

REPORT No. 39/11
PETITION 9.239
DECISION TO ARCHIVE
GRENADA
March 23, 2011

ALLEGED VICTIMS: Andy Mitchell *et al.*

PETITIONERS: Ramsey Clark, Lawrence W. Schilling and Langston R. M. Sibblies

INITIATION OF PROCESSING: March 1, 1984

ALLEGED VIOLATIONS: Articles 4.2, 4.3, 4.4, 5, 7, 8.1, 8.3, 8.5, 9, 24 and 25 of the American Convention on Human Rights (the "American Convention")

I. POSITIONS OF THE PARTIES

A. THE PETITIONERS

1. On February 24, 1984, the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "IACHR") received a petition from Ramsey Clark, Lawrence W. Schilling and Langston R. M. Sibblies (the "petitioners"), on behalf of Callistus Bernard, Christopher Stroude, Bernard Coard, Leon Cornwall, Dave Bartholomew, Colville McBarnette, Phyllis Coard, Lester Redhead, Hudson Austin, Liam James, John Anthony Ventour, Ewart Layne, Selwyn Strachan, Cecil Prime, Vincent Joseph, Cosmos Richardson and Andy Mitchell (the "alleged victims"). At the time of the filing of the petition the alleged victims were detained in Richmond Hill Prison charged for the murder of Prime Minister Maurice Bishop and 10 others on October 19, 1983. The petitioners alleged inhuman conditions of detention and due process violations.

2. With regard to prison conditions, the petitioners reported that the alleged victims were frequently beaten and tortured; that they were held in solitary confinement; that their access to counsel was restricted; and that they were deprived of certain basic necessities. The petitioners also maintain that some of the alleged victims were forced to sign a confession. Further, they assert that the alleged victims' trial and appeal were presided over by unconstitutional courts and that they were denied a public trial, among other due process violations.

3. In 1986 Vincent Joseph, Cosmos Richardson and Andy Mitchell were sentenced to 30 to 45 years in prison and the other fourteen accused were sentenced to death. On August 14, 1991, the death sentences were commuted to sentences of life imprisonment. According to publicly available information, Vincent Joseph, Cosmos Richardson and Andy Mitchell were released after spending 20 years in prison and Phyllis Coard, the only woman, was released in 2000 for health reasons¹. According to the last information received from petitioners, on February 7, 2007, the Judicial Committee of the Privy Council ("the Privy Council") returned the case of the thirteen alleged victims still in prison to the Court of Grenada for resentencing. According to public information, the thirteen were released between June 27, 2007 and September 5, 2009².

B. THE STATE

¹ Cfr. Refworld, available at <http://www.unhcr.org/refworld/country,,AMNESTY,,GRD,,46558ecb20.0.html>.

² Cfr. Grenada Broadcast, available at <http://www.grenadabroadcast.com/content/view/880/48/>; Grenada Broadcast, available at <http://www.grenadabroadcast.com/content/view/3957/51/>; and BBC News, available at <http://news.bbc.co.uk/2/hi/americas/8239899.stm>.

4. The State of Grenada argued that the alleged incidents of torture and denial of right to counsel were frivolous, vexatious and without foundation. Grenada also stated that no credible evidence was presented to prove that the cautioned statements given by the petitioners were produced under torture. The State also rejected the allegation of unconstitutionality of the courts.

II. PROCESSING BEFORE THE INTER-AMERICAN COMMISSION

5. The IACHR received the petition on February 24, 1984. By note of March 1, 1984, the Commission notified the State of the petition, giving it three months to provide the information it deemed appropriate as set forth in the Rules of Procedure in force at the time. The State response was presented on April 23, 1984, and the IACHR transmitted the pertinent parts to the petitioners.

6. From August 1984 to January 1993 the IACHR received several communications from the petitioners and the State, all of which were dully remitted to the other party. In November 1985, Commissioner Oliver Jackman traveled to Grenada on behalf of the IACHR to observe the trial of the alleged victims. On September 19, 1991, and February 26, 1996, the Commission held public hearings at its headquarters.

7. On May 12, 1997, the IACHR requested updated information from petitioners. The response was received on June 11, 1997. On August 3, 1998, the Commission requested additional information to both parties regarding the exhaustion of domestic remedies. The response from the petitioners was received on September 14, 1998, and transmitted to the State.

8. On June 2, 2004, following the Grenadian High Court decision ruling that the death and life sentences were unconstitutional and in light of the appeal before the OECS Court of Appeal and the Judicial Committee of the Privy Council, the Commission requested updated information from both parties. On May 27 and July 1, 2005, the IACHR received the responses from the State and the petitioners, respectively, and transmitted them to the other party.

9. On May 9, 2007, the IACHR requested updated information from the petitioners and also requested them to indicate whether, in light of the February 7, 2007, Privy Council decision, they still wished the petition proceedings to continue. On the same day the IACHR requested updated information from the State. On August 16, 2007, the petitioners informed that the case had been returned to the Courts of Grenada for resentencing. With respect to the processing of the petition, they indicated that they "believe[d] the Seventeen [would] want to proceed before the Inter-American Commission on Human Rights" and that they would keep the IACHR informed "of their decision concerning their pursuit" of the case.

10. Because the petitioners did not present any information, on April 22, 2009 the Commission requested them to advise it of the alleged victims' decision concerning the pursuit of the case. On October 8, 2010, the IACHR requested information from the petitioners regarding the dates of release of each of the alleged victims as well as an express indication of the interest in continuing with the petition, giving them one month to respond. To date, the petitioners have not responded to the IACHR's requests concerning the pursuit of the petition before the Commission nor have they submitted up-to-date information.

Precautionary Measures

11. On July 19, 1991, the Inter-American Commission issued precautionary measures on behalf of the alleged victims sentenced to death, by which it requested Grenada to stay the execution.

III. GROUNDS FOR THE DECISION TO ARCHIVE

12. Articles 48.1.b of the American Convention and 42 of the Rules of Procedure of the IACHR establish that prior to determining admissibility; the Inter-American Commission shall ascertain whether the grounds for the petition still exist or subsist; and that if it considers that they do not, it shall order the case to be archived. In addition, Article 42.1.a of the Rules establishes that the IACHR may also decide to archive a case when the information necessary for the adoption of a decision is unavailable.

13. In the present case, 27 years have elapsed since processing began on March 1st, 1984 and, according to public information, the seventeen alleged victims have been released from prison. Despite several requests, petitioners have not indicated whether they wished the Commission to pursue the petition. Moreover, it has been over three and a half years since the last communication from the petitioners was received. In addition, in spite of the Commission's requests, the petitioners have neither provided information with respect to the resentencing of the case after the Privy Council's decision nor indicated the dates of release of the alleged victims.

14. Under these circumstances, the IACHR considers that it lacks the necessary elements to make a pronouncement on admissibility. Therefore, in accordance with Article 48.1.b of the American Convention and Article 42 of its Rules of Procedure, the IACHR decides to archive this petition.

Done and signed in the city of Washington, D.C., on the 23rd day of the month 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, Commissioners.