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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 18/87; Case No. 9426
Session:	Seventieth Session (22 June – 2 July 1987)
Title/Style of Cause:	Juan Darío Cuya Laine 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:	Cuya Laine v. Peru, Case 9426, Inter-Am. C.H.R., Report No. 18/87, 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. In a communication dated September 4, 1984 the Inter-American Commission on Human Rights received the following complaint:

On July 24, 1984 eighteen-year old JUAN DARIO CUYA LAINE was arrested at his home, in the Province of Ayacucho, by members of the army and the police. His mother has stated that she saw him on July 30, 1984 when visiting him at the Quicapata barracks. At that time he presented visible signs of torture. Since then his whereabouts are unknown. The officials at Quicapata, where he had been detained, now deny his arrest. According to information received the facilities at Quicapata used to be a school. We fear for the life and integrity of Juan Darío in view of the recent well known events in Ayacucho. All internal remedies have been exhausted. We urgently request the IACHR to press the Government of Peru to acknowledge the arrest of Mr. Cuya, determine his whereabouts and guarantee his safety.

2. In a cablegram dated September 5, 1984 the Commission transmitted the pertinent parts of the claim 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 on September 10, 1984.

3. In a note dated December 10, 1984 (No 7-5-M/43), the Government of Peru replied to the Commission as follows:

Acting on the instructions of its Government, the Permanent Mission of Peru informs the Honorable Executive Secretariat that the Ministry of the Interior has reported that the Peruvian citizen, Mr. Juan Darío Cuya Laine, has not been intervened nor arrested by the Forces of Law and Order in the Emergency Zone. Moreover, it is noted that this citizen has no social-political record in the registers of the Peruvian police; and that his present whereabouts are unknown, in spite of efforts to locate him made according to the request of the Inter-American Commission on Human Rights.

4. In a letter dated January 30, 1985, the Commission made known the pertinent parts of the above-mentioned information to the petitioner, requesting that he send his observations within a period of 45 days; this request was reiterated in a letter dated May 1st, 1986 pointing out that should it not receive any information within a period of 60 days, the Commission would discontinue processing the case.

5. In his communication of May 14, 1986, the petitioner sent additional information and observations on the case, as follows:

In its note of December 10, 1984 the Peruvian Government states that JUAN DARIO CUYA LAINE was not arrested by the security forces operating in the state of emergency zone and that he does not have a police record. The Government adds that, in spite of all efforts to locate him, his whereabouts are still unknown.

We consider there to be an important discrepancy between the information provided by the Government and the two declarations sworn to before the District Attorney at Ayacucho, copies of which we are sending to the Commission.

On June 25, 1984 the witness stated in a sworn statement that on June 24, 1984, and after having searched his home around 6 a.m., Juan Darío was arrested by a group of 15 Army officials. Also, the witness stated he believed Juan Darío had been taken to the "Los Cabitos" barracks and requested that he be released or transferred to the Investigations Police of Peru (PIP).

On August 31, 1984 the witness stated in a new affidavit that he had learned that Juan Darío had been in police custody in a building known as "Casa Rosada" and that later he had been transferred to the army barracks at Quiscapata. The witness said he visited him at that facility on July 30, 1984 and verified that the prisoner was vomiting blood. The witness also stated that at Quiscapata he was promised Juan Darío would be released 15 days later but in fact he was never seen again. He said he later heard that Juan Darío was at the "Casa Rosada", then at "Los Cabitos" and he asked the District Attorney to look into said facilities.

6. In its communications of May 22 and 28, 1986 the Commission transmitted the pertinent parts of the observations and new information sent by the petitioner to the Government of Peru and set a period of 30 days for this Government to furnish information on the case.

7. In its communication of May 22, the Commission informed the petitioner of the above-mentioned procedure.

#### CONSIDERING:

1. That this case meets all the admissibility requirements set forth in the Commission's Regulations.
2. That the Government of Peru has not replied to the last request for information by the Commission, dated May 22, 1986.
3. That the information provided by the Government of Peru in its note of December 10, 1984, denying the arrest of Mr. Juan Darío Cuya Laine by security forces, contradicts the testimony given under oath by Mr. Cuya Laine's mother before the ad-hoc District Attorney of Ayacucho, on June 25, 1984, which is on file and states that on June 24, 1984, at approximately 6 a.m., some fifteen (15) heavily armed army officials, having searched the deponent's home, arrested Mr. Cuya Laine and took him, according to this testimony, to the barracks called "BIM 51, Los Cabitos", in the city of Ayacucho.
4. That, also, in a later testimony given on August 31, 1984 by Mrs. Laine, she stated that she had been informed, by "non official" channels, that her son was detained in a place called "Casa Rosada", and

was then transferred to the Quisapata barracks where she visited him and saw him "vomit blood". According to the deponent she was promised that her son would be freed in 15 days but since then she has no knowledge of his whereabouts or situation.

5. That, finally, the deponent declared that she had received information indicating that her son had been taken again to "Los Cabitos" barracks, having requested the District Attorney to visit this place in order to verify the presence and condition of her son, since she was unable to resort to any other legal remedies in order to verify the whereabouts and condition of her son.

6. That in view of the facts on file, those provided by the petitioner as well as those presented by the afore- mentioned Government, it is affirmed that the facts claimed are considered to be true and that, consequently, Mr. Juan Dario Cuya Laine was arbitrarily arrested by agents of the Government of Peru and kept in illegal detention facilities, that is, in military barracks or facilities, until his disappearance which, by his own mother's testimony, must have occurred between the end of July and the beginning of August, 1984.

7. That in this case the petitioners exhausted the internal remedies available to them upon requesting the Ayacucho District Attorney to verify the presence and status of Mr. Juan Darío Cuya Laine, and that the judicial authorities, not having complied with the requested action nor initiated preliminary proceedings to clarify the facts, constituted an act of denial of justice, and whereby the Commission shall not apply the provisions established in Article 37, paragraph 1 of its Regulations.

8. That, furthermore, in the case that is the subject matter of this resolution, the Commission has not been able, by reason of the nature of the petition, that is, the forced disappearance of Mr. Juan Darío Cuya Laine, 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.

9. That in accordance with the provisions set forth in Article 42 (formerly 39) of the Regulations the Commission will presume to be true the facts stated in the petition, 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 claimed in the communication dated September 5, 1984 regarding the arbitrary arrest and disappearance of Mr. Juan Darío Cuya Laine, in Ayacucho, on June 24, 1984.

2. To point out to the Government of Peru that such events constitute very serious violations 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, in the shortest time possible, it order a complete investigation of the facts denounced so as to clarify events, determine the agents responsible for Mr. Cuya Laine's disappearance and to punish them.

4. To state that the relatives of Mr. Juan Darío Cuya Laine deserve a just compensation, according to law, and that, therefore, it is the responsibility of the Government of Peru to provide such compensation.

5. To request the Government of Peru to inform the Commission, within 60 days, on measures taken to implement the recommendations set forth in this resolution; and if after that period the Government of

Peru has not submitted any observations, the Commission will include this Resolution in its Annual Report to the General Assembly of the OAS, in accordance with Article 63 g, of the Commission's Regulations.

6. To transmit the text of this Resolution to the Government of Peru and the petitioner.