author has considered this as an attack

²⁰ See, for example, communications No. 213/1986, *H.C.M.A. v. Netherlands*, decision of inadmissibility adopted on 30 March 1989, para. 11.6; No. 275/1988, *S.E. v. Argentina*, decision of inadmissibility adopted on 26 March 1990, para. 5.5; Nos. 343-345/1988, *R.A.V.N. et al. v. Argentina*, decision of inadmissibility adopted on 26 March 1990, para. 5.5; and *Rajapakse v. Sri Lanka*, para. 9.3.

²¹ See *Rajapakse v. Sri Lanka*, para. 9.3.

²² See, for example, communications No. 1589/2007, *Gapirjanov v. Uzbekistan*, Views adopted on 18 March 2010, para. 10, and No. 1862/2009, *Peiris et al. v. Sri Lanka*, Views adopted on 26 October 2011, para. 9.

²³ See the Committee's general comment No. 20, para. 13.

²⁴ See, for example, *K.N.L.H. v. Peru*, para. 6.3, and communication No. 1608/2007, *L.M.R. v. Argentina*, Views adopted on 29 March 2011, para. 9.2.

²⁵ See, for example, communication No. 1956/2010, *Durić and Durić v. Bosnia and Herzegovina*, Views adopted on 16 July 2014, para. 9.6. See also the Committee's general comment No. 20, para. 2.

on her morality and reputation, exacerbated by the fact that the society she is living in considers her “polluted” since her virginity was lost before she was married.

7.6 The Committee recalls paragraph 10 of its general comment No. 18 (1989) on non-discrimination, in which it indicates that, in a State where the general conditions of a certain part of the population prevent or impair their enjoyment of human rights, the State should take specific action to correct those conditions. In this connection, the State party is under an obligation to provide protection and ensure accountability for discriminatory acts such as violence against women, and rape in particular. The Committee notes that the State party has not contested the author’s claims under article 26, and that it failed to enable the author to make a complaint in her mother tongue, Tamil, as guaranteed by the Code of Criminal Procedure.²⁶ The Committee also notes that the State party’s judges failed to acknowledge the author’s vulnerability as a minor member of an ethnic minority, in particular as they failed to intervene to prevent the unjustified public humiliation of the author by the defence counsel, casting doubt on the author’s morality and credibility, without adequate regard for her reputation, honour or dignity. In the light of the uncontested facts before it, the Committee finds that the author could not enjoy equality before the law and equal protection of the law, thereby suffering discrimination on grounds of her ethnicity and gender, in violation of article 26 of the Covenant. Moreover, the Committee concludes that the State party’s failure to conduct an effective investigation into the author’s complaint, to promptly bring to justice those allegedly responsible and to provide reparation to the author has also amounted to the author’s discrimination on grounds of her gender and ethnicity, in violation of article 26 of the Covenant.

8. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the facts before it reveal violations by Sri Lanka of article 7, read alone and in conjunction with article 2 (3), of the Covenant and of article 26, read alone.

9. In accordance with article 2 (3) (a) of the Covenant, the State party is under an obligation to provide individuals whose Covenant rights have been violated with an effective remedy in the form of full reparation. Accordingly, in the present case, the State party is obligated to, inter alia, provide the author with: (a) adequate compensation for the harm she suffered; (b) appropriate means of satisfaction, including a public apology, with a view to restoring her reputation and honour; and (c) social and psychological rehabilitation. The State party is also under an obligation to take steps to prevent similar violations from occurring 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 and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, and to provide an effective and enforceable remedy when it has been determined that a violation has occurred, 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.

²⁶ See, for example, communication No. 760/1997, *Diergaardt et al. v. Namibia*, Views adopted on 25 July 2000, para. 10.10.