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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 36/90; Case No. 10.304
Session:	Seventy-Ninth Session (11 – 22 February 1991)
Title/Style of Cause:	Emigidio (Emilio) Cordova Sanchez, Juan Guzman Magipo, Luis Palomino Guzman, Juan Huasnato, Armando Romaina (Romayna), Edwin Soria Tello, Gilbarido Idespalpa (Gilardo Jacanpallpa), Hugo Blanco Galdos and others v. Peru
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:	Cordova Sanchez v. Peru Case 10.304, Inter-Am. C.H.R., Report No. 36/90, OEA/Ser.L/V/II.79, doc. 12 rev. 1 (1990-1991)
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BACKGROUND:

1. On February 22, 1989, the Inter-American Commission on Human Rights received the following complaint:

a. On February 9, 1989, there was a peasant demonstration in the city of Pucallpa, Department of Ucayali. The peasants were apparently conducting a peaceful protest asking for higher prices for their products and asking the government to pay its debt to rice and corn farmers, which it has owed since September 1988.

The peasant meeting had been given verbal authorization by the Prefect of the Department, who later withdrew it and ordered the police to break up the demonstration. The crowd of approximately 3,000 peasants was dispersed by members of the National Police of Peru. The policemen used their firearms to break up the peasant rally, resulting in the death of eight participants as well as 26 wounded. According to the magazine CARETAS, the shooting lasted two hours and most of the casualties occurred when police fired on the crowd that had gathered in the main square to raise the Peruvian flag and sing the national anthem ("Cosecha sangrienta," CARETAS, February 31, 1989).

b. On the same day, February 9, the police raided the premises of the Agricultural Development Research Institute of Ucayali --a nongovernmental development organization-- where about 200 peasants were meeting. During the raid, according to the Peasant Confederation of Peru, a few people were also wounded. Hugo Blanco Galdos, secretary of the aforementioned peasant organization, and Luis Tuesta Latorre, secretary general of the Federation of Peasants of Ucayali, were arrested during the raid.

c. Peruvian police officials accused Hugo Blanco of the crime of terrorism and moved him to the city of Lima, apparently to the premises of the Anti-Terrorism Directorate. Because Peruvian law provides for an individual state of emergency in the case of persons accused of this crime, under which

they can be held at a police department for 15 days, the national officials availed themselves of that right. On February 20, the Government Attorney for the Twentieth Provincial District found the government's accusation to be completely without merit.

Because of that decision, the individual state of emergency provided for in article 2, paragraph 20, subparagraph "g" of the Peruvian Constitution was already inapplicable; furthermore, the 15 days allowed by that same article had already gone by. The freeing of the detainee was therefore obligatory. Nevertheless, the government officials decided to move the detainee illegally to the city of Pucallpa, arguing that his presence there was required by the Investigative Police. The latter can summon persons only under court order or in the case of flagrante delicto, which does not exist at this time. A first attempt to transport Mr. Blanco was thwarted when the AEROPERU airline pilot refused to carry him because of Mr. Blanco's obvious objection. Information provided by the Peasant Confederation and by APRODEG indicate that Mr. Blanco was moved to the area in a military aircraft.

d. Those same sources have alleged that a paramilitary commando has killed a common criminal and left a message threatening Mr. Hugo Blanco with death. Therefore, if he were freed in the city of Pucallpa without due protection, that same paramilitary group could attempt to kill Mr. Blanco. Moreover, it is common knowledge that paramilitary groups are active in Peru, for example the Rodrigo Franco commando, and that they conduct operations to kill politicians, lawyers, and labor leaders.

II. THE VICTIMS

The individuals who died as a result of the shots fired by the police are: 1. Emigidio or Emilio Cordova Sanchez; 2. Juan Guzman Magipo; 3. Luis Palomino Guzman; 4. Juan Huasnato; 5. Armando Romaina or Romayna; 6. Edwin Soria Tello (student, age 16); 7. Gilbardo Idespalpa or Gilardo Jacanpallpa; and 8. unidentified.

The person who was subjected to arbitrary arrest and whose life is in danger is Hugo Blanco Galdos, secretary of the Peasant Confederation of Peru.

III. VIOLATIONS OF THE AMERICAN CONVENTION ON HUMAN RIGHTS

The State of Peru, by using government forces to carry out the acts described above, has committed serious violations of the Convention to which it is party.

a. Violation of the right to life. In firing upon demonstrators who were conducting a public protest meeting in the exercise of the right enshrined in article 15 of the Convention, Peruvian officials violated article 4. The use of firearms against unarmed citizens for the purpose of breaking up a peaceful demonstration, even a protest, is not warranted in any way. Juridical writings have stressed that the means employed by the enforcers of law and order must be in proportion to the public interest they are seeking to protect. It is a violation of the right to life and an abuse of government power to use firearms against peaceful citizens who are exercising their right of assembly. In the case of the Peruvian State, there has been a repeated practice of using excessive government force to safeguard public order. There have been, for example, many cases of students being killed in public demonstrations (whose names we will later provide to the Commission), over 20 deaths caused during the curfew imposed in the capital in the 1986-87 period, and the death of over 200 inmates in the events at the penal institutions in 1986. In all of those cases, as in this case, the Peruvian government has used excessive force to put down legal or illegal protest demonstrations; this background of Peruvian government action in connection with this case, can easily be presented to the Commission.

b. Violation of the right to personal liberty and of the freedom of movement and residence. By arresting citizen Hugo Blanco Galdos under circumstances other than those stipulated by national legislation, without a court order, and contrary to the opinion issued by the Government Attorney, and by transporting him illegally from one point in the country to another, the Peruvian government officials have committed acts in violation of articles 7 and 22 of the Convention.

In the case of citizen Blanco, the illegal transfer is particularly serious, because it involves a risk to his

life.

2. In a note of February 24, 1989, the Commission transmitted the pertinent parts of the complaint to the Government of the Republic of Peru, with a request for any relevant information, but failed to receive a reply within the statutory period.

3. The request for information was reiterated through note sent to the Government on September 8, 1989, which referred to the possibility of applying Article 42 of the Regulations of the Commission. No reply was received to that note either.

CONSIDERING:

1. That in resolution AG/RES. 666 (XIII-O/83) the General Assembly declared that "the practice of forced disappearance of persons in the Americas is an affront to the conscience of the hemisphere and constitutes a crime against humanity."

2. That the period established in Article 34, paragraph 5, of the Regulations of the Commission has elapsed without the Government of Peru having responded to the request for information made by the IACHR in the notes referred to in the background section of this report, so that it may be presumed that there are not any remedies under domestic jurisdiction to be exhausted (Article 46 of the American Convention), in light of the adversarial procedure established in that Convention.

3. That Article 42 of the Regulations of the Commission reads:

Article 42

The facts reported in the petition whose pertinent parts have been transmitted to the government of the State in reference 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.

4. That Article 1, paragraph 1, of the American Convention on Human Rights reads:

Article 1. Obligation to Respect Rights

1. The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion, national or social origin, economic status, birth, or any other social condition.

5. That the Republic of Peru is a State Party to the American Convention on Human Rights and has ratified the binding jurisdiction of the Inter-American Court of Human Rights.

Therefore, in view of the related background and the considerations as well as of the fact that the Commission does not have any other evidence that would lead it to a different conclusion, based on Article 42 of its Regulations,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To presume to be true the claims presented in the February 22, 1989, correspondence pertaining to the arbitrary arrest by agents of the Peruvian state and subsequent disappearance of Emigdio or Emilio

Cordova Sanchez, Juan Guzman Magipo, Luis Palomino Guzman, Juan Huasnato, Armando Romaina or Romayna, Edwin Soria Tello (16), Gilbardo Idespalba or Gilardo Jacanpallpa, and an unidentified individual, in the city of Pucallpa, Department of Ucayali, on February 9, 1989.

2. To presume to be true the events mentioned in the same communication of February 22, 1989, regarding the illegal detention and kidnapping and death threatening to Hugo Blanco Galdos by agents of the Peruvian state on February and March of 1989.

3. To declare that that act constitutes a serious violation by the Peruvian state of the rights to life, humane treatment, personal liberty and a fair trial (Articles 4, 5, 7, and 8, respectively, of the American Convention on Human Rights) compounded by the fact that one of the alleged victims is a minor.

4. To recommend to the Government of Peru that it conduct the most exhaustive investigation possible of the acts denounced in order to identify those who are directly or indirectly responsible so that they may receive the corresponding legal penalties and that it inform the Commission of its decision and the measures taken, within a maximum period of 60 days.

5. To recommend to the Government of Peru that it adopt the measures established under national law to indemnify the families of the victims.

6. To transmit this report to the Government of the Republic of Peru and to the petitioners.

7. If, within the period set in operative paragraph 3 of this report, the Government of Peru has not presented observations, the Commission shall include this report in its Annual Report to the General Assembly, in accordance with Article 48 of the Regulations of the Commission.