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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 7/92; Case No. 10.211
Session: Eighty-First (3 – 14 February 1992)
Title/Style of Cause: Eliseo Cordova Aguilar 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: Cordova Aguilar v. El Sal., Case 10.211, Inter-Am. C.H.R., Report No. 7/92,
OEA/Ser.L/V/II.81, doc. 6 rev. 1 (1991)
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HAVING SEEN:

1. The complainant received by the Inter-American Commission on Human Rights, dated July 25, 1988, to the effect that:

Eliseo Cordova Aguilar, 36 years of age, employee and Vice Chairman of the Cooperative of the Social Security Institute, a former member of that Union and a member of the Board of Directors of FEASIES, was taken together with two other people who were released the following day. The three were seized at 8:00 p.m. on July 12, 1988, in the town of Ilopango, in the department of San Salvador, by three men in civilian dress, wearing hoods, and carrying weapons. Cordova has not been seen since.

2. Through a note dated July 26, 1988, the Commission began its process of the case and asked the Government of El Salvador to furnish the pertinent information on the facts reported in that communication and any other information that would make it possible to establish whether the remedies under domestic law had been exhausted in the case addressed in the petition; the Government was given 90 days in which to respond to that request.

3. On July 26, 1988, the petitioner sent additional information, as follows:

On Tuesday, July 12, 1988, Eliseo Cordova Aguilar was apprehended by three heavily armed men in civilian dress and wearing hoods. Cordova Aguilar is Vice President of the Cooperative of the Union of Employees of the Salvadoran Social Security Institute (STISSS), a former member of the Board of Directors of that Union, and presently a member of FEASIES (Federation of Independent Associations and Unions of El Salvador). Were also taken his nephew and another person. This all occurred at the parking area in Llano Verde, Ilopango, San Salvador.

Although his nephew and the other individual were also seized, it was Eliseo Cordova Aguilar who was apparently taken to the Central Headquarters of the Treasury Police. Even though there was reliable and

concrete evidence that Cordova Aguilar was taken by the National Guard, that security force says it has no knowledge of his arrest or of his present whereabouts. Two weeks after his arrest, Mr. Cordova Aguilar is still missing.

There is reliable information that someone at the Treasury Police saw and spoke with Mr. Cordova Aguilar at Treasury Police Headquarters on July 13. According to the witness, Cordova Aguilar appeared to have been beaten.

The relatives of the disappeared have visited the Treasury Police; two attorneys and a representative have spoken with the deputy director of that security force and a number of official messages have been sent to the respective Salvadoran authorities. A petition of habeas corpus has been filed by a humanitarian organization, but without result. At the Headquarters of the Treasury Police, there was a report that said that the Treasury Police had conducted an investigation into the matter, but did not find Mr. Cordova Aguilar.

4. On August 31, 1988, the Government of El Salvador informed the Commission that:

All security corps have been asked to conduct a detailed and exhaustive investigation into the kidnapping of Mr. Eliseo Cordova Aguilar. It further reports that the individual in question was never placed under arrest. However, inquiries are being conducted to establish his whereabouts and the findings will be reported as soon as they are available.

5. That in communications dated November 17, 1988, January 26, 1989, April 21, 1989, February 12, 1990, and March 22, 1990, the Commission repeatedly asked the Government of El Salvador to forward its observations. Finally, on May 7, 1990, the following reply was received from the government authorities:

Eliseo Cordova Aguilar. Apprehended on July 12, 1988, at around 8:00 a.m., by a group of heavily armed men in civilian clothes. His whereabouts is unknown. The (government) Human Rights Commission is conducting inquiries to ascertain his whereabouts, under reference number 1767-CA-88. He is described as 37 years of age, married, Director of the Salvadoran Social Security Institute. The incident took place in Llano Verde N° 2, in the jurisdiction of Ilopango.

6. At its 79th session, the Commission adopted Report N° 16/91, which was dispatched to the Government of El Salvador so that it might formulate whatever observations it 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 present 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 of 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 meets the formal requirements for admissibility set forth in the American Convention on Human Rights and in the Regulations of the Commission.

3. That the petition is not pending settlement in any other international arrangement and is not a restatement of an earlier petition already examined by the Commission.

4. That in the instant case it is obvious that the petitioner has been unable to secure effective protection from the organs having jurisdiction, so that the requirements concerning exhaustion of the

remedies under domestic law, spelled out in Article 46 of the Convention, do not apply.

5. That despite the time that has passed and the repeated overtures made by the Commission, the Government of El Salvador has not responded to the facts denounced in the instant case.

6. That in its replies on August 31, 1988 and May 7, 1990, the Government of El Salvador has furnished no information to disprove the charges made by the petitioner in his note of July 26, 1988, wherein he blames the Treasury Police for what transpired.

7. That the procedure used in the abduction and forced disappearance of Mr. Cordova Aguilar, the fact that the judicial system is unable to protect and safeguard his rights, the Salvadoran Armed Forces' own agencies are incapable of remedying situations such as the one denounced and the frequency with which forced disappearances occur in El Salvador, as the Inter-American Commission on Human Rights has repeatedly established, lead to the conclusion that the Government of that country, through its security forces, is engaging in the practice of forced disappearances, since facts such as those denounced here cannot be isolated incidents caused by the excesses of one individual; instead they are the modus operandi of the institutions in question.

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), 510 (X-0/80), 543 (XI-0/81), 618 (XII-0/82), 666 (XIII-0/83) and 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° 16/91.

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. Eliseo Cordova Aguilar, according to the communication received at the Commission on July 25, 1988, who was detained on July 12, 1988 at 20:00, in the town of Ilopango, San Salvador Department, and remains disappeared since that date.

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

3. To make the following recommendations to the Government of El Salvador, pursuant to Article 50.3 of the Convention, and Article 47 of the Regulations of the Commission:

a. That it conduct a swift, exhaustive and impartial investigation into the events denounced in order to identify those responsible and bring them to justice, so that they may receive the punishment that such grave conduct demands.

b. That it adopt the measures necessary to prevent the commission of similar crimes in the future.

c. That it make reparations for the consequences of the situation that its violation of those human rights has created and pay the injured parties 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° 16/91.