

WorldCourts™

Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 130/09; Petition 11.875
Session: Hundred Thirty-Seventh Regular Session (28 October – 13 November 2009)
Title/Style of Cause: Luis Gonzaga Lara, Magencio Abad Zeferino Dominguez, Miguel Antonio Zeferino Aquino, Gloria Eufracia Gonzaga Campos, Hermilia Gonzaga Campos, Pedro Gonzaga Lara, Costantina Uriozo Hernandez, Antolito Gonzaga Urioso and Maria Isabel Aquino Reyes v. Mexico
Doc. Type: Decision to Archive
Decided by: First Vice President: Victor Abramovich;
Second Vice President: Felipe Gonzalez;
Commissioners: Sir Clare K. Roberts, Florentin Melendez, Paolo Carozza.
Dated: 12 November 2009
Citation: Gonzaga Lara v. Mexico, Petition 11.875, Inter-Am. C.H.R., Report No. 130/09, OEA/Ser.L/V/II., doc. 51, corr. 1 (2009)
Represented by: APPLICANTS: Center for Justice and International Law, Human Rights Center of the Montana “TLACHINOLLAN”
Terms of Use: Your use of this document constitutes your consent to the Terms and Conditions found at www.worldcourts.com/index/eng/terms.htm

ALLEGED VICTIM: Luis Gonzaga Lara and others

PETITIONER: Center for Justice and International Law - (CEJIL), Human Rights Center of the Montaña “TLACHINOLLAN”

ALLEGED VIOLATIONS: Articles 1.1, 5.1, 5.2, 7.1-6, and 8.1 of the American Convention on Human Rights

DATE PROCESSING BEGAN: February 10, 1998

I. POSITION OF THE PETITIONER:

1. On January 15, 1998, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission”, “the Commission” or “the IACHR”), received a petition lodged by the Center for Justice and International Law (CEJIL) and the Human Rights Center of the Montaña “TLACHINOLLAN A.C.”, (hereinafter “the petitioners”), for the alleged violation of the right to humane treatment, the right to personal liberty and the right to a fair trial by the State of México (hereinafter the “Mexican State”, “México” or the “State”), in the context of the alleged kidnapping and torture perpetrated against Luis Gonzaga Lara, Magencio Abad Zeferino Dominguez and Miguel Antonio Zeferino Aquino, as well as alleged acts of intimidation against

Gloria Eufracia Gonzaga Campos, Hermilia Gonzaga Campos, Pedro Gonzaga Lara, Costantina Uriozo Hernández, Antolito Gonzaga Urioso and María Isabel Aquino Reyes.

2. The petitioners allege that the human rights violations, which consisted of tortures, illegal arrests, threats and intimidation, were perpetrated by agents of the Mexican State, since December 20, 1996 and throughout 1997, because of the alleged involvement of some of the previously listed individuals in tasks related to political propaganda.

3. On the exhaustion of domestic remedies, the petitioners report that they filed the respective complaints before the Ministerio Público. However, they also state that domestic legal remedies proved completely ineffective. They added that their attempts to exhaust domestic legal remedies had jeopardized the alleged victims because they have been subjected to threats and intimidation for seeking justice.

II. POSITION OF THE STATE:

4. The State in its reply of May 12, 1998 indicates that the petition is inadmissible because domestic legal remedies were not exhausted under Article 46 of the American Convention and that the alleged facts do not constitute human rights violations.

5. In a note received on October 15, 1998, the State reiterated the failure to exhaust domestic legal remedies stating that the case was not closed internally and that the investigations were not suspended. It alleged that the procedures were following their regular course according to the nature of the case.

III. PROCESSING BY THE IACHR:

6. On January 15, 1998, the Commission received the petition and assigned it the number 11.875. On February 10, 1998, it forwarded the pertinent parts to the State, along with a request to submit its response within 90 days, in accordance with the Rules of the Inter-American Commission on Human Rights in effect at the time. The response was received on May 12, 1998.

7. Furthermore, the IACHR received information from the petitioners on the following dates: July 22, 1998, February 17, 1999, June 9, 1999, August 16, 1999 and May 16, 2000. These communications were duly transmitted to the State.

8. Moreover, the IACHR received comments from the State on the following dates: October 15, 1998, March 5, 1999, April 14, 1999 and August 23, 1999. These communications were duly transmitted to the petitioners.

9. On November 23, 1998, the IACHR placed itself at the disposal of the parties concerned, with a view to reaching a friendly settlement on the matter. On December 2, 1998, a working meeting was held in Mexico City, to discuss the eventual possibility of a friendly settlement.

10. On December 31, 2002, the Inter-American Commission decided to apply article 37(3) of its Rules and postpone the admissibility decision until the debate and decision on the merits, and

asked the petitioners to submit comments on the merits within two months, under the provisions of article 38(1) of its Rules.

11. On April 11, 2007, the IACHR reiterated to the petitioners its request for information issued on December 31, 2002, expressing that if the information was not received within one month from notification of the communication, "the IACHR could archive the case file under Article 48(1)(b) of the American Convention on Human Rights."

12. On May 2, 2007 CEJIL notified that they were "waiting for our national counterpart to send us the information requested in your letter dated April 11, 2007."

IV. PRECAUTIONARY MEASURES

13. The IACHR received a request for precautionary measures on November 6, 1998. After analyzing the merits of the request, the IACHR decided to grant precautionary measures in favor of Magencio Abad Zeferino Dominguez and Miguel Antonio Zeferino Aquino for a period of 6 months. The decision was notified to the State on November 9, 1998.

14. Furthermore, the IACHR received information from the petitioners on the implementation of precautionary measures on the following dates: February 16, 1998 and April 10, 1999. These communications were duly notified to the State.

15. On the other hand, the IACHR received comments from the State on November 25, 1998. These communications were duly notified to the petitioners.

V. BASIS FOR THE DECISION TO ARCHIVE:

16. 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 provide that in 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 they do not it shall order the case archived.

17. From the information in the records it is noted that the petitioners have not provided additional information and updates regarding the allegations since May 16, 2000, despite repeated requests for information from the IACHR. The Commission therefore lacks the necessary elements to determine whether the grounds for the original petition subsist or to reach a decision on the alleged human rights violations, and pursuant to Article 48(b) of the Convention and Article 30(6) of the IACHR Rules of Procedure decides to archive this petition.

Done and signed in the city of Washington, D.C., on the 12th day of the month of November, 2009. (Signed): Víctor E. Abramovich, First Vice-president; Felipe González, Second Vice-president; Sir Clare K. Roberts, Florentín Meléndez, and Paolo Carozza, members of the Commission.