

WorldCourts™

| | |
|-----------------------|---|
| Institution: | Inter-American Commission on Human Rights |
| File Number(s): | Report No. 16/90; Case No. 9816 |
| Session: | Seventy-Ninth Session (11 – 22 February 1991) |
| Title/Style of Cause: | Jorge Herminio Mina, Rudencio Sanchez Valdes, Amancio Degadillo, Cirilo Quiquin Casaico, Teodosio Anaya Valenzuela, Antonio Carnera Sanchez, and Antonio Teodoro Llampasi Cerda 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: | Herminio Mina v. Peru, Case 9816, Inter-Am. C.H.R., Report No. 16/90, OEA/Ser.L/V/II.79, doc. 12 rev. 1 (1990-1991) |
| Terms of Use: | Your use of this document constitutes your consent to the Terms and Conditions found at www.worldcourts.com/index/eng/terms.htm |

BACKGROUND:

1. On October 24, 1986, the Inter-American Commission on Human Rights received the following complaints:

We are concerned about the safety of these persons, who have disappeared following their alleged detention by security forces in the Provinces of Huanta, La Mar, and Vilcashuaman in the Department of Ayacucho.

On September 23, 1986, Jorge Herminio Mina, Rudencio Sanchez Valdes and Amancio Degadillo were detained by combined forces of the army and the police in the town of Cangari, Province of Huanta; it is assumed that they are being detained in the Castro Pampa barracks.

On October 9, 1986, Cirilo Quiquin Casaico was detained by army troops in Quinrapa in the Province of Huanta, and is now in the Castro Pampa barracks.

On October 10, 1986, Teodosio Anaya Valenzuela and Antonio Carnera Sanchez were detained by army forces in San Francisco, Province of La Mar. It is assumed that they are at the Manchente military base.

We are also concerned by the "disappearance" of Antonio Teodoro Llampasi Cerda, detained by the army on October 9, 1986, in Ccantollo, Concepciyn District, Vilcashuaman, it is assumed that they are now in "Los Cabitos" barracks.

None of them has reappeared.

2. In a note of October 29, 1986, 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 notes sent to the Government on January 13, 1987, February 18, 1988, June 7, 1988, February 17, 1989, and September 7, 1989, which referred to the

possibility of applying Article 42 of the Regulations of the Commission. No reply was received to those notes 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 facts denounced in the communication of October 24, 1986, on the arbitrary detention by Peruvian government agents and the subsequent disappearance of: Jorge Herminio Mina, Rudencio Sanchez Valdes and Amancio Degadillo, on September 23, 1986, in the town of Cangari, Province of Huanta; Cirilo Quiquin Casaico, on October 9, 1986, in Quinrapa, Province of Huanta; Teodosio Anaya Valenzuela and Antonio Carnera Sanchez, on October 10, 1986, in San Francisco, Province of La Mar; Antonio Teodoro Llampasi Cerda, on October 9, 1986, in Ccantollo, Concepcion District, Vilcashuaman.

2. 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).

3. 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.
4. To recommend to the Government of Peru that it adopt the measures established under national law to indemnify the families of the victims.
5. To transmit this report to the Government of the Republic of Peru and to the petitioners.
6. 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.