



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### Decision adopted by the Committee under the Optional Protocol, concerning communication No. 2654/2015\*, \*\*

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| <i>Communication submitted by:</i>       | T.D.J. (represented by counsel, Niels-Erik Hansen)   |
| <i>Alleged victim:</i>                   | The author   |
| <i>State party:</i>                      | Denmark  |
| <i>Date of communication:</i>            | 5 October 2015 (initial submission)  |
| <i>Document references:</i>              | Decision taken pursuant to rule 92 of the Committee's rules of procedure, transmitted to the State party on 7 October 2015 (not issued in document form) |
| <i>Date of adoption of decision:</i>     | 8 November 2019  |
| <i>Subject matters:</i>                  | Deportation from Denmark to Myanmar; inhuman and degrading treatment   |
| <i>Procedural issue:</i>                 | Level of substantiation of claims  |
| <i>Substantive issue:</i>                | Cruel, inhuman or degrading treatment or punishment upon return to country of origin   |
| <i>Articles of the Covenant:</i>         | 7, 13, 18, 19 and 26   |
| <i>Article of the Optional Protocol:</i> | 2  |

\* Adopted by the Committee at its 127th session (14 October–8 November 2019).

\*\* The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Yadh Ben Achour, Ilze Brands Kehris, Arif Bulkan, Ahmed Amin Fathalla, Shuichi Furuya, Christof Heyns, Bamariam Koita, Marcia Kran, Duncan Laki Muhumuza, Photini Pazartzis, Hernán Quezada Cabrera, Vasilka Sancin, José Manuel Santos Pais, Yuval Shany and Hélène Tigroudja.



1.1 The author of the communication is T.D.J., a national of Myanmar born on 26 January 1983. He claims that the State party has violated his rights under articles 7, 13, 18, 19 and 26 of the Covenant. The Optional Protocol entered into force for the State party on 23 March 1976. The author is represented by counsel.

1.2 On 7 October 2015, pursuant to rule 94 of its rules of procedure, the Committee, acting through its Special Rapporteur on new communications and interim measures, decided not to issue a request for interim measures.

### **Factual background**

2.1 The author, who is of Kachin ethnicity and a Christian, submits that he was repeatedly forced to do physical work for soldiers in his area of origin prior to his departure from Myanmar.<sup>1</sup> In September 2006, four soldiers in uniform came to his home and forced him to accompany them to a camp outside of the town of Sang Gang, where the author was born. There, he had to transport the soldiers to a newly established camp. The author's tractor was heavily loaded with equipment, the area was barely passable and the rain was pouring, making it difficult for the author to control the vehicle. He consequently lost control of the vehicle, which tipped over and caused an accident. The soldiers blamed the author for the accident; they kicked and beat him until he became unconscious. He was admitted to Mo Mauk hospital, where he stayed for about 13 days. After his discharge from hospital, the author returned to his home for a few days.

2.2 On 10 November 2006, the soldiers returned to the author's house looking for him. Since he was not at home, they told his parents that he should report to them. A few days later, the soldiers once more unsuccessfully inquired about the author's whereabouts at his house.<sup>2</sup> After these visits, the author's father advised him to hide in the mountains because he was worried that the soldiers could hurt him. The author went to the mountains and stayed there for about one month. Then, his parents sent him some money to enable him to leave the country. In January 2007, the author left Myanmar for Malaysia without valid travel documents. In Malaysia, he received a refugee card from the Office of the United Nations High Commissioner for Refugees (UNHCR) and worked there for a while to save enough money for his trip to Europe. In 2010, the author arrived in Romania, where he was granted "Convention status" on 28 June 2010.<sup>3</sup> He stayed there for some time but, given that he was not employed in Romania and was living in poverty, he left for Denmark. His Romanian residence permit expired on 6 July 2013.

2.3 The author entered Denmark on 25 August 2011 without valid travel documents and applied for asylum on 16 September 2011. On 20 December 2011, the Danish Immigration Service requested the Romanian authorities to take back the author pursuant to article 23 (2) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of the common borders. On 28 December 2011, the Romanian authorities accepted the request and on 22 March 2012 the author was removed to Romania.<sup>4</sup>

2.4 On 20 September 2012, the author re-entered Denmark without valid travel documents.<sup>5</sup> On 3 July 2014, the Danish Immigration Service decided that he was to be expelled from Denmark and banned from re-entry for two years under the relevant provisions of the Danish Aliens Act claiming that he had stayed and worked in Denmark illegally.

2.5 On 4 July 2014, the author applied for asylum for a second time in Denmark. On 17 March 2015, the Danish Immigration Service rejected his request. On 29 May 2015, the

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<sup>1</sup> The author provides no further details about these incidents except for the one that occurred in September 2006.

<sup>2</sup> The author provides no further details about these visits.

<sup>3</sup> Decision of the Refugee Appeals Board of Denmark dated 29 May 2015. The term "Convention status" refers to refugee status granted by a State party in fulfilment of its obligations under the 1951 Convention relating to the Status of Refugees. However, it appears from the court documents that the author, in the context of a quota system, was transferred to Romania and granted a residence permit on the basis of the refugee status determination assessment carried out by UNHCR in Malaysia.

<sup>4</sup> Decision of the Refugee Appeals Board of Denmark dated 29 May 2015.

<sup>5</sup> Ibid.

Refugee Appeals Board upheld that decision. At the same time, the author was ordered to leave Denmark within 15 days. According to the author, the Board accepted as fact the author's statements that he had been forced to help soldiers move to a camp in 2006 and, in that connection, that he had been involved in an accident as a consequence of which he had been hospitalized.<sup>6</sup> Nevertheless, the Board doubted that the author had indeed found himself in permanent conflict with the armed forces as a result of that accident. Furthermore, it found that there were inconsistencies in the author's statements concerning the events following his discharge from hospital. The Board, having also weighed up the general human rights situation in Myanmar, held that the author had not shown that it was probable that, should he return to his country of origin, he would be at risk of persecution justifying asylum pursuant to the relevant laws of Denmark.

2.6 On 9 September 2015, the Danish Immigration Service decided that the author was to be expelled from Denmark and banned from re-entry for two years because he had failed to leave Denmark within the time limit for departure and because he had not cooperated in his voluntary return.

2.7 The author claims to have exhausted all domestic remedies.

### **The complaint**

3.1 The author claims that his deportation to Myanmar would put him at risk of torture or cruel, inhuman or degrading treatment or punishment, in violation of article 7 of the Covenant. In particular, he claims that, because of his Kachin ethnicity, he was repeatedly subjected to forced labour by the armed forces in Myanmar and that he complied with those orders to avoid being killed or tortured. He claims that the border authorities would, upon his return, question him in order to obtain information about his and other Kachin refugees' activities abroad. He also claims that the authorities would subject him to torture or cruel, inhuman or degrading treatment or punishment to make him provide the information they were interested in.<sup>7</sup> Furthermore, he complains about the generally insecure conditions for Kachins in Myanmar.

3.2 The author further complains, citing articles 13 and 26 of the Covenant, that, while he could not appeal the decision of the Refugee Appeals Board, other individuals do have the right to lodge appeals before ordinary courts.<sup>8</sup>

3.3 Furthermore, the author claims a violation of articles 18 and 19 of the Covenant, asserting that States parties are under an obligation not to deport persons who risk having their human rights violated. He claims that he fears a violation of his rights to freedom of expression and freedom of thought, consciousness and religion.<sup>9</sup>

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

4.1 By a note verbale dated April 2016, the State party submitted its observations on admissibility and the merits. It claims that the communication should be considered inadmissible for lack of substantiation. As concerns the alleged violation of articles 18 and 19 of the Covenant, the State party submits that the communication should be declared inadmissible for being incompatible *ratione materiae* and *ratione loci* with the Covenant. Should the Committee find the communication admissible, the State party maintains that the author has failed to establish that there are substantial grounds for believing that his forcible removal to Myanmar would amount to a violation of articles 7, 18 or 19 of the Covenant. The State party further submits that the author's rights have not been violated under articles 13 and 26 of the Covenant in connection with the examination of his asylum case by the Danish authorities.

<sup>6</sup> It is not stated in the decision whether it was also accepted as fact that the author had been hospitalized not only because of the accident but also because he had been beaten up by the soldiers.

<sup>7</sup> The author is making reference to a fighting that took place between the armed forces and people belonging to the Kachin minority in November 2014.

<sup>8</sup> The author does not put forward any further arguments.

<sup>9</sup> The author does not provide any details to substantiate these claims.

4.2 The State party describes the proceedings before the Refugee Appeals Board.<sup>10</sup>

4.3 As concerns the alleged violation of article 7 of the Covenant, the State party submits that the Refugee Appeals Board accepted as fact the author's statements that he was forced to help soldiers move to a camp in 2006 and, in that connection, that he was involved in an accident as a consequence of which he was hospitalized. However, the Board could not accept as fact that the author subsequently found himself "in an adversarial position" with the local authorities. In its assessment, the Board held as important that the author's statements about the course of events after his discharge from hospital seemed incoherent and inconsistent. In particular, he made inconsistent statements regarding the length of his stay at home before hiding in a hut in a field.<sup>11</sup> He made incoherent statements as to how much time could have passed from his discharge until the soldiers came to his home inquiring about his whereabouts. He made inconsistent statements as to whether he was still at home when the soldiers were looking for him or whether he was then staying in a hut. The State party acknowledges that the alleged incidents happened nine years prior to the author's hearing before the Board and that he was also hospitalized at the time, but submits that those circumstances cannot explain the considerable inconsistencies in his accounts of the alleged facts. Furthermore, the Board considers that the author merely assumed that the soldiers were looking for him at his home as a result of the road accident. The State party notes that recognition of the author as a refugee by UNHCR in Malaysia cannot lead to a different assessment of the case. Lastly, the Board finds that the general human rights condition in Myanmar for persons of Kachin ethnicity cannot, in and of themselves, justify the granting of asylum.

4.4 The State party notes that the author has not produced any new information in his complaint to the Committee and that all relevant background information was made available to and considered by the Refugee Appeals Board in its decision of 29 May 2015. After a thorough assessment of the relevant background information<sup>12</sup> and the author's individual circumstances, the Board concluded that the author was not at risk of ill-treatment contrary to article 7 of the Covenant.

4.5 As concerns the alleged violation of article 13 of the Covenant, the State party submits that that article partly guarantees the same procedural rights afforded by article 14 (1) of the Covenant but that it does not, however, encompass the right to appeal or the right to a court hearing.<sup>13</sup> Considering that the author did not elaborate any further on his claim under article 13, the State party is of the position that this claim is not sufficiently substantiated.

4.6 As concerns the alleged violation of articles 18 and 19 of the Covenant, the State party submits that the author's claims are unsubstantiated. In addition, the State party notes

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<sup>10</sup> See, for example, *Ahmed v. Denmark* (CCPR/C/117/D/2379/2014), paras. 4.1–4.3.

<sup>11</sup> The State party submits that the author stated in his asylum application form completed on 19 September 2011 that he returned home to recover after he had been discharged from hospital. During his interview conducted by the Danish Immigration Service on 12 September 2014, he stated that he went home after his discharge from hospital and stayed there for about half an hour to pack his belongings. During his second interview, on 10 February 2015, the author confirmed that information. However, on 29 May 2015, the author stated at his hearing before the Refugee Appeals Board that he stayed home for a couple of days after having been discharged from the hospital. Later on, during the same interview, he asserted that he stayed home for about a month and that he decided to leave only after the soldiers had visited his house.

<sup>12</sup> The State party refers to the following: Freedom House, *Freedom in the World 2014* (Washington, D.C., 2015), p. 4; Human Rights Watch, *World Report 2015* (2015), p. 126; Amnesty International, *Amnesty International Report 2014/15: The State of the World's Human Rights* (London, 2015), pp. 262 and 264; Minority Rights Group International, *State of the World's Minorities and Indigenous Peoples 2015* (London, 2015), p. 149. The State party also refers to the oral update on the human rights violations and abuses against Rohingya Muslims and other minorities in Myanmar given by the United Nations High Commissioner for Human Rights to the Human Rights Council at its thirtieth session and the note by the Secretary-General transmitting the report of the Special Rapporteur on the situation of human rights in Myanmar (A/70/412, para. 47).

<sup>13</sup> The State party refers to *Mr. X and Ms. X v. Denmark* (CCPR/C/112/D/2186/2012) and Human Rights Committee, *Maroufidou v. Sweden*, communication No. 58/1979.

that the author is seeking the extraterritorial application of the invoked articles in spite of the fact that the alleged interference did not take place in Denmark or in an area where the Danish authorities have effective control, nor was the ill-treatment inflicted by the Danish authorities. Referring to the jurisprudence of the European Court of Human Rights,<sup>14</sup> the State party argues that the extraterritorial application of the rights and freedoms enshrined in the Covenant should be only exceptional. It is in the well-established case law of the Committee that the removal of persons by States parties to other States may entail a violation of articles 6 or 7 of the Covenant. However, according to the State party, the Committee has never considered a complaint on the merits concerning the removal of a person who feared the violation of rights other than those contemplated in articles 6 or 7 in the receiving State. The State party makes reference to the Committee's general comment No. 31 (2004) on the nature of the general obligation imposed on States parties to the Covenant, pursuant to which States parties are required to respect and ensure the Covenant rights for all persons in their territory and all persons under their control, which entails an obligation not to extradite, deport, expel or otherwise remove a person from their territory in cases where there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated by articles 6 and 7 of the Covenant, either in the country to which removal is to be effected or in any country to which the person may subsequently be removed. The State party considers, however, that removing a person who fears a violation of his rights under articles 18 and 19 of the Covenant entails no risks of irreparable harm such as those contemplated under articles 6 and 7 of the Covenant. Therefore, the State party submits that this part of the communication should be declared inadmissible for being incompatible *ratione materiae* and *ratione loci* with the Covenant.

4.7 As concerns the alleged violation of article 26 of the Covenant, the State party submits that the author's claims have not been sufficiently substantiated and it refers back to its arguments presented concerning the alleged violation of article 7 of the Covenant. The State party further observes that the author has not been treated differently from any other asylum seeker on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or any other status. Accordingly, the State party concludes that the author's rights under article 26 of the Covenant have not been violated in the course of the asylum proceedings.

4.8 Lastly, the State party submits that the author disagrees with the assessment of his specific circumstances and the background information considered by the Refugee Appeals Board. However, in his communication to the Committee, the author failed to identify any irregularity in the decision-making process or any risk factor that the Board has failed to properly take into account. The State party also submits that the Committee must give considerable weight to the findings of fact made by the Board, which is better placed to assess the factual circumstances of a particular case. Hence, in the State party's view, there is no basis for doubting, let alone setting aside, the assessment made by the Board according to which the author has failed to establish that there are substantial grounds for believing that he would be in danger of being killed or subjected to torture or cruel, inhuman or degrading treatment or punishment if returned to Myanmar.

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

5.1 On 13 September 2016, the author submitted his comments on the State party's observations. The author provides the Committee with his resettlement registration form issued by the UNHCR office in Malaysia dated 9 October 2009. In the form it is stated that the author is to be considered a refugee under the UNHCR mandate and the 1951 Convention relating to the Status of Refugees and is recommended for resettlement on the basis of legal and physical protection needs and no local integration prospects in Malaysia.

5.2 As to the admissibility of the complaint, the author reiterates his previous arguments. Additionally, as concerns the alleged violation of article 13, he contests that the Committee's Views in *Maroufidou v. Sweden* are relevant in his case. He also contests the

<sup>14</sup> See European Court of Human Rights, *Soering v. the United Kingdom* (application No. 14038/88), judgment of 7 July 1989; *F. v. the United Kingdom* (application No. 17341/03), judgment of 22 June 2004, and *Z. and T. v. the United Kingdom* (application No. 27034/05), judgment of 28 February 2006.

relevance of the Views in *Mr. X and Ms. X v. Denmark*, arguing that in that case the Committee examined an alleged violation of article 14, whereas in the present case article 13 of the Covenant is at issue.

5.3 As to the merits, the author refers to the UNHCR registration form and submits that the Refugee Appeals Board violated the 1951 Convention and the Covenant by not respecting the assessment of UNHCR. The author also contends that, not only in this particular case but also in other cases concerning asylum requests by ethnic Kachins from Myanmar, the Refugee Appeals Board has repeatedly disregarded the assessment of UNHCR acknowledging the refugee status of these petitioners and recommending their resettlement. The author notes that the Board nonetheless ignored these evaluations, not on the ground of a change in the human rights situation in Myanmar, but simply by claiming that the concerned persons “had never been refugees”.

5.4 The author further submits that the Refugee Appeals Board’s reasoning is logically flawed because once it has been established that he performed forced labour for the armed forces, which is in itself a breach of article 8 of the Covenant, it is erroneous to infer that he was not in “an adversarial position with the local authorities” as a result of the incidents described. He also states that because the Board did not take any steps to see his file from UNHCR, the State party violated articles 7 (procedural obligations) and 13 of the Covenant. Lastly, the author reiterates his arguments alleging a violation of articles 18, 19 and 26 of the Covenant.<sup>15</sup>

#### **Additional observations by the State party**

6.1 On 3 February 2017, the State party argued that the author’s additional observations of 13 September 2016 seem to provide no essentially new or specific information on his personal situation.

6.2 Concerning the author’s complaint about the State party’s failure to respect the assessment carried out by UNHCR in his case, the State party submits that it did not disregard the evaluation conducted by UNHCR in 2009 but, rather, made an independent assessment as to whether the author met the conditions for asylum at the time of his case being considered by the Board under the applicable Danish law.

6.3 As regards the author’s assertions on the alleged persecution of Kachins by the local authorities, the State party, referring to several country reports, submits that the general human rights situation has improved considerably in Myanmar since 2009.<sup>16</sup>

6.4 Accordingly, the State party maintains that the complaint should be declared inadmissible. Should the Committee examine the complaint on the merits, the State party is of the view that there has been no violation of the rights of the author under articles 7, 13, 18, 19 and 26 of the Covenant.

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

##### *Consideration of admissibility*

7.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 97 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

7.2 In accordance with article 5 (2) (a) of the Optional Protocol, the Committee shall not consider any communication from an individual unless it has ascertained that the same

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<sup>15</sup> The author does not provide any arguments in addition to those already provided in his first submission.

<sup>16</sup> United Kingdom of Great Britain and Northern Ireland, Foreign and Commonwealth Office, “Human rights priority country status report: January to June 2016”, updated on 8 February 2017 (available from [www.gov.uk/government/publications/burma-human-rights-priority-country/human-rights-priority-country-update-report-january-to-june-2016](http://www.gov.uk/government/publications/burma-human-rights-priority-country/human-rights-priority-country-update-report-january-to-june-2016)); and United States, Department of State, “Burma 2015 human rights report”, *Country Reports on Human Rights Practices for 2015* (available from <https://2009-2017.state.gov/documents/organization/252963.pdf>).

matter is not being examined under another international procedure of international investigation or settlement.

7.3 The Committee notes the author's claim that he has exhausted all domestic remedies available to him. In the absence of any objection by the State party in that connection, the Committee considers that the requirements of article 5 (2) (b) of the Optional Protocol have been met.

7.4 The Committee notes the author's claim under articles 13 and 26 of the Covenant that he was unable to appeal the negative decision of the Refugee Appeals Board to a judicial body and that he was discriminated against in the course of the asylum proceedings. In that regard, the Committee refers to its jurisprudence, according to which article 13 offers asylum seekers some of the protection afforded under article 14 of the Covenant but not the right of appeal to judicial bodies.<sup>17</sup> The Committee further notes that the author has not explained the basis of his claim under article 26 of the Covenant, that is, why he felt that he had received discriminatory treatment during the procedure before the Board. The Committee therefore concludes that the author has failed to sufficiently substantiate his claims under articles 13 and 26 of the Covenant, and declares this part of the communication inadmissible under article 2 of the Optional Protocol.

7.5 With regard to the author's complaint about the alleged violation of articles 18 and 19 of the Covenant, the Committee notes the State party's argument that the author's claims are insufficiently substantiated. It also notes the State party's statement that the author's claims under articles 18 and 19 are inadmissible *ratione loci* and *ratione materiae* as incompatible with the provisions of the Covenant since articles 18 and 19 do not have extraterritorial application. The Committee observes that the author's contentions are indeed vague and very limited without advancing any specific arguments in support of his claims. The Committee further recalls that article 2 of the Covenant entails an obligation for States parties not to deport a person from their territory when there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated in articles 6 and 7 of the Covenant, in the country to which removal is to be effected. Accordingly, the Committee considers that the author's communication falls short of substantiating how his rights under articles 18 and 19 would be violated by the State party were he to be removed to Myanmar and how such removal would pose a substantial risk of irreparable harm such as that contemplated under articles 6 and 7 of the Covenant. This part of the communication is therefore inadmissible pursuant to article 2 of the Optional Protocol.

7.6 The Committee notes the author's claims that he would face torture or cruel, inhuman or degrading treatment or punishment if removed to Myanmar, owing to his Kachin ethnicity. He submits that Kachins are ordered to engage in forced labour by the armed forces in his country of origin. The Committee also takes note of his assertion that, should he be returned to Myanmar, he would be requested to provide information to the border authorities about Kachin refugees' activities abroad and that he would be subjected to ill-treatment in case of resistance or non-compliance.

7.7 The Committee recalls paragraph 12 of its general comment No. 31, in which it refers to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory when there are substantial grounds for believing that there is a real risk of irreparable harm, such as that contemplated in articles 6 and 7 of the Covenant.<sup>18</sup> The Committee has also indicated that the risk must be personal and that there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists.<sup>19</sup> Thus, all relevant facts and circumstances must be considered, including the general human rights situation in the author's country of origin.<sup>20</sup> The Committee recalls that it is generally for the organs of States parties to examine the facts

<sup>17</sup> See, for example, *D and E v. Denmark* (CCPR/C/119/D/2293/2013), para. 6.8; *A and B v. Denmark* (CCPR/C/117/D/2291/2013), para. 7.3; and *X v. Denmark* (CCPR/C/110/D/2007/2010), para. 8.5.

<sup>18</sup> See also *A v. Denmark* (CCPR/C/116/D/2357/2014), para. 7.4.

<sup>19</sup> See, for example, *A and B v. Denmark*, para. 8.3.

<sup>20</sup> *Ibid.* See also *X v. Norway* (CCPR/C/115/D/2474/2014), para. 7.3; and *X v. Canada* (CCPR/C/115/D/2366/2014), para. 9.3.

and evidence of the case in order to determine whether such a risk exists, unless it can be established that the assessment was arbitrary or amounted to a manifest error or denial of justice.<sup>21</sup>

7.8 The Committee further recalls that the obligation under the Covenant not to remove an individual applies at the time of removal and that, in cases of imminent deportation, the material point in time for assessing the issue must be that of its own consideration of the case. Accordingly, in the context of the communications procedure under the Optional Protocol, in assessing the facts submitted by the parties for consideration, the Committee must also take into account new developments that may have an impact on the risks that an author subject to removal may face. In the present case, the information in the public domain has signalled a deterioration in the situation in Myanmar in recent times. However, on the basis of the information in the case file, the Committee is not in a position to assess the extent to which the current situation in Myanmar may have an impact on the author's personal risk. In this context, the Committee recalls that it remains the responsibility of the State party to continuously assess the risk that any individual would face in case of return to another country before the State takes any final action regarding deportation or removal.<sup>22</sup>

7.9 In the present case, the Committee notes that the Refugee Appeals Board pointed to several contradictions in the author's accounts of the facts and that, even though the Board found it credible that the author was hurt in a road accident, it considered that the author could not establish the alleged link between that accident and the ensuing inquiries by the soldiers at his home. Nor could the Board accept that the accident had led to a perpetual conflict between the author and the armed forces of Myanmar. The Committee considers that, while the author disagrees with the factual conclusions of the State party's authorities, the information before the Committee does not indicate that those findings are manifestly unreasonable.<sup>23</sup> The Committee considers that the author has not established a sufficient basis for his claim that the evaluation of his asylum application by the Danish authorities was clearly arbitrary or amounted to a manifest error or denial of justice.<sup>24</sup> Therefore, without prejudice to the continuing responsibility of the State party to take into account the situation in the country to which the author would be deported and not underestimating the concerns that may legitimately be expressed with respect to the general human rights situation in northern Myanmar,<sup>25</sup> the Committee considers that, in the light of the available information regarding the author's personal circumstances, the author's claims under article 7 of the Covenant are insufficiently substantiated and are therefore inadmissible under article 2 of the Optional Protocol.

8. The Committee therefore decides:

- (a) That the communication is inadmissible under article 2 of the Optional Protocol;
- (b) That the present decision shall be transmitted to the State party and to the author.

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<sup>21</sup> See, for example, *I.M.Y. v. Denmark*, (CCPR/C/117/D/2559/2015), para. 7.6; and *K v. Denmark* (CCPR/C/114/D/2393/2014), para. 7.4.

<sup>22</sup> *H.A. v. Denmark* (CCPR/C/123/D/2328/2014), para. 9.8.

<sup>23</sup> *R.G. et al. v. Denmark* (CCPR/C/115/D/2351/2014), para. 7.7.

<sup>24</sup> See, for example, *A v. Denmark*, para. 7.4.

<sup>25</sup> See, for example, the reports of the independent international fact-finding mission on Myanmar (A/HRC/39/64 and A/HRC/42/50).