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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 46/90; Case No. 10.483
Session: Seventy-Ninth Session (11 – 22 February 1991)
Title/Style of Cause: Cledanor Antoine v. Haiti
Doc. Type: Report
Decided by: Chairman: Patrick L. Robinson;
First Vice Chairman: Marco Tulio Bruni Celli;
Second Vice Chairman: Oscar Lujan Fappiano;
Members: Gilda M.C.M. de Russomano; Oliver Jackman; Leo Valladares
Lanza; Michael Reisman
Dated: 22 February 1991
Citation: Antoine v. Haiti, Case 10.483, Inter-Am. C.H.R., Report No. 46/90,
OEA/Ser.L/V/II.79, doc. 12 rev. 1 (1990-1991)

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HAVING SEEN the records on the case, to wit:

1. The complaint received by the Inter American Commission on Human Rights on October 19, 1989, whose pertinent sections read as follows:

Cledanor Antoine, native of Jeremie and father of seven children, was detained on August 19, 1987, in Boucan, at the home of his son Quinquin Antoine, at approximately 10:00 p.m., by soldiers from the area, led by the following persons: Elmond Alcide, Adjutant of the Duchiti section; Jean Claude Labbe; Fanfan Daniel; and Jean.

Suspected of harboring Bernard Sansaricq, who allegedly was in possession of important evidence to be presented in the trial of a former tonton macoute, Antoine was brutally tortured. Later he was taken to his home in Duchiti (5th rural section of Pestel), where he was strangled with a rope by the soldiers.

Antoine's wife, who was also beaten by the soldiers, and one of her children witnessed the murder of Cledanor Antoine.

The complainants demanded that the Haitian authorities take the necessary measures to have the responsible parties detained and prosecuted according to law and to indemnify the Antoine family, particularly Mrs. Emile Antoine, who had been physically injured.

2. Through a note of November 7, 1989, the Commission initiated the processing of this case and requested that the Government of Haiti provide information on the material events of that letter and to provide any other background information that would make it possible to determine whether in the case of this petition the remedies of domestic jurisdiction had been exhausted. The government was given a term of 90 days to reply to the request for information from the Commission.

3. On August 13, 1990, the Commission repeated its request to the Government of Haiti for information, stating that if such information was not received within 30 days, the Commission would then examine the possibility of applying Article 42 of its Regulations, which establishes the presumption that

the facts reported in the complaint are true, as long as the Government in question does not provide the corresponding information within the period of time established by the Commission.

4. The period of time set by the Commission, as stated in the preceding paragraph, has expired. To date no reply has been received from the Government of Haiti.

CONSIDERING:

1. That the Commission is competent to hear this case because it involves violations of rights recognized by the American Convention on Human Rights, Article 4, pertaining to the right to life, and Article 5, pertaining to the right to humane treatment, as provided in Article 44 of that Convention, to which Haiti is a State Party.

2. That the petition meets the formal requirements of admissibility contained in the American Convention on Human Rights and in the Regulations of the Inter American Commission on Human Rights;

3. That in this case it is obvious that the petitioner has not been able to achieve effective protection from the courts and thus the requirements relating to exhaustion of remedies under internal jurisdiction do not apply;

4. That the petition is not pending any other procedure under international arrangement nor is it a duplication of an earlier petition already examined by the Commission;

5. That, notwithstanding the length of time that has passed and the requests made by the Commission, the Government of Haiti has provided no reply concerning the facts involved in this case.

6. Having provided no response the Government of Guatemala has failed to fulfill its international obligation to provide information to the Commission within a reasonable time frame as provided for in Article 48 of the American Convention.

7. That Article 42 of the Commission's Regulations provides:

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.

8. That since the friendly settlement procedure (Article 48.1.f of the Convention) does not apply, given by virtue of the nature of the facts reported and of the lack of a reply from the Government, the Commission must implement the provisions of Article 50.1 of the American Convention by issuing its conclusions and recommendations on the complaint placed before it for consideration.

THE INTER AMERICAN COMMISSION ON HUMAN RIGHTS,
RESOLVES:

1. To presume to be true the information reported in the October 19, 1989 note, pertaining to the torture and death of Mr. Cledanor Antoine while held under detention by the Armed Forces, after being taken to his home in the 5th Rural Section of Pestel, in Duchiti.

2. To presume to be true the information reported in that note pertaining to the beating and cruel

treatment of Mrs. Emile Antoine by members of the Armed Forces.

3. To declare that the Government of Haiti has not complied with its obligations to observe human rights and guarantees as stipulated in Article 1 of the American Convention on Human Rights.

4. To declare that with respect to Mr. Cledanor Antoine, that the facts in this case constitute violations of the right to life enshrined in Article 4 of the Convention and of the right to humane treatment recognized in Article 5.

5. To declare that with respect to Mrs. Emile Antoine, that the facts in this case constitute violations of the right to humane treatment recognized in Article 5 of the Convention.

6. To make the following recommendations to the Government of Haiti (Article 50.3 of the Convention and Article 47 of the Regulations of the Commission):

a. That it conduct an exhaustive, swift, and impartial investigation of the reported facts, in order to identify the responsible parties, bring them to justice so that they may be duly punished.

b. That it take the necessary measures to prevent similar acts from being committed in the future.

c. That it redress the consequences of the situation created by the violation of the aforementioned rights and pay fare compensation to the injured parties.

7. To transmit this report to the Government of Haiti in order for that Government to report, within three months from the date of transmittal, on the measures adopted to resolve the situation reported. In accordance with Article 50 of the Convention, the Government is not at liberty to publish this report.

8. If, after a period of three months, this case has not been resolved by the Government of Haiti, the Commission may issue its opinion and findings on the matter placed before it for consideration, pursuant to Article 51.1 of the Convention, and shall include this report in its Annual Report to the General Assembly of the Organization of American States, pursuant to Article 63.g of the Commission's Regulations.