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Session:	Eighty-First (3 – 14 February 1992)
Title/Style of Cause:	Pedro Jose Castro Alvarenga v. El Salvador
Doc. Type:	Report
Decided by:	Chairman: Marco Tulio Bruni Celli; First Vice Chairman: Oscar Luján Fappiano; Second Vice Chairman: Michael Reisman; Members: Oliver H. Jackman; Leo Valladares Lanza; Patrick L. Robinson; Alvaro Tirado Mejía.
Dated:	04 February 1992
Citation:	Castro Alvarenga v. El Sal., Case 10.003, Inter-Am. C.H.R., Report No. 3/92, OEA/Ser.L/V/II.81, doc. 6 rev. 1 (1991)
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HAVING SEEN:

1. The complaint received by the Inter-American Commission on Human Rights, dated May 4, 1987, to the effect that:

Pedro Jose Castro Alvarenga, a single man 31 years of age, who paints cars by trade, was taken on April 25, 1987, at 11:00 a.m. at his home at 19 Final Avenida Sur No. 473, San Salvador. His captors were heavily armed, in civilian dress and driving a pick-up without license plates.

2. Through a note dated May 7, 1987, the Commission began its processing of this case and requested the Government of El Salvador to supply information relevant to the facts reported in that communication and any other information that would make it possible to establish whether in the instant case the remedies under domestic law had been exhausted; the Government was told that it had 90 days in which to reply.

3. On July 11, 1988, the Commission again requested that information from the Government of El Salvador.

4. In November 1988, the Government of El Salvador replied, reporting that:

The Human Rights Commission has on file, under N° 1603-Ca-87, the fact that Mr. Pedro Jose Castro Alvarenga, a car painter 32 years old, who resides at Final Avenida Sur N° 473, San Salvador, was apprehended at his home at around 11:00 on the morning of April 25, 1987, by heavily armed subjects in civilian dress, who put him in a white pick-up and left in the direction of Cuscatlan park. This Commission made inquiries, but thus far has been unable to locate him.

5. On May 3, 1989, the petitioner sent additional information and observations on the Government's

response, which in turn were forwarded to the authorities in El Salvador on May 15, 1989. The pertinent parts of the information supplied by the petitioner reads as follows:

Pedro Jose Castro Alvarenga was taken from his home on April 25, 1987, by three heavily armed men in civilian dress, who took him to some unknown destination. Later, someone said that they saw him at the National Police Headquarters; his arm was bandaged, his face bruised, and he was dressed in the uniform of the National Police. However, that security force denied having taken him. To date, the young man is still listed as disappeared. In its reply to the complaint in this case, the Government says only that "this Commission made inquiries, but thus far has been unable to locate him." It does not say what inquiries it made.

6. In notes dated February 12 and March 22, 1990, the Commission asked the Government of El Salvador to forward its observations and information on the status of the investigations into the instant case.

7. The Government of El Salvador, through its Human Rights Commission, replied in a note dated May 7, 1990, reporting that:

... on April 25, 1987, at around 11 or 12, this individual was apprehended outside his home by a group of heavily armed men, all in civilian dress. First they beat Mr. Castro Alvarenga and then took him to the main street in the El Centro district, where a pick-up was waiting for them. They put him in the pick-up and headed for some unknown destination. His whereabouts are current unknown, in spite of the inquiries made by representatives from these offices.

8. At its 79th session, the Commission adopted Report N° 12/91, which was dispatched to the Government of El Salvador so that it might formulate whatever observations its deemed appropriate, within three months of the date of dispatch. The report indicated that if the case was not settled by the Government, or submitted by it to the Court, the Commission would decide whether to publish the report.

CONSIDERING:

1. That the Commission is competent to hear the instant case inasmuch as it concerns violations of rights recognized in the American Convention on Human Rights--Article 4 on the right to life, Article 7 on the right to personal liberty, and Article 25 on the right to judicial protection--as provided in Article 44 of that Convention, of which El Salvador is a State Party.

2. That the petition satisfies the formal requirements for admissibility set forth in the American Convention on Human Rights and in the Commission's Regulations.

3. That in the instant case, the petitioner has not been able to secure effective protection from the organs having jurisdiction, which is obvious from both the negative results of the criminal proceedings currently in progress and from the petition of habeas corpus filed with the Supreme Court of Justice of El Salvador on May 5, 1987, which has elicited no response from the authorities. As a result, the requirements as regards exhaustion of the remedies under domestic law, contained in Article 46 of the Convention, do not apply.

4. That the petition is not pending processing in any other international arrangement, and is not a copy of a previous petition that the Commission has already examined.

5. That the notes that the Government of El Salvador sent by way of reply do not furnish any satisfactory information regarding the status of the investigations nor do they disprove the petitioner's

assertions. According to the text of the note sent to the IACHR by the (government) Human Rights Commission in November 1988, which consists of a description of the victim and of the events denounced, that institution "made inquiries, but thus far has been unable to locate him." This response, sent when Mr. Castro Alvarenga had been missing for more than a year, together with the response sent on May 7, 1990, merely corroborates the situation alleged by the petitioner and the fact that the investigations have produced no results.

6. That the petitioner, in his observations on the Government's reply, dated May 3, 1989, stated that "someone said that they saw him at the National Police Headquarters; his arm was bandaged, his face bruised, and he was dressed in the uniform of the National Police;" the Government of El Salvador has neither disputed nor refuted this version; the fact that the Government ignores these assertions constitutes serious evidence against it.

7. That the way in which the arrest was made, by heavily armed men in civilian dress, in a pick-up truck with no license plates, is a common practice used by the Armed Forces to conceal their criminal activities and to avoid identification as authors of acts deliberately calculated to violate the victims' human rights.

8. That the Commission has repeatedly asserted its categorical rejection of the grave phenomenon of the forced disappearance of persons, stating in various documents that:

... this procedure is cruel and inhuman and disappearance not only constitutes an arbitrary privation of freedom but also a very grave threat to the victim's personal integrity, safety and even life itself. [FN1]

[FN1] Cf. Annual Report 1978, 1980-81, 1982-83, 1985-86, 1986-87.

9. That for its part, the General Assembly of the Organization of American States underscored the need for the countries where forced disappearances have occurred to put an immediate end to this practice, and has urged the governments to make the necessary efforts to ascertain the situation of these people. The General Assembly has also declared that the forced disappearance of persons in America is a crime against humanity. [FN2]

[FN2] Cf. Res. 443 (IX-0/79), AG/RES. 510 (X-0/80), AG/RES. 543 (XI-0/81), AG/RES. 618 (XII-0/82), AG/RES. 666 (XIII-0/83), and AG/RES. 742 (XIV-0/84).

10. That the Inter-American Court of Human rights, in a judgment of July 29, 1988, in the Velasquez Rodriguez case, stated the following:

The practice of disappearances, in addition to directly violating many provisions of the Convention (...) constitutes a radical breach of the treaty in that it shows a crass abandonment of the values which emanate from the concept of human dignity and of the most basic principles of the inter-American system and the Convention. [FN3]

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

11. That, since the friendly settlement procedure provided for in Article 48.1.f. of the American Convention does not apply because of the very nature of the acts denounced, the Commission must comply with the provisions of Article 50.1 of the Convention by issuing its conclusions and recommendations on the complaint filed with it for consideration.

12. That the Government of El Salvador has not submitted observations on Report N° 12/91.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
RESOLVES:

1. To declare that the Government of El Salvador is responsible for the violation of the right to life, the right to personal liberty and the right to judicial protection (articles 4, 7, and 25 of the Convention) of Mr. Pedro Jose Castro Alvarenga, who disappeared on April 25, 1987, when he was taken by heavily armed men in civilian dress, from his home in San Salvador, according to the complaint received at the Commission on May 4, 1987.

2. To declare that the Government of El Salvador has failed to comply with its obligations to respect the human rights and fundamental guarantees, obligations incumbent upon it under Article 1 of the American Convention on Human Rights.

3. Pursuant to Article 3.3 of the Convention and Article 47 of the Regulations of the Commission, to make the following recommendations to the Government of El Salvador:

a. That it conduct an exhaustive, rapid and impartial investigation into the facts denounced, so as to identify those responsible and bring them to trial so that they may receive the punishments that such grave conduct warrants.

b. That it adopt the necessary measures to avoid the commission of similar crimes hereinafter.

c. That it make reparations for the consequences of the situation created by the violation of the aforementioned rights and pay the injured parties a fair compensation.

4. Request the Government of El Salvador to inform the Commission regarding the measures it is adopting in the present case, in accordance with the recommendations formulated in paragraph 3 of the operative part of this report.

5. Publish this report by including it in the Annual Report to be presented to the General Assembly, in accordance with Article 48 of the Regulations of the Commission; since the Government of El Salvador did not inform the Commission of the measures it has taken to remedy the situation, within the period prescribed in Report N° 12/91.