

REPORT No. 37/12
PETITION 11.841
DECISION TO ARCHIVE
BRAZIL
March 20, 2012

ALLEGED VICTIMS: Paraplegic persons deprived of liberty in the Auxiliary Hospital of the State Penitentiary of São Paulo

PETITIONER: Catholic Prison Ministry

ALLEGED VIOLATIONS: The petitioner does not allege any specific violations

INITIATION OF PROCESSING: January 5, 1998

I. POSITION OF THE PARTIES

A. Position of the petitioner

1. On March 24, 1997, the Inter-American Commission on Human Rights (the "Inter-American Commission" or the "IACHR") received a petition against the Federative Republic of Brazil (the "State" or "Brazil") alleging inhuman conditions of detention and lack of medical assistance supposedly affecting approximately 36 persons with disabilities deprived of liberty ("the alleged victims") in the Auxiliary Hospital of the São Paulo State Penitentiary.

2. With regard to the alleged lack of medical assistance, the petitioner maintains that the aforementioned prison does not offer special treatment to inmates in the health pavilion, or any treatment at all. The authorities were supposedly not providing medicines and the only assistance received by the alleged victims was provided by other detainees with no medical knowledge. Due to this situation of abandonment, the fragile health conditions of the paraplegic detainees were allegedly deteriorating. The petitioner refers that the detainees were developing bedsores owing to the lack of people to turn them in their beds regularly, which would worsen the alleged contagious environment created by putting together people with different sicknesses such as HIV or TB.

3. Furthermore, the petitioner argues that the alleged victims live in deplorable conditions of hygiene, and that they lack physical therapy and leisure activities. Also, they claim that the alleged victims suffer from water and food restrictions. Additionally, the petitioner observes generally that the warden and the prison guards threaten and mistreat some inmates to prevent them from denouncing the actual conditions of detention. Finally, the petitioner points out that the legal aid offered by the State to the alleged victims is insufficient.

4. The petitioner asserts that it denounced the aforementioned conditions of detention before several public authorities, such as the General Attorney of the State, the Judge Inspector of Penal Execution, the State Secretary of Penitentiary Administration and the Legislative Assembly of São Paulo, but these complaints have yielded no effective result.

B. Position of the State

5. The State of Brazil did not respond to the multiple requests for information made by the Inter-American Commission.

II. PROCEEDINGS BEFORE THE IACHR

6. The Inter-American Commission received the petition on March 24, 1997. The petitioner presented additional information on March 26, 1997; April 7, 1997; July 14, 1997; October 31, 1997; and December 10, 1997. By means of a note dated January 5, 1998, the IACHR transmitted the pertinent portions of the petition to the Brazilian State.

7. The petitioner sent additional information to the IACHR on the following dates: January 6, 1998; April 22, 1998; July 2, 1998; and July 6, 1998. These communications were duly transmitted to the State. In the absence of a reply from the State, the Inter-American Commission reiterated its previous request for information on the following dates: July 7, 1998; September 9, 1998; October 28, 1998; November 9, 1998; and May 1st, 2000.

8. Given the lack of response from Brazil, on November 21, 2002, the IACHR notified both parties that it had decided to defer its decision of admissibility until the debate and decision on the merits, in conformity with Article 37.3 of its Rules of Procedure.¹ On that same date, the Inter-American Commission requested that the petitioner submit additional observations on the merits. After that, by virtue of the lack of response from the petitioner, the IACHR reiterated its previous request for additional observations on April 25, 2011 and November 28, 2011. On both occasions, the IACHR notified the petitioner about the possibility of ordering the record to be closed, if it did not receive the requested information, in conformity with Article 48.1.b of the American Convention. To date, neither the petitioner nor the State have submitted more detailed and up-to-date information regarding the facts referred to in the petition.

III. GROUNDS FOR THE DECISION TO ARCHIVE

9. Articles 48.1.b of the American Convention and 42 of the Rules of Procedure of the IACHR establish that at any time during the processing, 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.b of its Rules of Procedure establishes that the IACHR may also decide to archive a case when the information necessary for the adoption of a decision is unavailable.

10. More than fourteen years have elapsed since processing began on January 5, 1998, and the Inter-American Commission still lacks the necessary elements for the adoption of a decision on the admissibility of this petition. Specifically, the IACHR does not have information about the exhaustion of domestic remedies and the other admissibility requirements; nor does it have information as to whether the grounds for the petition still exist. As a result, the Inter-American Commission hereby decides to archive the file of the present petition, pursuant to Article 48.1.b of the American Convention, as well as Article 42.1.b of its Rules of Procedure.

Done and signed in the city of Washington, D.C., on the 20th day of the month of March 2012. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Felipe González, Second Vice-President; Dinah Shelton, Rodrigo Escobar Gil, Rosa María Ortiz, and Rose-Marie Antoine, Commissioners.

¹ Article 37.3 of the IACHR's Rules of Procedure then into force was equivalent to Article 36.3 of the IACHR's current Rules of Procedure .