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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 23/87; Case No. 9468
Session:	Seventieth Session (22 June – 2 July 1987)
Title/Style of Cause:	Francisco García Ramos 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:	García Ramos v. Peru, Case 9468, Inter-Am. C.H.R., Report No. 23/87, 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 October 1, 1984 the Inter-American Commission on Human Rights received the following petition:

On July 28, 1984, Francisco García Ramos, 25 years of age, disappeared from his home in the town of Vilcashuaman, in the province of Huamanga. No official reason was given for his detention. Officials of the Investigations Department of the Police affirm that Mr. García Ramos was released on August 2, 1984 but to date he has not returned home. Officials at "Los Cabitos" Barracks denied his presence there. Mr. García Ramos was a soldier of the army in Vilcashuaman until February of 1984.

These events could constitute a violation of the American Convention on Human Rights of which Peru is a member State.

2. In its note of November 5, 1984 the Commission requested the Government of Peru to provide the pertinent information, in accordance with Article 34 (formerly 31) of its Regulations.

3. In its note of January 30, 1985 the Commission repeated its request for information, pointing out it could apply the provisions of Article 42 (formerly 39) of the Regulations.

4. In a note dated March 6, 1985 (No 7-5-M/37) the Government of Peru furnished the following information:

With respect to Case 9468 concerning Mr. Francisco García Ramos, his reentry in the Voting Register of Peru, on October 24, 1984, has been confirmed, that is to say it was made after October 1, 1984 which is the date of the petition before the Inter-American Commission on Human Rights. In evidence we attach copy of the reentry document under the number 2824-8343 of the Voting Register of Peru.

5. In its communication dated March 19, 1985, the Commission transmitted the information provided by the Government of Peru to the petitioner requesting that he submit his observations or comments within 45 days.

6. In a communication dated May 3, 1985, the petitioner made the following comments:

It seems that, according to the Government of Peru's communication, because Mr. García's name appears in the Voting Register on the date of October 24, 1984, he is then alive and free. We question how it can possibly be established he is alive and free with this sole piece of evidence. As we understand it, this is unacceptable.

Based on the sworn statement by Mr. García's wife submitted to the Commission, it is a fact that Mr. García was arrested by members of the Investigations Department of the Police on or about July 28, 1984. If Mr. García were free, the Government of Peru would be able to report where he was detained, for how long and the date, place and circumstances of Mr. García's release. This kind of information is pertinent in order to establish if Mr. García's arrest was carried out in accordance with the rights and guarantees established by the American Convention on Human Rights.

Although the Government of Peru's communication establishes that Mr. García is no longer in detention, further information is needed for the Commission to make an appropriate decision on this case.

In conclusion, we are grateful for the opportunity to comment on the Government of Peru's communication. Moreover, we will continue to search for additional information on these cases which we will immediately submit to the Commission. We thank the Commission for their concern and interest in these cases.

7. In its note of May 8, 1985 the Commission transmitted the above transcribed observations to the Government of Peru requesting it provide complete information on the case within 30 days.

8. In a letter dated June 8, 1985 the petitioner submitted an extensive communication to the IACHR on this case, with special reference to the problem of the exhaustion of the domestic remedies. The petitioner especially pointed out that in this case the domestic remedies had been exhausted since the disappeared person's wife had sent the Public Prosecutor's Office an affidavit dated August 9, 1984 stating that her husband had disappeared by action of members of the Investigations Department of the Police on July 28, 1984, and had not been heard of again, and that she had asked about him at various facilities including "Los Cabitos" Barracks, police precincts and the actual Investigations Department of the Police without obtaining any results.

9. Moreover, in the mentioned document the petitioner said that several persons and organizations had stated that the armed forces of Peru and the police had thwarted the attempts made by the Public Prosecutor's office to investigate disappeared persons, that it was therefore useless to appeal to that Office, and that in fact the civilian authorities were subordinated to the military power.

10. In its note of October 11, 1985 the Commission again requested the Government of Peru to provide the corresponding information on the cases pending process.

11. In a note dated March 26, 1986 (No 7-5-M/44) the Government of Peru furnished the following information:

Regarding Case No 9468 concerning Mr. Francisco García Ramos, his reentry in the Voting Register of Peru, made subsequently to the date of his alleged disappearance in the month of October 1984 has been proved.

12. In its communication of April 16, 1986 the Commission transmitted the information provided by

the Government of Peru to the petitioner requesting he submit his observations on the same within 45 days.

13. In a communication dated May 30, 1986 the petitioner made the following comments:

The Government's reply only reiterates the communication of March 6, 1986. In this response it is underscored that Mr. García's name appears in the Voting Register on October 24, 1984 when García was alive and free. Once again, as in our previous communications, we question whether this sole fact can establish if Mr. García is alive and free. In our view, this is not the case.

According to the affidavit made by Mr. García's wife, and which we submitted to the Commission, it appears that Mr. García was arrested by members of the Investigations Department of the Police on July 28, 1984. If Mr. García is presently free, the Government of Peru should be capable of informing where he was detained, for how long, in what circumstances and by what authority. Moreover, the Government could indicate the time, place and circumstances of Mr. García's release. We wish to note that if in fact Mr. García was released by the Government, then this information would serve to determine if Mr. García's arrest was carried out in accordance to the guarantees established by the American Convention on Human Rights.

Obviously the Government has no interest in furnishing this information which is clearly under its control. This reluctance to inform interferes with Mr. García's rights as set forth in the American Convention on Human Rights, rights which were violated in spite of evidence that he is now free.

In short, the Government's communication should include further pertinent information in order for the IACHR to carry out a proper study of the case. The request for this information, which has not been provided, was underscored in our communication of May 3, 1985.

14. In its communication of June 10, 1986 the Commission transmitted the comments sent by the petitioner to the Government of Peru requesting it furnish complete information on the case within 30 days.

#### CONSIDERING:

1. That the subject matter of this case satisfies the requirements for admissibility set forth in its Regulations.

2. That the information provided by the Government of Peru on the status of Mr. Francisco García Ramos, in its note of March 6, 1985 (No 7-5-M/37), which was confirmed or repeated in its note of March 26, 1986 (No 7-5-M/44), does not offer sufficient facts to detract from the petition claiming the disappearance of the afore-mentioned, also in view of the fact that the copy of the reentry in Peru's Voting Register, made on October 24, 1984, subsequently to the petition, is not endorsed by any judicial authority, is not part of the records of any investigation carried out on the case, and neither did any examining judge or official provide a transcript showing the actions taken to obtain a true and authentic, certified copy of that official document or certificate of entry.

3. That, moreover, the information given by the Government of Peru disregards the fact that Mr. García Ramos' wife submitted an affidavit on August 9, 1984 to the competent judicial authority, that is the Public Prosecutor's office, confirming her husband disappearance by action of members of the Investigations Department of the Police of Huamanga, and all the other investigations carried out during three years, and without results, by the said wife to find out the whereabouts and fate of her husband.

4. That it is obvious and unquestionable that if Mr. García had not disappeared and were free somewhere in the country or abroad, the Government of Peru would be able to provide information on the time, place and circumstances of said release or of Mr. García's past or present residence (permanent or

provisional), and that, therefore, the information submitted to the Commission is incomplete and does not respond to the problem brought up in the petition, which is the disappearance of the said Mr. García Ramos since June of 1983.

5. That in the case under consideration the petitioners have exhausted all domestic remedies, as established in the records before the Public Prosecutor's office, with no results having been obtained, and whereby the provisions of Article 37, paragraph 2, a, of the Commission's Regulations are applicable.

6. That, moreover, in the case which 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. Francisco García Ramos, 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.

7. That in accordance with Article 42 (formerly 39) of its Regulations the Commission considers the facts of the complaint to be true, as long as no other evidence leads to a different conclusion.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,  
RESOLVES:

1. To presume true the facts denounced in the communication of October 1, 1984 concerning the disappearance of Mr. Francisco García Ramos, on July 28, 1983, in Vilcashuaman, Huamanga.

2. To declare that this constitutes a very serious violation of the right to personal liberty (Article 7) and the right to life (Article 4) of the American Convention on Human Rights.

3. To recommend to the Government of Peru that it proceed, as soon as possible, to carry out an investigation on the event and punish those responsible therefor with the most severe penalties established in its domestic legislation.

4. To declare that the relatives of the victim are entitled to fair compensation, according to law, whereby the Government is responsible for said compensation.

5. To request the Government of Peru to report to the Commission, in a period of 60 days, on the measures taken to implement the recommendations set forth in this Resolution. Should the Government of Peru not respond, the Commission will include this Resolution in its Annual Report to the General Assembly of the OAS, in accordance with Article 63, g of its Regulations.

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