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BACKGROUND:

1. In a letter of 18 February 1985, the following complaint was made to the Inter-American Commission on Human Rights:

Reyna Esperanza Cervantes Romain, 22 years old, married, and a student, was seized at 10 p.m. in Ayacucho, Huanta, by the Marine Infantry. Her seizure was witnessed by neighbors.

The following reports were made: to the Huanta Provincial Attorney on 8 November; to the Huanta Provincial Attorney on 10 November; to the dean of the Ayacucho Bar Association on 11 November; to the Huanta Provincial Attorney on 5 December, and to the Ayacucho ad hoc provincial Attorney on 7 December 1983.

The corpse of Reyna Esperanza Cervantes Romani was found on 25 November 1983, in the Impao area, four kilometers from Huanta, and displayed signs of torture and mutilation.

2. In a note of 25 March 1985, the Inter-American Commission on Human Rights transmitted the relevant pertinent parts of the complaint to the Government of Peru with a request for information on the facts referred to in that letter, and for any data that might indicate whether in the case in hand the domestic remedies had been exhausted.

3. In a note of 26 March 1986, the Government of Peru supplied information on this and other cases, stating that they had been the subject of “similar inquiry from the Working Group on Enforced or Involuntary Disappearances of the United Nations Commission on Human Rights which now regards some of them as cleared up.”

4. In keeping with the Regulations procedure for petitions and complaints, the Commission sent the complainant the information from the Government of Peru for observations and comments. In a letter of 12 August 1986, the complainant presented observations of substance, which were submitted in turn to the Government of Peru with a note of 15 October 1986, requesting that all reports on the case be supplied within 30 days.

5. This request for information was repeated in notes of 1 May 1986, and 12 January 1987. In the last of these notes, the Commission advised that, failing receipt of the information requested, it would

move to consider the possibility of applying Article 42 of its Regulations.

6. These notes having elicited no reply, the Inter-American Commission on Human Rights again repeated its requested for information on 23 June 1987.

7. In the absence of a reply to these communications, the Commission yet again renewed its request for information in a note of 12 August 1987.

CONSIDERING:

a. That, despite the time that has elapsed and the repeated and fruitless efforts of the Commission, the Government of Peru has not provided a reply on the present case, nor has it sought an extension of time for forwarding the requested information;

b. That, in its action on the complaint in this case, and despite its failure to receive any acknowledgement for its many communications to the Government of Peru, the Commission granted new extensions and deadlines so as not to restrict the right of reply of the Government complained against;

c. That the Government of Peru, while not challenging the facts, has confined itself to objecting to the Commission's competence on the argument that the case has been examined in the Working Group on Enforced or Involuntary Disappearances of the United Nations Commission on Human Rights, "which now regards some of them as cleared up";

d. That the Inter-American Commission on Human Rights has no information on which to establish that the situation of Reyna Esperanza Cervantes Romani has been cleared up by the Working Group on Enforced or Involuntary Disappearances of the United Nations Commission on Human Rights;

e. That, in the judgment of the Inter-American Commission on Human Rights, it should refrain from considering the present case only if it is pending settlement in another proceeding in an inter-governmental organization of which Peru is a member and that proceeding is substantially a replication of a petition outstanding or already examined and resolved by the Commission or some other inter-governmental organization of which Peru is a member;

f. That, on the other hand, the Commission should not refrain from considering the case if a proceeding in progress in another organization is confined to a consideration of the general human rights situation in the country, and no decision has been reached in the specific facts concerning which the petition has been submitted to the Commission, or the decision does not lead to a real settlement of the violation charged;

g. That, in keeping with the relevant resolutions of the United Nations Human Rights Commission, and particularly with its resolution 20 (XXVI) of 29 February 1980, it is not in the competence of the Working Group on Enforced or Involuntary Disappearances to decide on the specific facts alleged in the present case;

h. That, in consequence, the Inter-American Commission on Human Rights is not barred by either its Regulations or under the American Convention on Human Rights from considering the present case.

i. That in resolution 666 (XIII-0/83) and resolution 742 (XIV-O/84) the General Assembly of the Organization of American States declared that "the practice of the forced disappearance of persons is an affront to the conscience of the Hemisphere and constitutes a crime against humanity."

j. That Article 42 of the Commission's Regulations establishes that:

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 34, 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 true the facts charged in the communication of 18 February 1985, concerning the death of Reyna Esperanza Cervantes Romani while arrested and in the custody of the Marine Infantry following her seizure in Ayacucho, Huanta.
2. To observe to the Government of Peru that these facts constitute extremely serious violations of Article 4 (right to life) of the American Convention on Human Rights.
3. To recommend to the Government of Peru that it launch a thorough and impartial investigation to identify the perpetrators of the acts charged, punish them in accordance with Peruvian law, and inform the Commission within 60 days of the action taken to implement the recommendations contained herein.
4. To transmit this resolution to the Government of Peru.
5. If the Government of Peru does not present information on the action taken within 60 days, the Commission, pursuant to Article 63, paragraph g, of its Regulations, will include this resolution in its Annual Report to the General Assembly of the Organization of American States.