

Institution: Inter-American Commission on Human Rights
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Title/Style of Cause: Ruth Garces Valladares v. Ecuador
Doc. Type: Decision
Decided by: Chairman: Carlos Ayala Corao;
First Vice Chairman: Robert K. Goldman;
Second Vice Chairman: Jean Joseph Exume.
Dated: 2 March 1998
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I. PROCEDURE BEFORE THE COMMISSION

1. On March 3, 1997, the Inter-American Commission on Human Rights (herein after the “Commission”) received a petition regarding the violation of rights protected by the American Convention on Human Rights (hereinafter “the Convention”) by the Republic of Ecuador (hereinafter “the State”, “the Ecuadorian State” or “Ecuador”) against Mrs. Ruth Garcés Valladares. On April 28 the Commission requested information on the facts alleged by the petitioner. On July 28 a case was opened. On July 29, Ecuador submitted its response. On September 24 and 30 both the petitioner and the State submitted additional information. On October 29 the petitioner submitted observations.

II. THE CLAIMS OF THE PETITIONER AND THE DEFENSES PRESENTED BY THE STATE

2. The petitioner alleges that Ruth Garcés Valladares was illegally deprived of her liberty and held incommunicado by the Ecuadorian police; that she was not promptly brought before a judge; that since 1992 she has been held in preventive detention in a prison unit and thus, has not been tried within a reasonable time; that her right to be presumed innocent has not been respected; that she has been tried twice for the same facts by two different tribunals at the same time; and that the time limits established by law to effectuate the consultation requests, a requisite to execute her release, have not been observed and therefore she is arbitrarily detained.

3. Consequently, the petitioner has requested the Commission to declare that the State of Ecuador has violated Articles 1, 5, 7, 8, 11, 24 and 25 of the Convention; to recommend the State to release the alleged victim; and to adapt its domestic law to the conventional rules on due process.

4. In its response, the State presented a report prepared by the National Police where it is argued that there has been no illegal detention and that the alleged victim has had a criminal trial with all guarantees established in Ecuadorian legislation and the Convention. It also presented a document issued by the President of the Supreme Court of Justice commenting on the fact that the resolution of criminal cases is generally delayed by the numerous petitions, investigations, expert witness interventions and dilatory motions presented by the accused themselves, such as judicial habeas corpus.

5. The Commission reserves the analysis of the merits of the petitioner's claims and the State's response for the corresponding phase of the proceedings.

III. UNCONTESTED FACTS

6. As it appears in the information presented by the petitioner and confirmed or not contested by the State, Ruth Garcés Valladares was detained by the Ecuadorian police on June 22, 1992. The police interrogated her for the first time on June 28, after she spent five days in isolation.

7. On July 17, 1992 the corresponding police report was sent to the judiciary. Finally, on November 30, 1992 –after five months of detention— she was formally charged. Three judicial processes were instituted against her, jointly with other individuals, for the offenses of: unjust enrichment, testaferrismo (meaning appearing as a “front” in commercial transactions) and conversión de bienes (fraudulent transfer of property). The President of the Quito Superior Court issued an order for preventive detention against her for the offences of testaferrismo and transfer of property. However, no precautionary measure was issued in the process for unjust enrichment.

8. On November 11 1992, the alleged victim was also charged with the offence of transfer of property by the Fourth Criminal Judge of Pichincha. That trial concluded on October 31 1994 with a judgment where she was found not guilty. The sentence was put forward for consultation and was confirmed by the Third Chamber of the Superior Court on March 20 1996. However, this tribunal does not expressly refer in its judgment to the charges regarding transfer of property but to the possible commission of money laundering.

9. On April 21 1993, the President of the Superior Court lifted the order on preventive detention in the process for testaferrismo. On March 26 1996, the First Chamber of the Superior Court confirmed this measure.

10. On September 30 1996, Ruth Garcés Valladares was provisionally acquitted in the same decision that declared open the plenary phase of the process for transfer of property opened by the President of the Superior Court. That acquittal was sent to the Fourth Chamber for consultation. According to the information available to the Commission, the Court has not as yet decided on the consultation.

11. On November 22 1996, Ruth Garcés Valladares was also acquitted in the process for unjust enrichment, in which she was subject to no precautionary measure whatsoever. According

to the information available to the Commission, the Fourth Chamber of the Superior Court has not as yet decided on the corresponding consultation.

12. After almost six years, and despite having been found innocent or acquitted of the charges instituted against her in the proceedings this far, Ruth Garcés Valladares is held in preventive detention.

IV. JURISDICTION TO EXAMINE THE PETITION

13. The Commission has prima facie jurisdiction to examine the petition in question. The petitioner has locus standi to appear and has presented claims relating to compliance with the rules established in the Convention by agents of a State Party. The facts alleged in the petition took place when the obligation to respect and ensure the rights enshrined in the Convention was already in force for the Ecuador.[FN1]

[FN1] Ecuador ratified the American Convention on Human Rights on July 24 1984.

V. ADMISSIBILITY OF THE PARTICULAR CASE

1. Exhaustion of Local Remedies

14. The Petitioner has submitted that in May of 1996 a request for release or judicial habeas corpus was filed on behalf of the victim before the President of the Supreme Court of Ecuador. It was argued that Ruth Garcés Valladares was arbitrarily detained due to the fact that she had been acquitted in the trials opened against her in 1992. Apparently the Court has not as yet issued a decision on the matter.

15. On November 7, 1996, the petitioner presented a second habeas corpus request, now before the Mayor of Quito, which was denied on November 13, 1996.

16. The State has not objected to the exhaustion of legal remedies in the case. Therefore, the Commission deems satisfied the requirement set forth in article 46.1 (a) of the Convention.

2. TIMELINESS OF THE SUBMISSION

17. The Commission considers that the petition was submitted within the 6 month time limit set forth in Article 46.1(b) of the Convention.

3. Litispence

18. The Commission has no evidence that the subject matter of the petition is pending before another proceeding for international settlement or that it reproduces a petition already examined by this or any other international organ. Therefore, it finds that the requirements established in Articles 46.1(c) and 47 (d) have also been satisfied.

4. Factual and Legal Foundations of the Petition

19. The Commission considers that, in principle, the account presented by the petitioner refers to facts that could involve a violation of the rights enshrined in the Convention. The petition does not appear to be manifestly ill founded, thus, the Commission considers that the requirements set forth in Article 47(b) y (c) have been satisfied.

VI. CONCLUSIONS

20. The Commission considers that it is competent to hear the claim; and that the case is admissible pursuant to the requirements set forth in Articles 46 and 47 of the American Convention.

Based on the aforementioned factual and legal grounds,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,

DECIDES TO:

1. Declare the present case admissible.
2. Send this report to the State of Ecuador and to the petitioner.
3. Place itself at the disposal of the parties with a view to facilitating the reaching of a settlement based on the rights protected in the American Convention; and invite the parties to decide within 30 days whether they wish to invoke this procedure, established in Article 48.1 (f) of the Convention.
4. Continue with the analysis of the merits.
5. Publish this report and include it in its Annual Report to the General Assembly of the OAS.