

## THE FACTS

Whereas the facts presented by the applicant may be summarised as follows:

The applicant is a citizen of Pakistan, born in 1932 and at present living in Rawalpindi, West Pakistan.

It appears that he entered the United Kingdom on a Pakistani passport and with an Employment Voucher on 2 July 1963. The applicant states that on .. May 1968 he was tried by H. Borough Court on a charge of indecent assault and after pleading guilty was sent to prison on remand. He alleges that on 16 May 1968 he was brought up for trial before the same court and sentenced to "2 x 2" months consecutive imprisonment with a recommendation for deportation. The applicant states that he was in fact deported on 9 October 1968 by a deportation order dated 18 September 1968.

In the first place the applicant alleges irregularities in the course of his arrest. It seems that one of the arresting police officers hit him in the stomach and made insulting remarks. Also that the confession which he made to them was untrue because he was under the influence of alcohol and was in any case frightened that the police officers would assault him again. Further the applicant complains that he was not allowed an interpreter and was given no legal assistance.

The applicant further complains that he was wrongly convicted and sentenced. Nevertheless, it seems that he pleaded guilty at his trial. He attributes this to deliberate misguidance by a police officer. He also states that he was given no legal aid, interpreter or welfare or probation officer, that the court failed to consider all the evidence or to give him a proper hearing and that he was not allowed to cross-examine the witness and prosecution.

According to the applicant, his prison sentence lasted from 8 May 1968 to 9 September 1968 but he was unlawfully detained from this latter date until 8 October 1968, the day he was deported. He further alleges that his solicitor told him that his deportation order was issued on 18 September 1968, after his prison sentence had ended, but that he was not notified until 5 October 1968, four days before his actual deportation.

The applicant says that originally he appealed both against his sentence and the deportation order and that although he withdrew the appeal against sentence in August 1968, because three-quarters of his sentence had already passed, he at no time withdrew the appeal against deportation. At no time up to the date of his actual deportation was he given any information about this appeal but he states that he has since heard from a reliable source that the appeal has been granted.

It appears that the applicant has a son by an English woman living in L. he states that up to April 1968, he was paying her a weekly sum as maintenance and that while he was in prison in L. she applied to the Prison Governor to marry him and he sent his consent to the Home Office. Permission was refused. This was confirmed by two letters from Mrs. C., the woman concerned, who says that their son is pining for his father. The applicant states that he was not allowed to see his son or Mrs. C. before leaving England.

The applicant also alleges that during his imprisonment he requested an interview with the High Commissioner of Pakistan in England, but that this also was refused.

The applicant further states that he owns two furnished houses in H. whose total value he assesses at £2,000. He alleges that when property was stolen from these houses in 1965 the police deliberately failed to

carry out proper enquiries. It appears from a series of confused statements that the furniture in one of the houses has been sold for a nominal price and that the property in the other has been stolen. In any case the applicant asserts that he has received no money at all and that in his absence the value of the houses is decreasing. According to one of his statements the houses may also have been sold.

Finally, the applicant complains that he was deported without being allowed to take his clothes and papers and that as a result he is unable to obtain work in Pakistan.

He considers that all the injustices to which he has been subjected are attributed to racial discrimination.

The applicant contends that the Convention in general has been violated without specifying any particular Articles.

It appears that he claims £2,000 as value of his property and also to be allowed to return to the United Kingdom, as a special case, to marry the mother of his son.

#### THE LAW

Whereas, in regard to the applicant's complaints relating to his arrest and to certain irregularities in the course thereof, it is to be observed that, under Article 26 (Art. 26) of the Convention, the Commission may only deal with a matter after all domestic remedies have been exhausted according to the generally recognised rules of international law; and whereas the applicant failed to show that he made any complaints in this respect to the competent courts or authorities in the United Kingdom; whereas, therefore he has not exhausted the remedies available to him under English law;

Whereas, in regard to the applicant's complaints relating to his conviction and sentence and to the court proceedings concerned, it is noted that he withdrew his appeal in this respect; whereas, therefore, the applicant has again not exhausted the remedies available to him under English law;

Whereas, moreover, an examination of the case as it has been submitted, including an examination made *ex officio*, does not disclose the existence of any special circumstances which might have absolved the applicant, according to the generally recognised rules of international law, from exhausting in either case the domestic remedies at his disposal;

Whereas, therefore, the condition as to the exhaustion of domestic remedies laid down in Articles 26 and 27 (3) (Art. 26, 27-3) of the Convention has not been complied with by the applicant;

Whereas, in regard to the applicant's complaint relating to his deportation from the United Kingdom, it is to be observed that the Convention, under the terms of Article 1 (Art. 1), guarantees only the rights and freedoms set forth in the Convention; and whereas, under Article 25 (1) (Art. 25-1) of the Convention only the alleged violation of one of those rights and freedoms by a Contracting Party can be the subject of an application presented by a person, non-governmental organisation or group of individuals;

Whereas otherwise its examination is outside the competence of the Commission *ratione materiae*;

Whereas no right to reside in a particular country is as such included among the rights and freedoms guaranteed by the Convention;

Whereas in this respect the Commission refers to its previous decision, No. 2134/64, Yearbook, Vol. VII, pages 314, 328; whereas it follows

that this part of the application is incompatible with the provisions of the Convention within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas the Commission has also examined the applicant's complaint relating to his deportation from the United Kingdom in the light of Article 3 (Art. 3) of the Convention; whereas the Commission has held in previous cases that, although deportation is not as such among the matters governed by the Convention, the deportation of a person may, in exceptional circumstances, be contrary to the Convention and in particular to Article 3 (Art. 3) (see for example, Application No. 3040/67, Collection of Decisions, Vol. 22, pages 132, 138); whereas, however, an examination of the present case as it has been submitted does not disclose any appearance of such exceptional circumstances; whereas, therefore, this part of the application is manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas, in regard to the applicant's complaints relating to the loss of his property in the United Kingdom, an examination of the case as it has been submitted, including an examination ex officio, equally fails to disclose any appearance of a violation of the rights and freedoms set forth in the Convention and Protocols;

Whereas it follows that this part of the application is also manifestly ill-founded within the meaning of Article 27, paragraph (2) (Art. 27-2), of the Convention;

Whereas the applicant makes further complaints in relation to the effect of deportation on his family life, the alleged refusal by the authorities to allow him to see his son and Mrs. C. before deportation, and the alleged refusal to allow him to marry Mrs. C. in prison;

Whereas the Commission finds that an examination of the file at the present stage does not give the information required for determining the question of admissibility; whereas, therefore, the Commission decides, in accordance with Rule 45 (3) (b) of the Rules of Procedure, to give notice of the above complaints to the United Kingdom Government and to invite it to submit its observations on the question of admissibility;

Whereas, in the meanwhile, the Commission decides to adjourn its examination of these parts of the application.

Now therefore the Commission

1. Declares inadmissible, for the reasons stated above, the applicant's complaints relating to his arrest and the alleged irregularities in the course thereof, his conviction and sentence and the court proceedings concerned, his deportation from the United Kingdom either as such or in relation to Article 3 (Art. 3) of the Convention, and the loss of his property;

2. Decides to adjourn its examination as to the admissibility of the remainder of his complaints.