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Title/Style of Cause:	Patrocinio Quiccha Espinosa, Virgilio Huaranca, Oswaldo Castañeda, Filón Palomino Ayala, Heraclio Palomino Ayala and Estilo Ayala 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:	Quiccha Espinosa v. Peru, Case 9429, Inter-Am. C.H.R., Report No. 19/87, 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 6, 1984, the Inter-American Commission on Human Rights received the following complaint:

DEPARTMENT OF AYACUCHO: It is informed of the illegal executions of: PATROCINIO QUICCHA ESPINOSA, VIRGILIO HUARANCA, OSWALDO CASTAÑEDA, FILON PALOMINO AYALA, HERACLIO PALOMINO AYALA and ESTILO AYALA.

During April of 1983 we received reports that the afore-mentioned five men have been murdered by members of the Civil Guard, in Paras, Department of Ayacucho. According to the reports the men were arrested after being accused of involvement in guerrilla activities, accusations which have been denied by their families. All but Estilo Ayala, a businessman, were teachers.

According to the Peruvian journal CARETAS dated August 22, 1983, Quiccha, Huaranca and Estilo Ayala were arrested by a Civil Guard patrol as they walked towards the Paras market on April 10, 1983. They were then taken behind a hill and shot. No further details on the murder of Castañeda Filón or Palomino Ayala have been received.

The Peruvian Government has been asked to initiate investigations on these murders, with no reply whatsoever.

This situation appears to constitute a clear violation of the Convention on Human Rights, of which Peru is a member State.

2. In a note dated October 24, 1984, the Commission requested the corresponding information from the Government of Peru, and transmitted the pertinent parts of the claim, in accordance with Article 34 (formerly 31) of its Regulations. This request was repeated in its note dated January 30, 1985.

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

information:

Regarding case 9429, it is to be observed that Estilo Ayala, Virgilio Huaranca and Patrocinio Quiccha, identified as terrorists, died during confrontations with forces of law and order. Regarding Oswaldo Castañeda Filón, whose real name is Pablo Oswaldo Castañeda Fibio, he was killed on April 6, 1983, in Paras, Cangallo, at a social gathering with a group of friends. Preliminary investigations indicate that two presumed engineers, with the group, are the responsible agents. Regarding Heraclio Palomino Ayala, he was murdered by a terrorist group after undergoing torture in Plaza de Armas in Socco, Huamanga.

4. Through a communication dated March 19, 1985, the Commission transmitted the pertinent parts of the Peruvian Government's reply to the petitioner requesting that he make his observations or comments within 45 days. This request was repeated on May 1, 1986.

5. Through a note dated May 1, 1986, the Commission informed the Government of Peru that, in view of the information provided by the Government in the afore-mentioned note of March 6, 1985 (No 7-5-M/37, supra), it had reiterated its request for information or comments by the petitioner.

6. In a communication dated June 6, 1986, the petitioner made the following observations and comments on the case:

Regarding the cases of Estilo Ayala, Virgilio Huaranca and Patrocinio Quiccha Espinosa, the Peruvian Government's reply that the three "died during confrontations with forces of law and order", is the same one as transmitted in a communication on April 12, 1983. This reply does not refer at all to the information widely disseminated in Peru, in August 1983, based on interviews, description of the arrest and death of the three men, and another dressed in black, by members of the Civil Guard. This report was published by the journal CARETAS on August 22, 1983; we believe it was never publicly investigated, questioned or denied by the authorities. The death of those three men was also brought up in the testimonies of the residents of Espite, near Paras, in June 1983.

Since the Government of Peru states that this case is no longer under investigation and, therefore, is considered closed, we believe that the domestic remedies are exhausted, and, therefore, the Commission should adopt new measures in order to assure that a complete investigation is carried out and that the agents responsible for these alleged illegal executions be brought to justice.

In view of the Peruvian Government's statement that the three men were identified as terrorists, it is requested that the Commission require transcripts from the police or other reports to justify this assertion, as also specific reports on the deaths of those three men. According to public information, the Director of Education of the Department of Ayacucho, Esteban García Paredes, received testimonies from the relatives of the three men officially requesting an investigation on their deaths by the Military Police Command; therefore, the Commission could require that the Government provide the information related to the actions of the Department of Education and the Military Command in this case.

Regarding the case of Heraclio Palomino Ayala, the Peruvian Government's reply apparently coincides with reports received that he was politically mistreated and later murdered by his captors. Nevertheless, the Government attributes his death to the clandestine Sendero Luminoso group, while the reports we have received indicate he was taken from his home, in the presence of his family, by Civil Guard members. It is requested that the Commission confirm if the Government's reply is based solely on reports from the Civil Guard Soccus detachment, or if the relatives of the deceased, teachers or local government officials from Socco have also provided information on this crime. The Government, therefore, should provide the Commission with transcripts of the corresponding judicial actions.

As the Commission knows, on November 23, 1983 criminal proceedings, still in process, were instituted against 26 members of the Civil Guard of Soccus for the death of 34 rural citizens. Before the investigation carried out by the Public Prosecutor's Office, these deaths were initially attributed to the Sendero Luminoso group.

Although we know that in recent years the Sendero Luminoso group has assassinated professors and other people in the emergency zone in Ayacucho, we do not believe that the investigation into the death of Heraclio Palomino Ayala has been carried out in a complete and impartial manner. In spite of the Peruvian Government's reply considering this case closed and of no further investigation, it is suggested that the Commission continue its efforts to assure that a complete investigation is made and that the responsible agents for this death be brought to justice. It is requested that the Commission ask the Government of Peru for transcripts of the corresponding judicial actions.

Regarding the case of Oswaldo Castañeda Filón, we have received no further information since his death was reported on April 14, 1983.

7. Through a note dated June 23, 1986, the Commission transmitted to the Government of Peru the petitioner's observations, asking it to provide information on the case within 30 days.

CONSIDERING:

1. That the subject matter of this case meets the requirements for admissibility set forth in the Commission's Regulations.

2. That there exist important discrepancies between the information provided by the Government of Peru in its note of March 6, 1985 and the observations submitted by the petitioner regarding the way the events claimed took place, and specifically those events of public knowledge which the petitioner says were disseminated in Peru in August 1983, according to the records on this case.

3. That the Government of Peru has not provided, in the abovementioned note, any proof showing that Estilo Ayala, Virgilio Huaranca and Patrocinio Quiccha (identified as a terrorist, in that note) died during "confrontations with the forces of law and order"; nor that Oswaldo Castañeda Filón (or Pablo Oswaldo Castañeda Fibio) was killed on April 6, 1983 "at a social gathering with a group of friends", since the Commission has not received any pertinent documents related to the investigations referred to in the above-mentioned note of March 6.

4. That neither has the Government of Peru provided information verifying what actually happened to Mr. Heraclio Palomino Ayala and his alleged torture at the Plaza de Armas in Socco, Huamanga, the petitioner claiming that in this case a complete and impartial investigation has not been carried out.

5. That, in general, the data and information transmitted by the Government of Peru is insufficient to detract from the claim.

6. That in accordance with Article 42 (formerly 39) of the Regulations the Commission presumes true the facts denounced, as other evidence does not lead to a different conclusion.

7. That in this case, upon termination of the investigations, as inferred from the Note dated March 1985, the petitioner has not had access to domestic legal remedies, in which case the Commission is therefore authorized to apply the exception set forth in Article 37, paragraph 2, b of its Regulations and proceed to study the petition.

8. That, moreover, in the case that is the subject matter of the present Resolution and in view of the nature of the events, that is, the illegal execution of PATROCINIO QUICCHA ESPINOSA, VIRGILIO HUARANCA, OSWALDO CASTAÑEDA, FILON PALOMINO AYALA, HERACLIO PALOMINO AYALA and ESTILO AYALA 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.

9. That the process has been exhausted before the Committee and the time limit of 30 days granted to the Government of Peru in the note of June 23, 1986 has expired.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
RESOLVES:

1. To presume true the facts denounced in the communication of September 6, 1984 concerning the illegal executions of Messrs. Patrocinio Quiccha Espinosa, Virgilio Huaranca, Oswaldo Castañeda, Filón Palomino Ayala, Heraclio Palomino Ayala and Estilo Ayala.
2. To declare that the events denounced in this case constitute a serious violations of the right to life (Art. 4) and personal integrity (Art.5) of the American Convention on Human Rights.
3. To recommend to the Government of Peru that in the shortest time possible it initiate a thorough investigation of these serious facts and punish the responsible agents with the most severe penalties within the domestic legislation.
4. To declare that the relatives of the victims have a right to just compensation, according to law, and, therefore, it corresponds to the Government of Peru to grant such compensation.
5. To request the Government of Peru to inform the Commission, within 60 days, on the measures taken to implement the recommendations set forth in this resolution. If after 60 days the Government of Peru does not report on the measures taken, 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 this Resolution to the Government of Peru and to the petitioner.