

REPORT No. 45/11
DECISION TO ARCHIVE
PETITION 11.530
PERU
March 23, 2011

ALLEGED VICTIMS: Tomás Flores Huanío, Justiniano Hurtado Torres and Indalecio Pomatanta Alvarrán

PETITIONER: National Human Rights Coordinator

VIOLATIONS ALLEGED: Articles 4, 5 and 8 of the American Convention

PROCESSING STARTING DATE: September 27, 1995

I. THE PETITIONERS' POSITION

1. In the present complaint, the petitioners recounted acts of violence that Marine troopers were alleged to have committed against the civilian population of Ucayali department. They observed that in late November 1994, soldiers detained and executed Justiniano Hurtado Torres, a resident of the hamlet of San Pedro de Chío in the province of Pucallpa, Ucayali department. The petitioners reported that on November 30, 1994, a member of the alleged victim's family filed a criminal complaint with the Office of the Provincial Prosecutor for the Coronel Portillo zone, Pucallpa, but did not indicate what the outcome was of any investigations undertaken.

2. The petitioners stated that on April 19, 1995, Marine troopers from the San Lorenzo Base in the district of Sarayacu, summoned a number of people to a meeting, without telling them why. They reported that when he arrived for the meeting, Mr. Tomás Flores Huanío was tortured by Marine troopers, who accused him of using his home to store materials for the manufacture of narcotic drugs. It was reported that on May 17, 1995, the alleged victim's mother, Mrs. Elvina Huanío Flores, a widow, went to the Pucallpa Provincial Prosecutor's Office and reported that Marine troopers had severely beaten her son and deprived him of his liberty.

3. The petitioners alleged that on April 2, 1995, some 15 Marine troopers detained Mr. Indalecio Pomatanta Alvarrán and then set him on fire; he died four days later from the burns suffered. They further alleged that on April 6, 1995, the alleged victim's father, Mr. Juan Francisco Pomatanta, filed a complaint with the Pucallpa Provincial Prosecutor's Office; the petitioners did not, however, report the outcome of any investigations eventually instituted.

II. THE STATE'S POSITION

4. For its part, the State asserted that Mr. Tomás Flores Huanío was detained on April 24, 1995, in possession of an illegal substance used in the manufacture of cocaine. It further alleged that he was turned over to the Contamaná Provincial Prosecutor's Office and detained by troops of Marine Light Infantry Battalion No. 4, in Contamaná. It also stated that acting on the complaint filed by the mother of the alleged victim, the Office of the Ucayali Combined Provincial Prosecutor's Office opened an investigation against Marine troopers for the crime of grievous bodily injury inflicted on Mr. Tomás Flores Huanío. The State asserted that the alleged assault on Mr. Tomás Flores Huanío had also been denounced to the United Nations Committee against Torture and described the proceedings that the domestic justice system conducted into the facts alleged. The State did not provide any specifics regarding the other alleged victims, Justiniano Hurtado Torres and Indalecio Pomatanta Alvarrán.

III. PROCESSING WITH THE IACHR

5. Petition 11.530 was received on August 21, 1995, and forwarded to the State on September 27, 1995. In keeping with the Commission's Rules of Procedure then in force, the State was given 90 days in which to present its response. On March 25, 1996, the State submitted its response, which was forwarded to the petitioners on April 2, 1996.

6. The petitioners filed additional briefs on July 23 and December 3, 1997. The State, for its part, submitted additional communications on May 3, 1996, May 16 and 28, September 3, 1997, March 14, 1998, and April 21 and May 9, 2003.

7. On September 18, 1997, the State requested a public hearing during the Commission's 97th Session. On September 22, 1997, the Commission reported that it could not grant the hearing for that session.

8. On May 1, 2000, the IACHR requested updated information from the petitioners and repeated that request on January 3, 2003. On April 5, 2004, the IACHR again requested updated information from the petitioners and informed them that if it was not received within one month's time, it might consider closing the record in the petition, pursuant to Article 48(1)(b) of the American Convention.

IV. GROUNDS FOR THE DECISION TO CLOSE THE RECORD

9. Article 48(1)(b) of the American Convention on Human Rights and Article 42(1) of the Commission's Rules of Procedure both provide that at any time during the proceedings, once information has been received or after the time period has elapsed and the information has not been received, the IACHR will ascertain whether the grounds for the petition still exist and, if not, will order the record closed.

10. In this case, the Commission requested updated information from the petitioners in May 2000, January 2003, and April 2004. Given the lack of response and inasmuch as the information available is not sufficient to adopt a decision on the petition's admissibility, the Commission decides to close the record pursuant to Article 48(1)(b) of the American Convention and Article 42(1) of its Rules of Procedure.

Done and signed in the city of Washington, D.C., on the 23rd day of March 2011. (Signed): Dinah Shelton, President; José de Jesús Orozco Henríquez, First Vice-President; Rodrigo Escobar Gil, Second Vice-President; Paulo Sérgio Pinheiro, Felipe González, Luz Patricia Mejía Guerrero, and María Silvia Guillén, Commission Members.