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Institution:	Inter-American Commission on Human Rights
File Number(s):	Case No. 1799
Session:	Thirty-Fourth Session (15 – 25 October 1974)
Title/Style of Cause:	Siloista Religious Sect Members v. Chile
Doc. Type:	Decision
Decided by:	President: Dr. Andrés Aguilar, President (Venezuela) Vice-President: Dr. Carlos A. Dunshee de Abranches (Brazil) Members: Professor Manuel Bianchi (Chile); Dr. Gabino Fraga (Mexico); Dr. Justino Jimenez de Aréchaga (Uruguay); Mr. Robert F. Woodward (United States); Dr. Genaro R. Carrio (Argentina)
Dated:	25 October 1974
Citation:	Siloista Religious Sect v. Chile, Case 1799, Inter-Am. C.H.R., OEA/Ser.L/V/II.34, doc. 31 rev. 1 (1974)
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[1] Case 1799, February 21, 1974, reporting the arbitrary arrest of thirty-eight (38) members of the so-called Siloista religious sect in Chile. The events occurred on December 23, 1973, and on January 16, 1974. According to the report, the persons arrested (men and women) would be tried by a military court in March 1974.

[2] In a cablegram dated February 25, 1974, the Commission requested the Government of Chile to provide the pertinent information, in accordance with Articles 42 and 44 of its Rules of Procedure.

[3] The Government of Chile, in a note dated March 14, 1974, replied to the request of the Commission and provided the following information:

a. The Siloista movement has, since its appearance, constituted a serious and continuing threat to public morality, public order and good conduct, and its leading members had caused public scandals and notorious trials in the ordinary courts of Justice for traffic and use of drugs, corruption of minors, etc.

b. That it could hardly be classified as a religious group and that its political character was fully documented and demonstrated by Chilean Journalists (in particular by the investigation of Jaime Valdés made in early 1973) which established links between Siloists and the Chilean Marxist authorities and organizations

c. That press campaigns against Siloistas had occurred periodically since 1970, sponsored by defenders of the integrity of the family and Christian morality.

d. That, in the use of his legal powers, the officer in charge of the state of siege of the Province of Santiago ordered the arrest of the 10 Siloists mentioned in the request for information of the Commission.

e. That Messrs. Leonardo Espinosa, Bruno Von Ehremberg and Nils Eric Knepper Joansen were detained in the Santiago Prison and that a competent military court had Jurisdiction over the cases and would try them.

f. That Messes. Fernando Lira and Luis Felipe Carvallo were detained in the Chilean Stadium and were not subject to military courts.

g. That Misses María Asunción Cuevas, Marta Bunster, Inés Essen Winkler, Isabel Luna and Ana María Lavín were detained in the Women's Prison in Santiago but not tried by military courts.

h. That all the persons arrested were receiving just treatment and that it was absolutely false that they were deprived of an adequate defense since the Code of Military Justice provides appropriate measures for guaranteeing it, and the persons affected could appoint attorneys they trusted, and, if they did not do so, attorneys appointed ex officio by the court trying the case would assume that responsibility.

i. That the Government of Chile is not violating nor will it ever violate human rights and will remain faithful to the principles of justice and equity that make it possible and compulsory to investigate and prosecute the criminal activities of anti-social elements that are aimed at physically and/or morally annihilating members of the community, all of which, naturally, by means of pre-established procedures and with the intervention of competent courts in accordance with the legal and constitutional provisions in force, and that the Government of Chile felt obliged to take energetic action, although strictly in accordance with law, in order to prevent the deceitful actions of groups or individuals that violate the fundamental rights of the human person such as his health and dignity, but it will be for the courts to determine whether they are really guilty and deserve punishment, or whether they are innocent and deserve to be acquitted.

j. That the terms of the report were unacceptable and the Government of Chile rejected them categorically, basing itself on the arguments set forth above and supported by the traditional Chilean policy of respect for human rights.

[4] In accordance with its Rules of Procedure, the Commission transmitted to the complainant, in a letter dated March 25, 1974, the pertinent parts of the information provided by the Government of Chile. For her part, the complainant, in a letter dated March 15, had sent additional information on the complaint.

[5] With all this information to hand, the Commission began the examination of the report at its thirty-second session (April 1974) and decided: To again address the Government of Chile and request it to be good enough to provide it with additional information concerning whether any of the persons mentioned in letter g of the summary included above had been or were going to be tried by ordinary courts and whether such persons were detained under the provisions applicable in the state of siege or because they were accused of common offenses.

[6] In implementation of this decision, the Commission addressed the Government of Chile in a note dated January 3, 1974. In a letter dated April 29, 1974, it informed the complainant of this decision.

[7] The Government of Chile, in a note dated July 22, 1974 (No. 12239) transmitted the following additional information to the CIDH:

"I refer to your notes dated June 3 through which the Inter-American Commission on Human Rights requests information concerning the status of certain persons.

"In this regard I wish to state to you the following:

"A. Situation of Miss Laura Martínez Silva

No information is available to the effect that she has been detained at any time.

"B. Situation of Miss María Elena Gallardo

Was detained, but released on September 11, 1973.

"C. Case 1799

1. Luis Fernando Lira. Is free.

2. María Asunción Cuevas. Is free.

3. Marta Bunster. Is free.

4. Isabel Luna. Is free.

5. Ana María Lavín. Is free
6. Luis Felipe Carvallo. No information is available to the effect that he has been detained.
7. Inés Wintler. No information is available to the effect that she has been detained.

[8] Furthermore, during the investigation in loco of the Commission in Chile, new information was received from the complainant according to which Mr. Luis Fernando Lira (who, in accordance with the information transcribed above, was allegedly "free") was still detained in the Pisagua Prison.

[9] In a note dated July 29, 1974, the Commission requested the Government of Chile to provide the pertinent information. That Government, in a note dated August 16, 1974 (No. 13957) provided the following information:

"I wish to inform you that I have received a note - Case 1799 dated June 29, 1974 - by which the Inter-American Commission on Human Rights requests information concerning the status of Luis Fernando Lira Haquín.

"In this regard, I can inform you that Luis Fernando Lira is at present detained in Pisagua in accordance with the powers which, under the Law of the State of Siege, the Political Constitution confers on the Executive Branch.

"Furthermore, I am in a position to inform you that the Supreme Court of Justice denied by a decision handed down yesterday an appeal of amparo filed in favor of Lira, stating that 'bearing in mind the grounds of the resolution appealed and the fact that the transfer and deprivation of liberty of the person involved had been ordered by the administrative authority in the exercise of special powers and under the State of Siege in which the country at present is, the appealed decision is confirmed'. The appeal of amparo had been denied earlier by the Appeals Court".

[10] On the basis of this information, the Commission examined case 1799 at its thirty-fourth session (October 1974) and approved a resolution (OEA/Ser.L/V/II.34, doc.25 dated October 25, 1974) in which it recommended to the Government of Chile that it take the necessary measures to ensure that as long as Luis Fernando Lira Haquín is deprived of liberty under the state of siege, the rule embodied in Article 72 n. 17 of the Constitution of Chile concerning the place of detention be observed, and that as soon as possible the competent authorities review the situation of the person detained in order to determine whether or not there are facts justifying his continued detention and consequently his trial, with the guarantees of due process or, if not, to set him free.

[11] This resolution was made known to the Government of Chile in a note dated December 17, 1974 and to the complainants on November 14, 1974.