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Institution: Inter-American Court of Human Rights
Title/Style of Cause: Maria Elena Loayza-Tamayo v. Peru
Doc. Type: Order of the Court
Decided by: President: Hector Fix-Zamudio;
Judges: Hernan Salgado-Pesantes; Alejandro Montiel-Arguello; Oliver Jackman; Alirio Abreu-Burelli; Antonio A. Cancado Trindade
Dated: 13 September 1996
Citation: Loayza-Tamayo v. Peru, Order of the Court (IACtHR, 13 Sep. 1996)
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HAVING SEEN:

1. The Order delivered by the President of the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") on June 12, 1996, in which he decided:

1. To request that the Government of the Republic of Peru adopt forthwith such measures as are necessary to effectively ensure the physical, psychological and moral integrity of Ms. María Elena Loayza-Tamayo, so that any provisional measures that the Inter-American Court may take can have the requisite effect.
2. To request that the Government of the Republic of Peru submit to the President of the Court, not later than June 25, 1996, a report on the measures taken so that they may be brought to the attention of the Court at its next session scheduled for June 26 to July 3, 1996.
3. To submit this Order for the Court's consideration and pertinent effects during its next session.

2. The Order of the Court of July 2, 1996, in which it decided:

1. To ratify the Order of the President of the Inter-American Court of June 12, 1996.
2. To call once more upon the Government of the Republic of Peru to take, on behalf of Ms. María Elena Loayza-Tamayo, all provisional measures necessary for the effective safeguard of her physical, psychological and moral integrity.3. To call upon the Government of Peru to continue to report every two months on the provisional measures taken.4. To call upon the Inter-American Commission on Human Rights to submit to the Court its comments on that information not later than one month from the date of its receipt.
3. The brief presented by the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") on September 12, 1996 and its attachments, in which it informed the Court that Ms. María Elena Loayza-Tamayo's health had deteriorated because:

she is subjected to a regime of inhuman and degrading treatment caused by incommunicado detention and by being enclosed for 23 1/2 hours a day in a damp, cold cell measuring approximately 2 meters by 3 meters, without direct ventilation, containing cement bunks, a latrine and a hand-basin... The cell has no direct lighting and is only dimly and indirectly lit from the fluorescent tubes in the corridors. She is allowed neither a radio, newspapers nor magazines. She is allowed into the sunlight for only 20 to 30 minutes a day.

In that brief the Commission requested that the Inter-American Court order the Government of Peru (hereinafter "Peru") to bring to an end the solitary confinement and incommunicado detention imposed on María Elena Loayza-Tamayo.

4. Official communication 194-USP-EPMSMCH-96 of July 25, 1996, attached by the Commission to the aforementioned brief of September 12, in which Dr. Julia Ruiz Camacho, Chief Medical Officer of Chorillos Women's Maximum Security Prison, after her examination of Ms. María Elena Loayza-Tamayo, certified that the prisoner was suffering from physical and psychological disorders, including depressive anxiety syndrome.

CONSIDERING:

1. That Perú has been a State Party to the American Convention since July 28, 1978 and that it accepted the compulsory jurisdiction of the Court on January 21, 1981.

2. That Article 63(2) of the Convention provides that the Court shall take the provisional measures it deems pertinent in matters it has under consideration in cases "of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons."

3. That Peru has not complied with the third operative paragraph of the Court's Order of July 2, 1996, in which it is called upon to report regularly to this Tribunal on any measures it has taken to ensure the effective safeguard of María Elena Loayza-Tamayo's physical, psychological and moral integrity.

4. That the Commission's brief of September 12, 1996 was accompanied by copies of communications and documents attesting both to the deterioration in Ms. María Elena Loayza-Tamayo's state of health and to the living conditions of male and female inmates in Lima's maximum security prisons.

5. That, in default of the report which the Government should have provided in accordance with the requirements of this Court, it is presumed that the conditions of imprisonment imposed on Ms. María Elena Loayza-Tamayo seriously endanger her physical, psychological and moral health, as the Commission claims.

6. That Article 5 of the American Convention on Human Rights provides that:

1. Every person has the right to have his physical, mental, and moral integrity respected.

2. No one shall be subjected to torture or to cruel, inhuman, or degrading punishment or treatment. All persons deprived of their liberty shall be treated with respect for the inherent dignity of the human person.

NOW, THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

pursuant to Article 63(2) of the American Convention on Human Rights,

DECIDES:

1. To call upon the Government of Peru to modify the conditions in which Ms. María Elena Loayza-Tamayo is being held, particularly in regard to her solitary confinement, so as to bring the situation into line with Article 5 of the American Convention on Human Rights and the Order of the Court of July 2, 1996.
2. To call upon the Government of Peru to provide Mrs. María Elena Loayza-Tamayo with medical treatment -both physical and psychiatric- without delay.
3. To call upon the Government of Peru to inform the Court of the measures it has taken to comply with this Order within fifteen days. Starting with that initial report, the Government shall report to the Court every two months on the status of the measures taken in the instant case.
4. To call upon the Inter-American Commission on Human Rights to submit its comments on the above information to the Court not later than one month from the date of its receipt.

Héctor Fix-Zamudio (President)

Hernán Salgado-Pesantes
Alejandro Montiel-Argüello
Oliver Jackman
Alirio Abreu-Burelli
Antônio A. Cançado Trindade

Manuel E. Ventura-Robles (Secretary)

So ordered,

Héctor Fix-Zamudio
President

Manuel E. Ventura-Robles
Secretary