

REPORT No. 69/11
PETITION 10.949
ADMISSIBILITY
MAGDA MATEO BRUNO
PERU
March 31, 2011

I. SUMMARY

1. On August 31, 1991, the Inter-American Commission on Human Rights (hereinafter also referred to as "the Inter-American Commission," "the Commission" or "the IACHR") received a petition on behalf of Magda Mateo Bruno (hereinafter also referred to as "the alleged victim"),¹ submitted by herself and Ms. Sabina Astete (hereinafter referred to as "the petitioners"), alleging violation by the Republic of Peru (hereinafter also referred to as "Peru," "the State" or "the Peruvian State") of rights enshrined in the American Convention on Human Rights (hereinafter also referred to as "the American Convention" or "the Convention"). The petitioners stated that Magda Mateo Bruno was arrested on May 7, 1991 and sentenced to 10 years imprisonment for the crime of terrorism. They contended that the criminal proceedings were carried out by judges whose identities were concealed (faceless judges), according to the terms of a law that they indicated were contrary to the right to due process of law. They added that the alleged victim was the target of duress and torture during her confinement in the facilities of the Anti-Terrorism Administration in Lima. Finally, they alleged that, while she was in the Women's Penitentiary of Chorrillos, she was subject to an excessively harsh treatment in jail and was the target of constant beatings and abasements by the officers of the penitentiary.

2. The State asserted that, at the beginning of 2003, a new legislative framework on terrorism was adopted and indicated that it was in line with the American Convention and the Political Constitution of Peru. It dismissed the existence of any torture or mistreatment against the alleged victim and asserted that, after she had served her 10-year sentence and been released, the incidents alleged by Magda Mateo Bruno in her complaint would not stand up in court. It indicated that Ms. Mateo Bruno had not filed a civil lawsuit for compensation, as a result of which the allegations on pecuniary and nonpecuniary damages do not meet the requirement set forth in Article 46.1.a) of the Convention. Finally, it argued that the facts described in the petition do not tend to establish a violation of the American Convention and requested that the IACHR declare the petition inadmissible by virtue of Article 47.b) of the above-mentioned instrument.

3. After examining the position of the parties in the light of the admissibility requirements set forth in Articles 46 and 47 of the Convention, the Commission concluded that it is competent to hear the petition and that the petition is admissible for the alleged violation of the rights enshrined in Articles 5, 7, 9, 13, 8 and 25 of the American Convention, with respect to Articles 1.1 and 2 of the same instrument; and in Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture. The Commission decided to notify the parties about the present Admissibility Report, as well as to publish and include it in its Annual Report.

II. PROCESSING BY THE COMMISSION

4. The initial petition was received on August 12, 1991 and was assigned number 10.949. On September 23, 1991, the petition was remitted to the State, which was granted 90 days to submit a response, in accordance with the IACHR Rules of Procedure in force at that time. On December 5, 1991, the State submitted its response, which was sent to the petitioner on December 16, 1991.

5. The State submitted additional information in writing, received by IACHR on January 13, October 13, and December 4, 1992, June 13, 1994, August 22, 1995, January 26 and February 16, 1999,

¹ In communications submitted by the State and the petitioners, the alleged victim is referred to as either "Magda Mateo Bruno" or "Magda Eubilia Mateo Bruno", without distinction.

and September 23, 2010. In turn, the petitioners sent additional communications on January 21, 1992, February 11 and March 25, 1994, November 9, 1998, May 20 and July 14, 2004, May 30, 2010, and February 10, 2011.

III. POSITION OF THE PARTIES

Prior Matter

6. During the processing of the present complaint, the petitioners and the State described the criminal proceedings filed against Ms. Mateo Bruno between 1991 and 1994. As of May 1992, these proceedings were conducted in the light of decree-laws on crimes of terrorism and treason against the fatherland issued by the then President Alberto Fujimori. The State pointed out that these decrees were amended at the beginning of 2003 by the adoption of a new legislative framework on terrorism. Before describing the position of the parties, the IACHR deems that it is necessary to refer to the two regulatory frameworks mentioned by the parties.

Antiterrorist legislation in force from May 1992 to January 2003

7. Decree Law No. 25475, dealing with different forms of the crime of terrorism, was enacted in May 1992. In August of that year, Decree Law No. 25659 was enacted, criminalizing the offense of treason against the fatherland and giving the military justice system jurisdiction over the prosecution of that crime. Those decrees, along with decrees Nos. 25708, 25744, 25880, and other complementary provisions, equipped the Peruvian legal system with exceptional procedures for investigating, examining, and prosecuting individuals accused of terrorism or treason against the fatherland.

8. The decrees that made up what was known as the “antiterrorist legislation” had the stated purpose of reining in the escalation of targeted killings against officers of the judiciary, elected officials, and members of the security forces, as well as of disappearances, bombings, kidnappings and other indiscriminate acts of violence against the civilian population in different regions of Peru, attributed to outlawed insurgent groups.

9. Among other changes, these decrees allowed the holding of suspects incommunicado for specified lengths of time,² holding closed hearings, solitary confinement during the first year of prison terms,³ and summary deadlines for presenting charges and issuing judgments in the case of the crime of treason against the fatherland.⁴ In addition, these decrees denied suspects the assistance of a legal representative prior to their first statement to an agent of the Public Prosecution Service⁵ and restricted the attorney’s participation in the criminal proceedings, disallowed the recusal of judges or other judicial officers,⁶ established concealed identities for judges and prosecutors (“faceless courts”),⁷ prevented the summoning, as witnesses, of state agents who had participated in preparing the police arrest report.⁸

10. As for their provisions of material law, these decrees allowed for the possibility of applying more than one criminal offense to actions of a similar or identical nature; they did not

² Decree Law No. 25475, Art. 12(d).

³ Decree Law No. 25475, Art. 20.

⁴ Investigations, prosecutions, and sentencing for treason against the fatherland were governed by Decree Laws Nos. 25708 and 25744.

⁵ The right to the assistance of freely chosen defense counsel from the very onset of criminal proceedings was later established by Article 2 of Law No. 26447.

⁶ Decree Law No. 25475, Art. 13(h).

⁷ With the enactment of Law 26671 on October 12, 1996, faceless judges and prosecutors were abolished.

⁸ Decree Law No. 25744, Art. 2.

differentiate between different levels of *mens rea*,⁹ and they only indicated minimum prison terms, without setting maximum penalties.¹⁰

11. On May 12, 1992, the Executive Branch of Government passed Decree-Law 25499, also called the Repentance Law, which regulated the reduction, exemption, remission or mitigation of imprisonment sentences for persons charged or convicted for the crime of terrorism who provided information leading to the capture of chiefs, heads, leaders or principal members of terrorist organizations.¹¹ By means of Supreme Decree No. 015-93-JUS of May 8, 1993, the Executive Branch adopted the Regulations for the Repentance Law, which provided, among other measures, the secrecy or change of identity for the repentant persons making the statement.¹² The Repentance Law expired on October 31, 1994.¹³

Antiterrorist legislation in force as of January 2003

12. On January 3, 2003, a series of provisions contained in the terrorism decree-laws enacted during the Fujimori administration were ruled unconstitutional by the Constitutional Court.¹⁴ That decision ruled Decree Law 25659 unconstitutional and ordered accusations for the crime of treason against the fatherland as defined therein to be tried as terrorism, as provided for in Decree Law 25475. In addition, it annulled the provisions that prevented the recusal of judges and the subpoena of officers involved in the police arrest report as witnesses and the provisions that allowed civilians to be tried by military courts. At the same time, absolute incommunicado detention and solitary confinement during the first year of prison terms were also ruled unconstitutional.

13. With reference to the crime of terrorism, the Constitutional Court upheld the legality of Article 2 of Decree Law No. 25475, but ruled that it would apply solely to willful acts; it also established interpretative guidelines for the subsumption of a punishable action in the definitions of the offense.

14. With regard to statements, arrest warrants, technical and expert opinions given before faceless judges, the Constitutional Court ruled that they were not automatically tainted and that the regular civilian judges hearing the new charges would have to verify their worth as evidence, conscientiously and in conjunction with other substantiating elements as set down in regular criminal procedural law.¹⁵

15. Between January and February 2003, the Executive Branch¹⁶ issued Legislative Decrees Nos. 921, 922, 923, 924, 925, 926, and 927,¹⁷ with the aim of bringing the country's laws into line with the Constitutional Court's judgment of January 3, 2003. In general terms, those decrees ordered the voiding of all judgments and trials conducted before the military courts or faceless judicial officers, together with the referral of all such proceedings to the National Terrorism Chamber, further named National Criminal Chamber, which was created within the Supreme Court of Justice and charged with distributing the new

⁹ Decree Law No. 25475, Art. 2.

¹⁰ Decree Law No. 25475, Art. 3.

¹¹ Decree Law No. 25499, Articles 1.II.a and 1.III.

¹² Supreme Decree No. 015-93-JUS, Articles 8.a and 36.

¹³ The Repentance Law was repealed by Law 26345 of August 30, 1994.

¹⁴ Resolution of the Constitutional Court of January 3, 2003, File No. 010-2002-AI/TC, unconstitutionality suit filed by Marcelino Tineo Silva and other citizens.

¹⁵ Resolution of the Constitutional Court of January 3, 2003, File No. 010-2002-AI/TC, unconstitutionality suit filed by Marcelino Tineo Silva and other citizens, grounds paragraph No. 159.

¹⁶ On January 8, 2003, the Congress of the Republic of Peru enacted Law 27913, whereby it delegated the power to legislate on terrorism-related matters to the Executive Branch.

¹⁷ Legislative Decree 927 regulated the criminal law enforcement in matters of terrorism. It was derogated by the Law 29423 of October 14, 2009, which rendered inapplicable the requests for reduction of prison sentence, partial liberty and conditional parole by persons convicted of terrorism.

trials to the Specialized Criminal Courts. The new antiterrorist legislation also provided for partially open hearings during oral proceedings¹⁸ and prohibited the imposition of harsher sentences than those that had been handed down in the voided trials.¹⁹

16. With reference to steps taken during criminal investigations and examination proceedings before faceless civilian or military judicial officers, Article 8 of Legislative Decree No. 922 upheld the validity of examination proceeding commencement deeds, police statements given in the presence of a representative of the Public Prosecution Service, technical reports, search records, statements given to the National Police, and statements made by persons who applied to the benefits of Repentance Law (“*arrepentidos*”). Finally, Article 3 of that Legislative Decree ruled that the voiding of proceedings held by faceless judges would not trigger automatic release from prison, which could take place only if the Public Prosecution Service declined to press charges or if the judiciary refused to commence examination proceedings.

A. Position of the petitioners

17. They alleged that, on May 7, 1991, Magda Mateo Bruno was arrested by members of the Anti-Terrorism Administration (Dirección Contra el Terrorismo—DIRCOTE) of the National Police Force of Peru, when she was about to take a flight at the Jorge Chávez International Airport. They indicated that the arrest took place after a prosecutor and members of DIRCOTE searched her luggage and found a copy of a doctoral thesis by her friend Sabina Astete on the Shining Path (*Sendero Luminoso*) phenomenon in Peru. They stated that, when they found this paper, the police officers told her that “she was a communist disguised as a bourgeois fleeing the country.” They pointed out that these police officers confiscated the academic papers, airline tickets, passport and a scholarship certificate to attend a university seminar in Japan.

18. According to the information that was presented, Ms. Mateo Bruno was driven to her house along with her husband, Mr. Heiner Bueno Mattos, where agents of DIRCOTE searched every room. It is indicated that the policemen found books by Mao Tse Tung and editions of a newspaper called *El Diario*, which was supposedly known as a tool for disseminating propaganda about a Maoist group calling itself the Communist Party of Peru – Shining Path. The petitioners stated that these materials did not belong to her and that they were brought and planted in Ms. Mateo Bruno’s house by the DIRCOTE agents themselves. They also alleged that a policeman placed papers with Shining Path greetings and letters of membership in the above-mentioned insurgent group in a personal binder of the alleged victim, for the purpose of incriminating her.

19. The petitioners affirmed that, because of threats to the safety of her husband and three under-aged children, Ms. Mateo Bruno accepted to sign a confiscation declaration drafted by DIRCOTE “noting that there were things that did not belong [to her]...” They indicated that the search was carried out by a captain whose last name was Morazán and that a representative of the Ministry of Justice was called to sign the confiscation declaration, without any intervention on his part when the alleged victim refused to recognize that certain documents were hers.

20. The petitioners asserted that Ms. Mateo Bruno and her husband were taken to the DIRCOTE facilities in Lima, blindfolded, threatened, and forced to remain standing against the wall for several hours listening to music at a high volume. In this context, they were coerced into signing statements that were subsequently used to substantiate the charges brought against Magda Mateo Bruno. According to the information in the case file, the alleged coercions and tortures that took place in DIRCOTE were reported to the institutions of the National Police Force of Peru by Ms. Mateo Bruno and her next of kin.

¹⁸ Legislative Decree No. 922, Art. 12(8).

¹⁹ Legislative Decree No. 922, fifth complementary provision.

21. The petitioners stated that, while she was in DIRECOTE, the alleged victim was interrogated every day by a lieutenant whose last name was Zúñiga, who asked her about her life and forced her to write texts without ever having informed her of the concrete charges that were the grounds for her arrest. They indicated that, on the third day after her arrest, DIRCOTE agents went once again to the house of the alleged victim and seized Marxist books and the photocopy of a novel about the 1917 Bolshevik Revolution, which had supposedly been mentioned in the charges filed by the prosecutor and the criminal inquiries brought against her. They added that it was only between the tenth and twelfth day of imprisonment that Ms. Mateo Bruno was apprised that she was being charged with “authorship of a letter-report with Shining Path contents signed by a person referred to as Orina, a photocopy of which was shown [to her] and that when she saw and read it, she recognize[d] that it was not [hers], either the manuscript or the content.”

22. According to the allegation, in the May 1991 publication of the magazine *Caretas*, Ms. Mateo Bruno was accused of having ties with the insurgent group Shining Path. It is indicated that, on May 21, 1991, her case was filed with the 19th Criminal Court of Lima and on the same day she was transferred to the Miguel Castro Castro Maximum Security Prison. It is alleged that, on May 6, 1992, members of the National Police Force of Peru perpetrated an armed attack in that penitentiary, which led to dozens of deaths and hundreds of injured persons. They indicated that, during this operation, Ms. Magda Mateo was subject to physical torture for several hours and then transferred to the Chorrillos Maximum Security Prison for Women. It is indicated that, during her imprisonment in the latter penitentiary, she remained in absolute solitary confinement for one year, with access to the jail yard for a maximum of 30 minutes every day and that she was also the victim of constant beatings and abasements.

23. The petitioners stated that, on November 19, 1993, the Special Chamber on Terrorism of the Superior Court of Justice of Lima sentenced Magda Mateo Bruno to 10 years imprisonment for the crime of disturbing the public peace – terrorism, and that this judgment was ratified by the Supreme Court of Justice on May 24, 1994. They indicated that these judgments were issued by faceless judges, in line with the anti-terrorist laws adopted as of May 1992.

24. The petitioners stated that, because of the imprisonment of Ms. Mateo Bruno and the publicity surrounding her case, her husband and children were the target of constant harassment, because of which they went to live in Chile as refugees. They pointed out that, after fully serving her 10-year sentence, the alleged victim was released on May 7, 2001. Finally, they argued that the Peruvian State has the obligation to compensate Ms. Mateo Bruno and her family for the supposedly arbitrary imprisonment and the alleged violation of her personal integrity of which she was the target.

B. Position of the State

25. The State provided a description similar to that made by the petitioners on the judgments issued in the trial for terrorism against the alleged victim. It indicated that, in the judgment of November 19, 1993, the Special Chamber on Terrorism accepted that it was proven that Ms. Mateo Bruno was a member of apparatus of the Shining Path (*Sendero Luminoso*) organization called “People’s Intellectual Group” (*Grupo Intelectual Popular*). It asserted that, with the adoption of a new legislative framework on terrorism in 2003, “it has directly and satisfactorily rectified the irregularities taking place in the nineties during the prosecution of civilians for the crime of treason against the fatherland in military jurisdiction or in the regular courts with faceless judges.” It contended that the new legislation was in line with the standards set forth in the American Convention and in the Political Constitution of Peru.

26. The State argued that the facts initially reported by the petitioners would not stand up in court, because Ms. Mateo Bruno had been released after serving her 10-year sentence of imprisonment. Regarding this, it indicated that material brought to the knowledge of the IACHR had been removed.

27. The State provided a copy of Report No. 28-91-IGPNP/OC.DD.HH, issued by the Office of the Inspector General of the National Police Force of Peru on November 8, 1991, which indicated that, during her stay in DIRCOTE, Ms. Mateo Bruno “has not been subject to inhumane treatment or to torture,

since she was subject to a legal medical checkup, which dismissed the existence of any external physical injury, which was also confirmed by the examination conducted by a private physician appointed by her next of kin.”

28. As for the allegations that Ms. Mateo Bruno would have the right to receive compensation, the State asserted that the alleged victim did not make any claim of this kind by filing a civil lawsuit for damages. It indicated that this remedy is governed by both Article 139, item number 7, of the Political Constitution, and Article 3 of Law 24973. It concluded that these claims of the petition are inadmissible because they fail to meet the requirement set forth in Article 46.1.a) of the Convention.

29. Finally, it alleged that the petition does not describe facts tending to establish the violation of rights protected in the American Convention and requested that the IACHR declare the petition inadmissible by virtue of Article 47.b) of this treaty.

IV. ANALYSIS OF COMPETENCE AND ADMISSIBILITY

A. Competence of the Commission *ratione personae*, *ratione loci*, *ratione temporis*, and *ratione materiae*

30. The petitioners are entitled, under Article 44 of the Convention, to file complaints. The alleged victim is an individual who was under the jurisdiction of the Peruvian State on the date of the alleged incidents. In addition, Peru ratified the American Convention on July 28, 1978. Consequently, the Commission has competence *ratione personae* to examine the petition.

31. The Commission has competence *ratione loci* to hear the petition, in that it describes violations of rights protected by the American Convention that allegedly took place within the territory of a state party thereto.

32. In addition, the Commission has competence *ratione temporis*, since the general obligation of respecting and ensuring the rights protected by the American Convention was already in force for the State on the date on which the incidents described in the petition allegedly occurred.

33. Finally, the Commission has competence *ratione materiae*, because the petition alleges violations of rights protected by the American Convention and by the Inter-American Convention to Prevent and Punish Torture, ratified by the Peruvian State on February 27, 1990.

B. Exhaustion of domestic remedies

34. Article 46(1)(a) of the American Convention states that for a complaint lodged with the Inter-American Commission in compliance with Article 44 of the Convention to be admissible, the remedies available under domestic law must have first been pursued and exhausted in accordance with generally recognized principles of international law. That requirement is intended to facilitate the domestic authorities' examination of the alleged violation of a protected right and, if appropriate, to enable them to resolve it before it is brought before an international venue.

35. The present petition also alleges acts of torture and other violations of Magda Mateo Bruno's personal integrity, presumably perpetrated by DIRCOTE agents during the weeks following her arrest in May 1991. According to the allegation, these incidents were reported to the National Police Force of Peru by the alleged victim and her next of kin.

36. The precedents established by the Commission indicate that every time a crime subject to public prosecution is perpetrated, the State has the obligation to promote and give impetus to the criminal proceedings, and that, in those cases, this is the suitable jurisdiction for clarifying the facts, prosecuting those responsible and establishing the corresponding criminal sanctions, as well as opening the door to any possible reparations. The facts stated by the petitioner in relation to acts of torture and

other alleged injuries to his personal integrity translate in domestic law into criminal conduct whose investigation and trial must be pursued at the initiative of the prosecutorial authorities, and therefore this is the adequate remedy for the claims in this petition.²⁰

37. Although the State remitted a copy of a November 1991 report by the Office of the Inspector General of the National Police Force of Peru dismissing the existence of any bodily injuries to the detriment of the alleged victim, it did not submit any information about inquiries that might have been opened internally, nor did it file an objection about the exhaustion of domestic remedies regarding the case, and therefore it has not alleged the existence of any remedies that the alleged victim should have exhausted.

38. In addition to the alleged violations of personal integrity, the petition claims violation of other provisions of the American Convention stemming from the arrest and criminal trial against the alleged victim. Available information indicates that criminal proceedings ended with the judgment by the Supreme Court of Justice of May 24, 1994. In this regard, the IACHR concludes that the requirement set forth in Article 46.1.a) of the Convention has been met.

39. As for the objection that domestic remedies have not been exhausted with respect to the allegations that Magda Mateo Bruno would have the right to be compensated, the IACHR observes that the facts described by the petitioners are related to alleged pecuniary and nonpecuniary damages as a result of the alleged torture, confinement and alleged violations of the right to judicial guarantees to the detriment of Ms. Mateo Bruno. In this specific case, the allegations about the Peruvian State's supposed obligation to compensate her are in line with the possible measures of redress that must be evaluated by the IACHR in the stage of examining the merits.

C. Time-limits for submitting the petition

40. Article 46.1.b) of the Convention requires that, to be declared admissible, a petition must be lodged within a period of six months from the date on which the petitioner is notified of the final judgment exhausting domestic remedies.

41. According to paragraph 38 above, the criminal proceedings filed against the alleged victim culminated in the judgment issued by the Supreme Court of Justice on May 24, 1994. In view of the above, the IACHR considers that the claims referred to in paragraph 38 meet the requirement set forth in Article 46.1.b) of the American Convention.

42. As for the allegations about torture and other alleged violations of personal integrity referred to in paragraph 35 above, because of the absence of any allegations by the State and of information in the case file about the opening of criminal inquiries up to the date of the adoption of the present report, the IACHR concludes that the petition was submitted within a reasonable period of time.

D. Duplication of international proceedings and international *res judicata*

43. Article 46.1.c) of the Convention provides that a admission of a petition is subject to the requirement that the subject of the petition "is not pending in another international proceeding for settlement," and Article 47.d) of the Convention stipulates that the Commission shall not admit any petition that is substantially the same as one previously studied by the Commission or by another international organization.

44. Regarding the alleged violation of the personal integrity of Ms. Mateo Bruno as a result of the incidents that took place in May 1992 in the Miguel Castro Castro Maximum Security Prison, the IACHR observes that these claims have been the subject of a ruling by the Inter-American Court of Human Rights in the judgment of November 25, 2006. In this ruling, Ms. Magda Mateo Bruno appears as

²⁰ IACHR, Report No. 99/09, Petition 12.335, Colombia, *Gustavo Giraldo Villamizar Durán*, October 29, 2009, para. 33.

the victim of the violation of rights enshrined in Article 5 of the American Convention and Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture.²¹ Therefore the claims referred to in the present paragraph are inadmissible according to the terms of Article 47.d) of the Convention, because of international *res judicata*.

45. As for the other claims described in the complaint, the parties have not used as an objection, nor does it emerge from the case file, that there is another international proceeding for settlement or another similar petition already studied by the Commission or another international organization.

²¹ Inter-American Court of Human Rights, *Case of the Miguel Castro Castro Penitentiary*. Judgment of November 25, 2006. Series C, No. 160, Annex 2 of the judgment, number 302.

E. Characterization of the facts alleged

46. For the purpose of admissibility, the Commission must determine whether the petition describes facts that tend to establish a violation, as stipulated in Article 47.b), of the American Convention and whether the petition is "manifestly groundless" or "obviously out of order," according to subparagraph c) of the same article. This criteria used to examine these claims are different from the ones required to decide upon the merits of a complaint. The Commission must conduct a *prima facie* evaluation not for the purpose of establishing an alleged violation but to examine whether the petition reports facts that tend to establish grounds for the apparent or potential violation of a right guaranteed by the American Convention. This examination is a preliminary review that does not imply a prejudgment of the merits, neither does it suggest any opinion on the merits of the dispute.

47. In view of the elements of fact submitted by the parties, the IACHR considers that the circumstances in which the alleged victim was arrested in May 1991 and the alleged incidents of torture by DIRCOTE agents tend to establish a violation of the rights enshrined in Articles 5 and 7 of the American Convention, in keeping with Articles 1.1 and 2 of the same instrument; and of the rights enshrined in Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, all of which to the detriment of Magda Mateo Bruno. Furthermore, the IACHR considers that the impacts of the incidents referred to in this paragraph, as well as the alleged restrictions on visits during the confinement of the Ms. Mateo Bruno, tend to establish a violation of the right enshrined in Article 5.1 of the Convention to the detriment of her next of kin.

48. With respect to the allegations regarding the criminal proceedings lodged against the alleged victim, as well as the cited incompatibility of the regulatory framework, in which the facts were filed, with the American Convention, the IACHR considers that it tends to violate rights enshrined in Articles 9, 8 and 25 in connection with Articles 1.1 and 2 of the same instrument, all of which to the detriment of Magda Mateo Bruno.

49. As for the allegations that the charges lodged by the prosecutor and the preliminary criminal proceedings filed against the alleged victim mentioned that the accused possessed Marxist books, academic materials and other publications not subject to restriction, the IACHR considers that, if the facts are substantiated by evidence, it could constitute a violation of the right protected by Article 13 of the American Convention.

50. The petitioners have not alleged violation of specific provisions of the American Convention or of other Inter-American instruments. In this regard, the establishment of violations of the articles of the American Convention and the Inter-American Convention to Prevent and Punish Torture described in the previous paragraphs have been included by the IACHR on the basis of information provided by the parties and by virtue of the *iura novit curia* principle.

51. Finally, because it is not evident that the complaints of the petitioners are groundless or out of order, the Commission concludes that the complaint meets the requirements set forth in Article 47.b) and c) of the American Convention.

V. CONCLUSIONS

52. Based on the arguments of fact and law indicated above and without prejudging the merits of the case, the Inter-American Commission concludes that the petition meets the admissibility requirements set forth in Articles 46 and 47 of the American Convention, and therefore

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

DECIDES:

1. To declare the present petition admissible as regards Articles 5, 7, 9, 13, 8 and 25 of the American Convention in connection with the obligations set forth in Articles 1.1 and 2 of the same instrument and as regards Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture.

2. To declare inadmissible the allegations as regards the incidents of violence that took place in May 1992 in the Miguel Castro Castro Penitentiary, by virtue of Article 47.d) of the Convention.

3. To notify the State and petitioner of this decision.

4. To publish this decision and include it in the Annual Report to be submitted to the General Assembly of the OAS.

Done and signed in the city of Washington, D.C., on the 31st 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.