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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 33/88; Case No. 9786
Session: Seventh-Fourth Session (5 – 16 September 1988)
Title/Style of Cause: Juan Geldres Orozco and Benigno Contreras v. Peru
Doc. Type: Resolution
Dated: 14 September 1988
Citation: Geldres Orozco v. Peru, Case 9786, Inter-Am. C.H.R., Report No. 33/88, OEA/Ser.L/V/II.76, doc. 10 (1988-1989)

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BACKGROUND:

1. The Inter-American Commission on Human Rights received the following complaint dated October 6, 1986:

a. Juan Geldres Orozco, President of the Agrarian League of Santa Rosa, was arrested on September 16, 1986, in the District of Atna, Province of La Mar, by members of the Luisiana naval infantry on the Apurimac River. The use of torture has been reported at that barrack.

b. Benigno Contreras, 37 years of age, was arrested at his home in the city of Ayacucho by members of the Army Intelligence Service on September 24, 1986, in the presence of several witnesses.

2. The Inter-American Commission on Human Rights transmitted the pertinent parts of the complaint to the Government of Peru, in a note of October 8, 1986, requesting information on the facts set forth in the complaint together with any criteria that would indicate whether all remedies under domestic jurisdiction had been exhausted in the case in question.

3. The Government of Peru, in a note dated October 22, 1986, limited its information on the case to a statement that it had been the object of a "duplication of procedures pending settlement by the Working Group on Enforced or Involuntary Disappearances of the United Nations Commission on Human Rights."

4. Pursuant its regulations the Commission sent the complainant the information it had received from the Government of Peru so that he could present his observations or comments. The Commission has had no further word from the complainant.

CONSIDERING:

a. That despite the time that has elapsed, and the fruitless and repeated efforts of the Commission, the Government of Peru has failed to furnish an answer concerning the facts surrounding the present case;

b. That in processing the claim on this case, and despite the lack of acknowledgment of its missives to the Government of Peru, that Commission has extended deadlines in order to avoid limiting the right of reply to which the accused State is entitled;

c. That the Government of Peru, without impugning the facts, has limited its action to denying the Commission's competence, arguing that this case was examined by the Working Group on Enforced or Involuntary Disappearances of the United Nations Commission on Human Rights;

d. That the Inter-American Commission on Human Rights has no evidence apprising it that the situation of Juan Geldres Orozco and Benigno Contreras has been clarified by the Working Group on Enforced or Involuntary Disappearances of the United Nations Commission on Human Rights;

e. That in the opinion of the Inter-American Commission on Human Rights, it should eschew consideration of the present case only if the matter is pending in another settlement procedure before a governmental organization to which Peru belongs, and if that procedure consists substantially of the replication of a petition which is pending or has already been examined and resolved by the Commission or by another inter-governmental agency of which Peru is a member;

f. That, conversely, the Commission must not refrain from taking cognizance of the present situation when the procedure followed by the other organization is limited to addressing the general situation of human rights in a State, and no decision has been made on the specific facts that are the object of the petition submitted to the Commission or no steps have been taken toward effective settlement of the alleged violation;

g. That according to the pertinent resolutions of the United Nations Commission on Human Rights--in particular, Resolution 20 (XXVI) of February 29, 1980,--a decision on the specific facts involved in the present case does not lie within the purview of the Working Group on Enforced or Involuntary Disappearances;

h. That consequently, the Inter-American Commission on Human Rights is not restrained from addressing the present case in conformity with the American Convention on Human Rights and its Regulations;

i. That the General Assembly of the Organization of American States declared in Resolutions 666 (XIII-0-83) and 742 (XIV-0-84) that "the forced disappearance of persons is an affront to the conscience of the hemisphere and constitutes a crime against mankind;"

j. That Article 42 of the Commission's Regulations establishes the following:
The facts reported in the petition whose pertinent parts have been transmitted to the government at 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, that 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 to be true the facts reported in the complaint dated October 6, 1986, concerning the forced disappearances of:

a. Juan Geldres Orozco in the District of Atna, Province of La Mar, by member of the Naval Infantry, and

b. Benigno Contreras from his home in the city of Ayacucho by members of the Army Intelligence Service.

2. To inform the Government of Peru that those acts constitute extremely serious violations of the

right to personal freedom (Art. 7) and the right to life (Art. 4) under the American Convention on Human Rights.

3. To recommend to the Government of Peru that it conduct a complete and impartial investigation to determine the perpetrator of the acts denounced and, in accordance with Peruvian law, that those responsible be punished, informing the Commission within a period of 60 days of the measures taken to carry out the recommendations set forth in the present Resolution.

4. To inform the Government of Peru of this Resolution.

5. If within a period of 60 days the Government of Peru fails to present information concerning the measures taken, the Commission shall include this Resolution in its Annual Report to the General Assembly of the Organization of American States, pursuant to Article 63, section (g) of the Commission's Regulations.