

REPORT Nº 35/10
PETITION 12.187
DECISION TO ARCHIVE
TRINIDAD AND TOBAGO
March 16, 2010

ALLEGED VICTIM: Peter Isaac

PETITIONERS: INTERIGHTS

ALLEGED VIOLATIONS: Articles 5(2), 7(5), 8(1) and 8(2)(h) of the American Convention

BEGINNING OF PROCESSING: July 1, 1999

I. Position of the parties

A. The petitioners

1. On May 25, 1999, the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "IACHR") received a petition on behalf of Peter Isaac ("Mr. Isaac" or the "alleged victim"), an inmate at the Arouca Remand Prison in Trinidad & Tobago, presented by INTERIGHTS (the "petitioners"). The petitioners state that Mr. Isaac was tried and convicted for the offence of carnal knowledge on April 11, 1991 in the High Court of Trinidad & Tobago, having been previously arrested on June 16, 1983. As a consequence of the conviction, Mr. Isaac was sentenced to a term of imprisonment of 25 years, concomitantly with a sentence of corporal punishment (twenty "strokes").

2. Mr. Isaac filed an appeal against conviction and sentence, but as of 1999, his appeal had not yet been heard. The petitioners also submit that efforts by Mr. Isaac to contact his trial lawyer have proven futile. They also submit that on one occasion, Mr. Isaac was informed by the Registrar of the High Court that his appeal had not even been listed for hearing and that his file "was anywhere". The petitioners further submit that Mr. Isaac is precluded from exhausting domestic remedies because he has been unable to prosecute an appeal of his conviction and sentence, and that he is indigent. Also, the Constitution of the country does not guarantee a speedy trial, and corporal punishment is legal, thus precluding any possibility of a successful constitutional challenge. The petitioners also submit that given the ongoing nature of the violation, the petition is filed within a reasonable period of time.

3. With respect to the merits of their complaints, the petitioners contend that the State is responsible for violating Mr. Isaac's right to a trial within a reasonable time and his right to an appeal, under respectively Articles 7(5), 8(1) and 8(2)(h) of the American Convention on Human Rights (the "American Convention"). The petitioners submit that the delay of eight years before the hearing of Mr. Isaac's appeal is extremely prejudicial and the altogether period of sixteen years since his arrest violates both his right to be tried within a reasonable time and his right to an appeal. According to the petition, the reason for this delay can be attributed to neither the complexity of the case nor the activity of the parties, but merely to the conduct of the judicial authorities, which have admitted the loss of Mr. Isaac's file.

4. Moreover, the petitioners argue that the sentence of corporal punishment violates Mr. Isaac's right to be free from cruel, inhuman or degrading punishment, under Article 5(2) of the American Convention, as corporal punishment is generally recognized to violate international human rights standards. The petitioners underscore the fact that this is especially the case considering that Mr. Isaac was sixty-one years old at the moment of presentation of the petition.

B. Position of the State

5. As indicated above, the Inter-American Commission transmitted the pertinent parts of the petition to the State on July 1, 1999 with a request that it provide the relevant information within 90 days. Despite this request, as of the date of this report the IACHR has not received any information or observations from the State regarding Mr. Isaac's petition.

II. PROCEEDINGS BEFORE THE INTER-AMERICAN COMMISSION

6. The petition, dated May 25, 1999, was received by the IACHR on the same day and transmitted to the State on July 1, 1999, with a notice to the petitioners to that effect. On July 15, 1999 the State acknowledged receipt of the petition, but did not submit observations on the admissibility or the merits of the petition presented on behalf of Mr. Isaac.

7. On January 25, 2002, the IACHR responded to a communication received from the petitioners on January 11, 2002.

8. Following correspondence with the Executive Secretariat concerning the status of the petition, the petitioners sent additional information on July 13, 2009 and the IACHR acknowledged receipt on July 28, 2009.

III. GROUNDS FOR THE DECISION TO ARCHIVE

9. Article 42 of the Rules of Procedure of the IACHR sets forth the procedure for archiving petitions and cases, when the grounds for the petition or case do not exist or subsist; or when the information necessary for the adoption of a decision is unavailable. In such cases, the IACHR, after having requested information from the petitioners and given notice of the possibility of a decision to archive to the petitioners, shall proceed to adopt the appropriate decision.

10. In the present case, the petitioners recently confirmed that they were not active in the case of Mr. Isaac for many years and can neither provide updated information on the status of Mr. Isaac, nor the reason why they stopped being involved in his case. Although the Executive Secretariat did some basic research to obtain information on the status of Mr. Isaac, this research was not fruitful.¹ It has been more than ten years since the initial petition was received and the IACHR has no mean to verify the status of Mr. Isaac.

11. The Inter-American Commission thus concludes that it 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 considers that the necessary information is unavailable. Therefore, pursuant to Article 42 of its Rules of Procedure, the IACHR decides to archive this petition, without prejudging on its merits.

¹ In May 2009, the IACHR Executive Secretariat called the Arouca Remand Prison to know if an inmate named Peter Isaac was detained in this institution and the information received was that no inmate named Peter Isaac was detained at that moment.

Done and signed in the city of Washington, D.C., on the 16 day of the month of March, 2010.
(Signed: Felipe González, President; Paulo Sérgio Pinheiro, First Vice-President; Dinah Shelton, Second Vice-President; María Silvia Guillén, José de Jesús Orozco Henríquez, and Rodrigo Escobar Gil, members of the Commission).