

REPORT No. 99/13
DECISION TO ARCHIVE
PETITION 10.673
PERU
November 4, 2013

ALLEGED VICTIM: Francisco de Asís Surco Hanco, Melchor Gaspar Mamani Pachanga, Dionisio Cantana Hanco, Mario Quispe Huallpartupa, Florencio Gutiérrez Gutiérrez, Pedro Ccenta Velázquez

PETITIONERS: Centro de Estudios y Acción para la Paz (CEAPAZ) [*Center for Peace Studies and Action*]

ALLEGED VIOLATIONS: Articles 4, 5 and 21 of the American Convention on Human Rights

INITIATION OF PROCESSING: October 9, 1990

I. POSITION OF THE PETITIONERS

1. The petitioner affirmed that as part of its combat against the activities of the group “Shining Path,” the Division of Special Operations (DOES) of the National Police carried out operations in the districts of Orurillo and Nuñoa. The petitioner argued that on September 25, 1990, the police arrested Francisco de Asís Surco Hanco, Melchor Gaspar Mamani Pachanga, Dionicio Cantana Hanco, Mario Quispe Huallpartupa, Florencio Gutiérrez Gutiérrez and Pedro Ccenta Velázquez, who were not part of that movement. The petitioner stated that on September 26 of that year, officers of the DOES appeared at the elementary school of Orurillo, where they hung the children from ropes and beat them in order to obtain the names of the members of “Shining Path.” The petitioner also said that on September 27 there was a confrontation at the Agrarian Workers Cooperative (CAT) of Huaychao, Melgar province, in which Hugo Cornejo, Roger López, three DOES officers and four farmers were killed. Finally, the petitioner reported that on September 28, members of the DOES returned to the Huaychao community, searched all the houses of its inhabitants, stole items of their property, dynamited several facilities, and set the houses of two elderly women on fire.

2. The petitioner, in a communication received on October 19, 1990, reported that the citizens arrested by the DOES on September 25, 1990, were set free on October 9, 1990. The petitioner therefore claims that, although the disappearances were temporary, the State violated the right to life of those detained (article 4 of the American Convention) and the right to humane treatment (article 5), because they were subjected to an inhumane and degrading treatment. Moreover, the petitioner stated that the inhabitants of Huaychao’s right to property was also violated, due to the theft they were victims of and the destruction of several facilities and houses by DOES officers.

II. POSITION OF THE STATE

3. The State indicated in its response received on December 27, 1991, that Francisco de

Asís Surco Hanco, Melchor Gaspar Mamani Pachanga, Dionicio Cantana Hanco, Mario Quispe Huallpartupa, Florencio Gutiérrez Gutiérrez and Pedro Ccenta Velázquez had not been stopped nor arrested by members of the National Police. In support of its claim, the State submitted official documents in which diverse police and ministerial authorities reported that these persons had not been detained by the National Police and that no complaint or police report had been filed against them.

4. Regarding the alleged extrajudicial executions of Hugo Cornejo and Roger López, the State affirmed that, according to the investigation carried out by the competent authorities, no criminal liability could be attributed to the DOES police agents and that the death of these persons was caused by terrorist attacks in the area.

III. PROCEEDINGS BEFORE THE IACHR

5. Petition 10.673 was received on October 4, 1990, and it was forwarded to the State on October 9, 1990, granting it ninety days to submit its response, in accordance with the IACHR Rules of Procedure then in force. On October 16, 18, and 19, 1990, the Commission received additional information provided by the petitioner, which was in turn transmitted to the State on October 16 and 29, 1991, respectively. The State submitted its report on December 27, 1991, which was transmitted to the petitioner on January 22, 1992, whom submitted observations on November 11, 1992. These observations were forwarded to the State on November 30, 1992 and it was requested to provide new information on the matter; this request was reiterated on December 12, 1993. The State submitted additional information on October 20, 1994, which was sent to the petitioner on November 1, 1994.

6. The Commission reiterated its request to the petitioner for additional information on December 19, 1996, with the warning that, should this information not be submitted within 30 days, the record could be closed. The petitioner complied with the request on March 14, 1997. On May 4, 2000, the Commission requested the parties to inform on the status of the processing of the motions submitted within their domestic jurisdiction. On June 21, 2000, the State requested an extension to respond, which was granted by the IACHR on July 24, 2000. The State submitted updated information on August 24, 2000, which was forwarded to the petitioner on September 21, 2000. The IACHR informed the petitioner on April 10, 2002 that the petition could be archived if it did not receive updated information within 30 days. The petitioner submitted this information on May 13, 2002.

7. The IACHR requested the petitioner to provide updated information on April 5, 2004. On June 2, 2005, the Commission informed the parties that based on article 37.3 of the IACHR's Rules of Procedure then in force, it would defer its treatment of admissibility until the decision on the merits, and requested from them additional observations within two months. The petitioner failed to comply with any of the aforementioned requests.

8. The IACHR sent a communication to the parties on April 29, 2011, placing itself at their disposal for the purpose of their reaching a friendly settlement, requested that they submit their additional observations within 30 days, and informed the petitioner that, should that information not be received, the petition could be archived. The State submitted a report on May 18, 2011 in which it requested that the petition be archived due to the lack of procedural action on the part of the petitioner; this was forwarded to the petitioner on June 27, 2011 with the request that it submit its observations within one month. The petitioner was warned that if there was a failure in compliance, the IACHR could consider closing the record. The IACHR reiterated the aforementioned requests to the petitioner on August 3, 2012, with the warning that, should the information not be received in one

month's time, the record could be closed.

IV. GROUNDS FOR THE DECISION TO ARCHIVE

9. Both article 48.1.b) of the American Convention and article 42.1 of the Rules of Procedure of the Inter-American Commission provide that, at any stage of the proceedings, after the information has been received, or after the period established has elapsed and the information has not been received, the Commission shall ascertain whether the grounds for the petition exist or subsist and, if they do not, will order the record to be closed.

10. In the instant case, the petitioners submitted their last communication to the IACHR on May 13, 2002 and, to date, they have not responded to the August 3, 2012 request for information. Therefore, since more than 11 years have elapsed since this communication from the petitioners, and because the available information is insufficient to decide on the admissibility or inadmissibility of the complaint, the IACHR decides to archive it, pursuant to articles 48.1.b) of the Convention and 42.1 of its Rules of Procedure.

Done and signed in the city of Washington, D.C., on the 16th day of the month of July, 2013.
(Signed): José de Jesús Orozco Henríquez, President; Tracy Robinson, First Vice-President; Rosa María Ortiz, Second Vice-President; Felipe González, Dinah Shelton, and Rose-Marie Antoine, Commissioners.