

REPORT No. 97/13
ARCHIVE DECISION
PETITION 4070-02
INDIGENOUS COMMUNITY MAZAHUA OF SAN ANTONIO
PUEBLO NUEVO AND ITS MEMBERS
MEXICO¹
November 4, 2013

ALLEGED VICTIM: Indigenous Community Mazahua of San Antonio Pueblo Nuevo and its members

PETITIONERS: Marcelina Castillo Cruz, Pedro Martínez Velásquez, Pablo Mondragón Quirina, and Juana Victoriana Cruz

ALLEGED VIOLATIONS: The petitioners did not cite specific articles of the American Convention on Human Rights

DATE PROCESSING BEGAN: June 9, 2005

I. THE PETITIONERS' POSITION

1. On September 17, 2002, the Inter-American Commission on Human Rights received a petition submitted by Marcelina Castillo Cruz, Pedro Martínez Velásquez, Pablo Mondragón Quirina, and Juana Victoriana Cruz, in representation of the San Antonio Pueblo Nuevo Community of the Mazahua indigenous people against the Mexican State. In the complaint, it is alleged that pursuant to Decree No. 36 of October 2, 2001, the territory of said community was divided and thereafter incorporated into a newly created municipality without a consultation process based on the community's uses, customs and traditions.

2. The petitioners state that in this regard they filed a report with the General Directorate of Responsibilities of the Office of the Prosecutor General of Justice of the State of Mexico, a complaint with the State Commission on Human Rights of the State of Mexico and an indirect *amparo* action. They assert, however, that none of these remedies were effective.

II. THE STATE'S POSITION

3. The State holds that approval of Decree No. 36 was carried out in keeping with domestic legal procedures and in consultation with indigenous delegates involved in the creation of the new municipality, including representatives of the San Antonio Pueblo Nuevo Community.

4. The State contends that the complaint should be ruled inadmissible, given that the acts alleged do not meet the definition of alleged violations of the American Convention on Human Rights

¹ Pursuant to the provisions of Article 17(2) of the Commissions' Rules of Procedure, Commissioner José de Jesús Orozco Henríquez, a Mexican citizen, did not participate in the debate or decision regarding this petition.

and because domestic legal remedies were not exhausted, insofar as at the time the petition was submitted an *amparo* proceeding brought by the petitioners was ongoing.

III. PROCESSING BY THE IACHR

5. The petition was received by the Commission on September 17, 2002 and was assigned number 4070-02. On June 9, 2005, it forwarded the pertinent parts to the State, requesting that it present its comments within two months, in keeping with the provisions of Article 30(3) of the Rules of Procedure of the Inter-American Human Rights Commission (hereinafter the "Rules of Procedure") in force at that time. A response from the State was received on September 6, 2005 and forwarded to the petitioners on May 31, 2006.

6. The IACHR also received information from the petitioners through communications received on June 22, 2004, February 10, 2005, August 19, 2005 and August 28, 2006. Said communications were forwarded to the State in a timely manner. The IACHR also received comments from the State on December 6, 2006 and June 17, 2010. Said communications were duly forwarded to the petitioners.

7. On April 12, 2010, the IACHR requested updated information from both parties, but only received a response from the State, on June 17, 2010. On August 10, 2010, the IACHR forwarded said response to the petitioners, requesting they present their comments within a month, but received no response. On April 16, 2012 the Commission reiterated its request for information and informed the petitioners that if the Commission failed to receive the information by the stipulated deadline, the IACHR could archive the petition, in keeping with Article 48(1)(b) of the American Convention on Human Rights and Article 42 of its Rules of Procedure. No response was forthcoming from the petitioners.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

8. Article 48(1) of the American Convention on Human Rights and Article 42 of the Rules of Procedures of the IACHR provide that, prior to determining admissibility, the Inter-American Commission shall verify whether the grounds for the petition still exist or subsist. If the Commission considers that they do not, it shall order the case to be archived. Furthermore, Article 42(1)(b) of the IACHR's Rules of procedure stipulates that the Commission may decide to archive a case when it does not have the information it needs to make a decision.

9. The last information provided by the petitioners in the instant case is from August 28, 2006. Furthermore, the petitioners did not respond to the requests for additional information made by the IACHR pursuant to the notes of April 12, 2010, August 10, 2010 and April 16, 2012, the latter of which informed the petitioners about the possibility of the case could be archived.

10. As a result, the Commission does not have the necessary elements to decide whether the grounds supporting the original complaint subsist or to make a final decision on the violation of human rights alleged. In light of the foregoing, the Commission has decided, in keeping with Article 48(1)(b) of the Convention and Article 42 of its Rules of Procedure, to archive this petition.

Done and signed in the city of Washington, D.C., on the 4th day of the month of November 2013. (Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Felipe González, Dinah Shelton, Rodrigo Escobar Gil, and Rose-Marie Belle Antoine, members of the Commission.