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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 54/09; Petition 11.052
Session: Hundred Thirty-Fourth Regular Session (16 – 27 March 2009)
Title/Style of Cause: Persons detained and disappeared v. Peru
Doc. Type: Decision to Archive
Decided by: President: Luz Patricia Mejia Guerrero;
First Vice President: Victor Abramovich;
Second Vice President: Felipe Gonzalez;
Commissioners: Sir Clare K. Roberts, Paulo Sergio Pinheiro, Florentin Melendez, Paolo Carozza.
Dated: 27 March 2009
Citation: Persons detained and disappeared v. Peru, Petition 11.052, Inter-Am. C.H.R., Report No. 54/09, OEA/Ser.L/V/II., doc. 51, corr. 1 (2009)
Represented by: APPLICANTS: Centro de Estudios y Accion para la Paz and Asociacion Pro Derechos Humanos
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ALLEGED VICTIMS: Persons detained who subsequently disappeared

PETITIONERS: CEAPAZ (Centro de Estudios y Acción para la Paz),
APRODEH (Asociación Pro Derechos Humanos)

ALLEGED VIOLATIONS: Articles 8, 25, and 1(1) of the American Convention on Human Rights

DATE OF INITIAL PROCESSING: August 31, 1992

I. POSITION OF THE PETITIONERS

1. The petitioners allege that the Peruvian Office of the Attorney General [Ministerio Público de Perú] acted to obstruct justice by failing to open investigations into and criminal proceedings on [forced] disappearances, between 1989 and 1991, at the hands of “Public Order Forces.” They contend that on December 19, 1988, and on March 11, 1991, “a group of organizations and institutions affiliated with civil society and the Catholic Church” filed complaints with the Office of the Attorney General asking that it open the pertinent investigations to determine the fate of the victims and bring those responsible to justice. The petitioners claim that no response to their complaints was received, thus leaving all of the victims’ families in a state of defenselessness, inasmuch as the Office of the Attorney General is the only entity with authority under the domestic legal system to initiate actions of this nature.

II. POSITION OF THE STATE

2. The State produced a document of the Office of the Attorney General that included information on three types of cases: those that had been resolved, and in which a determination had been made as to the physical whereabouts and/or legal status of the person who had disappeared; special cases, in which the only pending matter was for the pertinent prosecutor to confirm the possible location of the person; and cases that had not been resolved, but in which an investigation into the alleged perpetrators had been opened. The State indicated that the remaining cases were currently under investigation.

III. PROCESSING BEFORE THE COMMISSION

3. On January 29, 1992, the preliminary petition was received and assigned case No. 11.052. On August 31, 1992, the petition was transmitted to the State, which was asked to submit its response within a period of three months. On October 22, 1992, the State's answer was received and forwarded to the petitioners on November 11, 1992, who were asked to submit any pertinent observations within a period of 45 days. The petitioners submitted their observations on February 18, 1994, and were then forwarded to the State on May 24, 1994, which was asked to submit its observations within a period of one month. On December 12, 2002, the IACHR asked the petitioners to update the information in the petition within a period of one month. On April 5, 2004, the IACHR asked the petitioners to notify it if the facts alleged in the petition subsisted. In this communication, the petitioners were given notice that if no reply were received, the Commission may consider archiving the case in accordance with Article 48(1)(b) of the Convention. On May 10, 2004, one of the petitioning organizations, APRODEH, asked the Commission to furnish additional information about the case.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

4. Both Article 48(b) of the American Convention on Human Rights and Article 30(6) of the Rules of Procedure of the Inter-American Commission on Human Rights establish that with regard to the processing of a petition, once the observations have been received or the period set has elapsed with no observations received, the IACHR shall verify whether the grounds for the petition exist or subsist, and, if it considers that they do not exist or subsist, shall order the case archived.

5. In this case, the complaint describes in only general terms the State's accountability for the alleged impunity related to the crime of forced disappearance and the resulting impact on society due to its alleged failure to investigate. Although the petition includes a list of the disappeared persons, it contains no information as to how the alleged climate of impunity in this case impacted the individuals involved.

6. Despite the passing of years and the Commission's requests, the petitioners have yet to provide more detailed information. Under these circumstances, the available information is insufficient to make a determination as to whether the grounds on which the initial petition was based subsist or to formulate a decision regarding the petition's admissibility or inadmissibility.

Consequently, in accordance with Article 48(b) of the Convention and Article 30(6) of the IACHR Rules of Procedure, the Commission decides to archive the petition.

Done and signed in the city of Washington, D.C., on the 27th day of the month of March, 2009.
(Signed): Luz Patricia Mejía Guerrero, President; Víctor E. Abramovich, First Vice-president; Felipe González, Second Vice-president; Sir Clare K. Roberts, Paulo Sérgio Pinheiro, Florentín Meléndez, and Paolo Carozza, members of the Commission.