

Decision No. 24/1994 (Peru)

Communication addressed to the Government of Peru on
20 September 1993.

Concerning Carlos Florentino Molero Coca, on the one hand, and the
Republic of Peru, on the other.

1. The Working Group on Arbitrary Detention, in accordance with the methods of work adopted by it, and in order to carry out its task with discretion, objectivity and independence, forwarded to the Government concerned the above-mentioned communication received by it and found to be admissible, in respect of allegations of arbitrary detention reported to have occurred.

2. The Working Group notes with concern that to date no information has been forwarded by the Government concerned in respect of the case in question. With the expiration of more than 90 days of the transmittal of the letter by the Working Group, it is left with no option but to proceed to render its decision in respect of the case of alleged arbitrary detention brought to its knowledge.

3. (Same text as para. 3 of Decision No. 10/1994.)

4. In the light of the allegations made, the Working Group would have welcomed the cooperation of the Government of Peru. In the absence of any information from the Government, the Working Group believes that it is in a position to take a decision on the facts and circumstances of the case, especially since the facts and allegations contained in the communication have not been challenged by the Government.

5. The Working Group considers that:

(a) According to the complaint and the copious accompanying documentation, Carlos Florentino Molero Coca, a social sciences student at San Marcos University, was arrested on 30 April 1992 because of his alleged membership of the Shining Path organization of the Peruvian Communist Party. He was tried by a "faceless" court and sentenced to 12 years' imprisonment.

(b) The complaint alleges that: (a) the prisoner is innocent, on the basis of the fact that the 43rd Government Procurator's Office in Lima holds the evidence for the prosecution to be insufficient; (b) the offence for which he was convicted is not the same as the one with which he was charged; in connection with this defect, the Working Group, in the absence of any reference in the complaint, infers that the rules held to have been infringed are those laid down in articles 9 (2) and 14 (3) (a) of the International Covenant on Civil and Political Rights; (c) an appeal for the judgement to be set aside, lodged with the Supreme Court of the Republic on 18 December 1992, has not yet been settled; and (d) the trial was conducted by a "faceless" court, although no claim is made in this connection.

(c) The Group requested the source to update the information and asked the Government to clarify some legal aspects with a bearing on a decision on the matter. Four months later, neither the source nor the Government has answered the Group.

6. In the light of the above, the Working Group decides to keep the case pending while awaiting further information under paragraph 14 (c) of its methods of work.

Adopted on 29 September 1994.