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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 28/83; Case No. 7913
Session:	Sixty-First Session (26 September – 7 October 1983)
Title/Style of Cause:	Maria Teresa Cervico v. Argentina
Doc. Type:	Resolution
Decided by:	Chairman: Mr. César Sepúlveda First Vice Chairman: Dr. Luis Demetrio Tinoco Castro; Members: Andrés Aguilar, Tom J. Farer, Marco Gerardo Monroy Cabra; Mrs. Gilda Maciel Russomano. Mrs. Russomano joined the Commission after having been elected by the Permanent Council of the Organization to complete the term of the former member of the IACHR, Professor Carlos Alberto Dunshee de Abranches, now deceased.
Dated:	04 October 1983
Citation:	Cervico v. Arg., Case 7913, Inter-Am. C.H.R., Report No. 28/83, OEA/Ser.L/V/II.63, doc. 10 (1983-1984)
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BACKGROUND:

1. Through a communication of September 15, 1981, the Inter-American Commission on Human Rights received the following complaint:

MARIA TERESA CERVICO disappeared on April 26, 1976 when she drove off in her automobile in Lomas de Zamora, Buenos Aires Province, to do some shopping. Neither she nor her car have been seen again. She was twenty-nine years old.

In spite of persistent efforts and inquiries, it was impossible to obtain any specific information. In reply to various statements presented, the Ministry of the Interior invariably asserted that the woman was not being held. General Videla personally told her mother the same thing in May 1976. However, during the same period, Monsignor Antonio Plaza, Archbishop of La Plata, informed the family that Maria Teresa had been held in the police precinct of Lomas de Zamora, but that she had been moved.

In May 1981, five years after the act was committed and as a consequence of further demands by the family, the Ministry of the Interior mailed the mother a note signed by Commander Sosa, which read as follows:

"Maria Teresa Cervico died on April 28, 1976 in the jurisdiction of the police precinct of Lomas de Zamora. A homicide case is being tried in the Criminal Court No. 2, Secretariat 3 of Banfield, Buenos Aires Province."

An examination of the case reveals:

1. On April 28, 1976, two days after her disappearance, the body of Maria Teresa Cervico was

found hanged from a pedestrian bridge over the railroad in Avellaneda. The police of Lomas de Zamora entered into the case. The head and the body were wrapped in polyethylene; a rope was around the neck; the hands were tied behind; the eyes were covered with adhesive tape. There was a placard that read "I was a guerrilla. Follow me."

2. The case was handled by the Criminal Court of First Instance No. 2 of Banfield, province of Buenos Aires, at that time under the direction of Dr. Raúl F. Varesio, Secretariat of Dr. Julio E. Virgolini, with the participation of the District Attorney, Dr. Lorenzo Antonio Romillo.

Also on April 28 the victim was identified through the federal police. The police also revealed her place of residence as San Miguel de Tucuman, the same as that of her parents. An autopsy was made, the bullets were studied by experts, the body was buried, and for all practical purposes the proceedings were concluded. All this was accomplished with unusual speed.

Following repeated requests to the director of the cemetery of Avellaneda, who delayed a month in revealing the place of burial, the file on the case was returned to the Court on June 29. On July 3, Judge Varosio, ordered the case dismissed without prejudice to the presentation of new evidence.

There is no doubt that serious irregularities were committed in handling the case. The rules of the Code of Criminal Procedure were not met; no time was allowed for producing evidence; and, finally, the family was not informed of the victim's death.

It is extremely suspicious that in a single day, April 28, 1976, the body was discovered, instructions were issued through the summary proceedings, and the autopsy and burial of the body took place, without calling the relatives, whose address was known through the identification that was made also on that day. The rapidity of these actions, designed to violate criminal laws, concealed the facts, so that no one would be able to step forward to see to proper fulfillment of the investigations and to determination and punishment of the authorities responsible for the crime.

2. Through a note of October 2, 1981, the IACHR transmitted the pertinent parts to the Government of Argentina, requesting it to furnish the Commission with the corresponding information, and also with any other evidence that would enable it to determine if the domestic jurisdiction had been exhausted.

3. The IACHR has in its possession a summary of the proceedings No. 5234 for 1976, file 106, of Buenos Aires Province. It also has a copy of the petition presented on July 10, 1981 in the Criminal Court of First Instance No. 2, Secretariat No. 3, of Banfield, Buenos Aires Province, for reopening Case 5234 of 1976, bearing the title "Cervico, Maria Teresa, homicide victim."

4. The Commission repeated its request for information to the Argentine Government on May 27, 1982, stating that if no response were forthcoming within a reasonable time, the Commission would consider application of Article 39 of the Regulations of the Commission, concerning presumption of the truth of the acts reported. The contents of this note were reiterated by the IACHR on February 28, 1983.

WHEREAS:

1. To date the Government of Argentina has not replied to the request for information contained in the Commission's notes of October 2, 1981, May 27, 1982, and February 28, 1983; and

2. Article 39 of the Regulations of the Commission establishes as follows:

Article 39 (Presumption)

The facts reported in the petition whose pertinent parts have been transmitted to the government of the state in reference shall be presumed to be true if, during the maximum period set by the Commission under the provisions of Article 31 paragraph 5, the government has not provided the pertinent information, as long as other evidence does not lead to a different conclusion.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To presume the facts reported in the communication of September, 1981 to be true, concerning the irregular circumstances in which Miss Maria Teresa Cervico died.
2. To observe to the Government of Argentina that these acts constitute extremely serious violations of the right to life, liberty, and personal security (Article I); the right to a fair trial (Article XVIII); and the right of protection against arbitrary arrest (Article XXV) of the American Declaration of the Rights and Duties of Man.
3. To recommend to the Government of Argentina: a. that it order a complete and impartial investigation to determine who perpetrated the acts reported; b. that it punish those responsible for these acts, in accordance with the laws of Argentina; and c. that it inform the Commission within a period of no more than sixty days on the steps taken to put into practice the recommendations set forth in this resolution.
4. To inform the Government of Argentina and the complainants of this resolution.
5. To include this resolution in the Annual Report to the General Assembly of the Organization of American States, in accordance with Article 59 (g) of the Regulations of the Commission, without precluding the fact that the Commission may reconsider the case at its next session, in the light of the measures taken by the government.