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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 17/87; Case No. 9425
Session:	Seventieth Session (22 June – 2 July 1987)
Title/Style of Cause:	Mr. Jaime Ayala Sulca Huanta v. Peru
Doc. Type:	Resolution
Decided by:	President, Dr. Gilda M.C.M. Russomano; First Vice President, Dr. Marco Tulio Bruni Celli; Second Vice President, Mr. Oliver T. Jackman. Members: Dr. Marco Gerardo Monroy Cabra; Dr. Bruce McColm; Ms. Elsa Kelly; Luis Adolfo Siles Salinas
Dated:	30 June 1987
Citation:	Ayala Sulca Huanta v. Peru, Case 9425, Inter-Am. C.H.R., Report No. 17/87, OEA/Ser.L/V/II.71, doc. 9 rev. 1 (1986-1987)
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HAVING SEEN the background information on this case, viz:

1. The Inter-American Commission on Human Rights received the following petition in a communication dated August 29, 1984:

We have received information claiming that JAIME AYALA SULCA HUANTA, a newspaper correspondent of the journal "La República" has disappeared after his arrest on August 2, 1984 at the Navy facilities in Huanta, Department of Ayacucho. Mr. Ayala had gone there to complain about police conduct towards his mother who had come to his house the night before. The Armed Forces Joint Command denied his detention in Huanta. There is no further information on his whereabouts. All the legal remedies possible under the prevailing State of Emergency in Peru have been exhausted. We ask the Commission to take immediate action and request the Government of Peru to acknowledge his detention, clarify his legal and personal situation and guarantee his physical integrity. Recently, in the Ayacucho region, numerous disappearances and illegal executions have occurred after arrests.

2. In a cablegram dated September 4, 1984 the Commission transmitted the pertinent parts of the petition to the Government of Peru requesting it to provide information in accordance with Article 34 (formerly 31) of the Regulations. This request was repeated in a note dated September 11, 1984, and again in a second note on January 30, 1985 which also considered the application of Article 42 (formerly 39) of the Regulations whereby the facts reported will be considered to be true.

3. In a note dated May 6, 1985 (No 7-5-M/37), the Government of Peru submitted the following information.

With regard to Case 9425 concerning the citizen Jaime Ayala Sulca, the District Attorney's Office has taken the corresponding actions to thoroughly investigate the petition and to determine who is responsible. The investigations commenced on August 2, 1984 as a result of the petition submitted to this

District Attorney's Office by the citizen Carlos Paz Villantoy.

4. In a note dated May 12, 1985 the Commission transmitted to the petitioner the pertinent parts of the information transcribed above and requested that he send his observations or comments within a period of 45 days.

5. Since the Commission, in its note of October 11, 1985, reiterated the information to the Government of Peru on pending cases, in process, the Government of Peru, in a note dated March 26, 1986 (No 7-5-M/44) provided additional information to the Commission on the progress of the investigation of this case by national authorities. That information was the following:

Regarding Case 9425, on January 29 the Supreme Court of the Republic, through its second criminal court, pronounced judgement establishing that the judicial investigation into the disappearance of Mr. Jaime Ayala Sulca should be continued in the civil courts under the ad-hoc examining magistrate of Huamanga. In this way the request to transfer the case to military courts was rejected.

6. In its communication of April 15, 1986, the Commission transmitted to the petitioner the pertinent parts of the additional information sent by the Government of Peru and requested his observations and comments pointing out to him that if they were not received within a period of 45 days, the processing of the case would be discontinued.

7. In his communication of June 6, 1986, the petitioner sent the following comments and additional information on the case:

We know that the former Navy Commander of the Huanta Province, Lieutenant Commander Alvaro Artaza Adrianzén and Second Class Petty Officer A.P. Roman Martínez Heredia have been accused of the disappearance of Jaime Ayala Sulca, of the death of six members of the Calqui Presbyterian Church, and also of the arrest and death of 50 individuals found in common graves in Pucayacu, near Huanta, in August 1984. Nevertheless, the action against these two men was delayed by a jurisdictional conflict between the civil courts and the Navy courts.

On January 24, 1986 the Supreme Court decided that the military courts would have jurisdiction over the Calqui and Pucayacu cases but that the civil courts would have jurisdiction in the proceedings against Lieutenant Commander Artaza Adrianzén for the disappearance of Jaime Ayala Sulca. It was not possible to confirm if the same decision is also applicable to the case of Petty Officer Martínez Heredia.

Lieutenant Commander Artaza Adrianzén has not been seen, nor have his whereabouts been known, since February 2, almost a week after the Supreme Court decision, when a military spokesman said that he had been kidnapped. The following week a television documentary, which implied that Lieutenant Commander Artaza Adrianzén had been taken out of the country by the Peruvian Navy to avoid trial, was banned (copies of the reports related to the incident are enclosed).

We have not received any information on Lieutenant Commander Artaza Adrianzén's status and therefore request the Commission to require the Government to furnish information on his present whereabouts.

We have also received reports that family members of Jaime Ayala Sulca have received death threats from anonymous callers, and have been warned not to continue to insist on the trial. The family of Attorney Augusto Zuñiga has also been threatened.

8. In a note dated June 23, 1986 the Commission transmitted the pertinent parts of this information and comments to the Government of Peru.

9. In a note dated July 30, 1986 (No 7-5--M/128), the Government of Peru said the following: With respect to Case 9425 it is to be noted that the observations expressed by the petitioner to the Commission have no value at all since they furnish no legal arguments whatsoever. Also, it is worth

noting that, as in the former case, domestic remedies have not been exhausted and, therefore, this petition should not be admitted.

10. In its communication of August 4, 1986, the Commission transmitted the above-mentioned reply to the petitioner.

CONSIDERING:

1. That the facts of this case meet all the requirements for admissibility set forth in the Regulations of the Commission.

2. That according to the information provided by the Government of Peru, the investigations of the disappearance of Mr. Jaime Ayala Sulca Huanta, a newspaper correspondent of the journal "La República", arrested on August 2, 1984, in Huanta, Ayacucho, have not had positive results, in spite of the long time periods which have elapsed since they were initiated (August 2, 1984) by the Public Prosecutor's Office.

3. That, moreover, during these investigations nothing whatsoever has resulted from the hearing of the case by the Trial Court of Second Instance in Huamanga, Ayacucho against the presumed guilty parties in this case, Mr. Alvaro Artaza Adrianzén and Mr. Roman Martínez Heredia, and this is inferred from the note dated May 6, 1985 (No 7-5-M/100) sent by the Government of Peru to the Commission informing that it grants the Provincial Prosecutor in Criminal Matters authority "for the most extensive intervention and jurisdiction in the criminal proceedings against the accused".

4. That, finally, the Government of Peru provided limited information to the Commission, two years after the events occurred, barely indicating that the matter is still under investigation, the only progress being that the case shall continue "in the civil courts and under the ad-hoc examining magistrate of Huamanga", as stated in the note sent by the Government of Peru on March 26, 1986 (No 7-5-M/44), p. 2).

5. That the petitioner, in his comments and observations on the information contained in the abovementioned note of March 26, 1986, has submitted important and substantial evidence in view of which not only are the facts of this case presumed to be true, but also that the presumed guilty parties have not been brought to trial because their whereabouts or status is unknown.

6. That in this case it is not appropriate to wait until internal remedies are exhausted, as requested by the Government of Peru (Note No 7-5-M/128 dated July 30, 1986), because since these events occurred, sluggishness and lack of results in this investigation constitute an obvious case of unjustified delay in the administration of justice that, in fact, imply a denial of the same which would permit clarification of the facts, all of which make completely applicable the provisions of Article 37 paragraph 2 of the Commission's Regulations.

7. Moreover, in this case, by reason of the nature of the events, that is, the forced disappearance of Mr. Jaime Ayala Sulca Huanta, the Commission has not been able to apply the friendly settlement procedure provided for in Article 48, paragraph 1, f of the American Convention on Human Rights and in Article 45 of its Regulations.

8. That Article 42 of the Regulations authorizes the Commission to consider the facts stated in the petition of this case to be true as long as other evidence does not lead to a different conclusion.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

RESOLVES:

1. To presume true the facts reported in the communication of August 29, 1984, on the arbitrary arrest and disappearance of the newspaper correspondent Mr. Jaime Ayala Sulca Huanta, which took place in Huanta, Ayacucho on August 2, 1984.
2. To declare that these facts constitute an extremely serious violation of the right to life (Art. 4); to personal integrity (Art. 5) and to personal liberty (Art. 7), set forth in the American Convention on Human Rights.
3. To recommend to the Government of Peru that it conclude, as fast as possible, the investigations being carried out at the Trial Court of Huamanga, and, in particular, that it proceed to bring to trial before the provincial courts the presumed guilty parties in this case, Lieutenant Commander Alvaro Artaza Adrianzén and Second Class Petty Officer A.P. Román Martínez, in the provincial courts, in accordance with the decision of the Supreme Court of Justice of Peru in its ruling of January 24, 1986, and that the Commission be informed of the result of these investigations or of the steps taken.
4. To recommend to the Government of Peru that it punish the persons responsible with the most severe penalties established in Peruvian law, and that, also, it grant compensation to the victim's family members, according to the law.
5. To request the Government of Peru to inform the Commission, within a period of 60 days, of the decision taken regarding these recommendations. If the period established in numeral 3 of this Resolution has elapsed with no observations presented by the Government of Peru, the Commission will include this Resolution in its Annual Report to the General Assembly of the OAS, as established in Article 63, g of its Regulations.
6. To transmit this Resolution to the Government of Peru and to the petitioner.