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Institution: Inter-American Commission on Human Rights  
File Number(s): Report No. 82/90; Case No. 10.464  
Session: Seventy-Ninth Session (11 – 22 February 1991)  
Title/Style of Cause: Pedro Valenzuela Tamayo and Manuel Mejia Cotrina 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: Valenzuela Tamayo v. Peru, Case 10.464, Inter-Am. C.H.R., Report No. 82/90, OEA/Ser.L/V/II.79, doc. 12 rev. 1 (1990-1991)

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HAVING SEEN the background information on this case, as follows:

1. The petition received by the Inter-American Commission on Human Rights on September 4, 1989, the pertinent parts of which are transcribed below:

This is to report the disappearance of the peasants Pedro Valenzuela Tamayo and Manuel Mejia Cotrina, President and Treasurer, respectively, of the peasant community of Huaripampa, located in the District of San Marcos, Province of Huari, Department of Ancash. The events took place as follows:

1. On July 31 of this year, at 11:00 a.m., the above mentioned persons boarded a truck named "Cholito Lindo," that was to take them to Catac, a district in the Province of Recuay, Department of Ancash, to sell sheep belonging to the community and find out about the complaint they had lodged against the Mayor of the District of San Marcos, Glicerio Mauricio Rodriguez, accusing him of misappropriating funds, embezzlement, and malfeasance.
2. After stopping in the district of Chavin, Province of Huari, where there is a detachment of the General Police of Peru (Sinchis) and in a nearby place known as Machac, where according to witnesses the missing peasants helped to load bags of barley, the truck reached Catac at about 5:00 p.m.
3. Witnesses say that both persons reached Catac. However, they neither kept the appointment to sell the sheep nor went to the office of the Judge of Recuay (where the above-mentioned complaint is being processed).
4. From what neighbors of San Marcos and of the community of Huaripampa say, there is considerable reason to blame the Mayor, Glicerio Mauricio Rodriguez, and the police for the disappearance of the peasants. Furthermore, the record shows a constant harassment of the peasants by these authorities, who falsely denounced them for alleged terrorist activities.

2. By note dated September 29, 1989, the Commission took up this complaint and asked the Government of Peru for the relevant information, as well as any information on whether domestic remedies had been exhausted in this case. The Government of Peru was given 90 days to reply.

3. On March 7, 1990, the Commission reiterated its request to the Government of Peru, mentioning that if the information was not received within 30 days the Commission would consider the possible application of Article 42 of its Regulations, according to which the facts set out in the application could be presumed to be true if the Government concerned did not provide the relevant information within the time frame set by the Commission.

4. On April 12, 1990, the Commission again asked the Government of Peru for information concerning the disappearance of Pedro Valenzuela Tamayo and Manuel Mejia Cotrina, on pain of applying Article 42 of the Regulations.

WHEREAS:

1. The Commission is competent to consider the present case inasmuch as it deals with violations of the rights recognized in Article 4 of the Inter-American Convention on Human Rights, regarding the right to life, and Article 7, regarding the right to personal liberty, as provided for in Article 44 of the Convention, of which Peru is a State Party.

2. The petition fulfills the formal requirements for admissibility contained in the Inter-American Convention on Human Rights and in the Regulations of the Commission.

3. In the present case it is evident that the petitioner has not been able to secure effective protection from jurisdictional organizations, and therefore the requirements of exhaustion of remedies under domestic law provided for in Article 46 of the Convention are not applicable.

4. The petition is not pending any other international settlement procedures nor is it a reproduction of a previous petition already examined by the Commission.

5. In spite of the time elapsed and the reiterated procedures undertaken by the Commission, the Government of Peru has not provided a reply concerning the facts involved in the present case.

6. By virtue of the fact that the Government of Peru has failed to reply it has failed to fulfill its international obligation to provide information to the Commission within a reasonable period of time, as established in Article 48 of the Convention.

7. The Commission has repeatedly expressed, in various documents, its clear-cut rejection of the serious phenomenon of forced disappearance of persons in its reports on the situation of human rights, as follows:

... this procedure is cruel and inhuman, and disappearance not only constitutes an arbitrary privation of freedom but also a very serious grave danger for the personal integrity, safety and life of the victim.

[FN1]

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[FN1] Cf. Annual Report 1978, 1980-1981, 1982-1983, 1985-1986, 1986-1987.

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8. The General Assembly of the OAS, in various resolutions, has stressed the need for countries in which forced disappearances have taken place to put an end to this practice, and it has urged governments to carry out whatever efforts are required to ascertain the situation of such persons. Furthermore, at the proposal of the Commission, the General Assembly of the OAS has declared that the forced

disappearance of persons in the Americas constitutes a crime against humanity. [FN2]

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[FN2] Cf. Res. 443 (IX-O/79), 510 (X-)/80), 543 (XI-O/81), 618 (XII-O/82), 666 (XIII-O/83), and 742 (XIV-O/84).

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9. The Inter-American Court of Human Rights, in its Judgment of July 29, 1988, in the Velasquez Rodriguez case, declared the following:

The practice of abductions, besides directly violating numerous Articles of the Convention (...) entails a radical breach of that treaty, inasmuch as it signals a crass abandonment of the values of human dignity and the principles that lie at the heart of the Inter-American system and the Convention itself. [FN3]

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[FN3] Cf. Inter-American Court of Human Rights, Velasquez Rodriguez case, Judgment of July 29, 1988, Series C, No. 4, paragraph 158.

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10. Article 42 of the Regulations of the Commission provides as follows:

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.

11. Since the friendly settlement procedure is inapplicable (Article 48 (1) (f) of the Convention) because of the very nature of the actions complained of and the absence of a reply from the Government, the Commission must comply with Article 50 (1) of the American Convention and issue its findings and recommendations on the application before it.

**THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,  
RESOLVES:**

1. To presume true the events reported in the communication of September 4, 1989, concerning the arrest and subsequent disappearance of Pedro Valenzuela Tamayo y Manuel Mejia Cotrina, by Peruvian forces, on July 31, 1989.

2. To declare that the Government of Peru has not complied with its obligation to respect the human rights and guarantees mentioned in Article 1 of the American Convention on Human Rights.

3. To declare that such actions are violations of the right to life and the right to freedom enshrined in Articles 4 and 7 of the Convention.

4. To make the following recommendations to the Government of Peru (Article 50 (3) of the Convention and Article 47 of the Regulations of the Commission):

a. That it conduct a full, swift, and impartial investigation of the events complained of, with a view to identifying the persons responsible for them and bringing them to justice, in order that they may be appropriately punished for such serious violations.

b. That it take the necessary steps to prevent similar occurrences in the future.

c. That it repair the consequences of the above-mentioned breach of rights and pay a fair compensation to the injured parties.

5. To convey this report to the Government of Peru, so that the latter may, within three months of the date of transmittal, inform the Commission about the steps taken to settle the matter. In line with Article 50 of the Convention, the Government is not authorized to publish this report.

6. If the Government does not settle the matter within the period of three months, the Commission may set forth its opinion and conclusions in accordance with Article 51.1 of the Convention and may include this report in its annual report to the General Assembly of the Organization of American States, as provided for in Article 63 (g) of the Regulations of the Commission.