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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 50/82; Case No. 4326
Session:	Fifty-Sixth Session (21 – 26 June 1982)
Title/Style of Cause:	Ines Ollero v. Argentina
Doc. Type:	Resolution
Decided by:	Chairman: Dr. Marco Gerardo Monroy Cabra First Vice Chairman: Dr. César Sepúlveda Second Vice Chairman: Dr. Luis Demetrio Tinoco Castro
Dated:	24 June 1982
Citation:	Ollero v. Arg., Case 4326, Inter-Am. C.H.R., Report No. 50/82, OEA/Ser.L/V/II.57, doc.6 rev.1 (1981-1982)
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BACKGROUND:

1. The Inter-American Commission on Human Rights received the following denunciation in a communication of April 28, 1979:

Ines Ollero, a young worker and biology student. Detained on July 19, 1979 in an operation conducted by the Naval Mechanics School on a line 187 bus. She was detained, along with all the people on the bus, at the intersection of Constituyentes and Albarellos in Buenos Aires, and taken to Police Station No. 49. She was not released, although all the other people were allowed to leave.

All this information and much more is in the hands of the judge hearing the case. The facts have been proven by the testimony of innumerable witnesses, including the testimony of the Deputy Police Chief of that police precinct, who made available to the judge book No. 40 which lists the arrest of the young woman in question and of the other persons detained in the operation. This detention had previously been denied.

These and many other facts prove overwhelmingly that Ines Ollero was detained by Navy Forces and that she cannot have disappeared without trace. As stated earlier, this information is in the hands of the judge and has come before a number of courts.

Despite this accumulation of solid proof, Ines Ollero has not appeared.

2. In a note of October 9, 1980, the Commission transmitted this denunciation to the Government of Argentina and asked it to provide the corresponding information, as well as any other information that would enable the Commission to judge whether or not domestic legal remedies had been exhausted in the case addressed by the present request.

3. In a communication of January 29, 1980, the Commission sent the Government of Argentina some additional information on the present case, and reiterated its request for information.

4. In a note dated March 25, 1980, the Government of Argentina responded to the Commission in the following terms:

In reference to the request addressed to the Government of Argentina by the Inter-American Commission on Human Rights concerning the whereabouts of Argentine citizen Ines Ollero, we report the following:

On 19.07.77 Miss Ollero was on a line 187 bus, presumably going home, when the bus was stopped at the intersection of Albarellos and Constituyentes, in the jurisdiction of the Federal Capital, for a routine traffic check. As the check began, propaganda pamphlets from a terrorist organization were found inside the bus. When the owner could not be determined, all the passengers were taken to the police station with jurisdiction over the zone in order to investigate the matter. Once inside the police station, all the passengers were identified and duly questioned about the pamphlets that had been found. When no affirmative answer was obtained, it was decided not to keep the passengers there any longer and they were all released, as stated in the legal case brought subsequently, to which reference will be made below. When Miss Ollero did not return home, her father applied for a writ of habeas corpus, which went before the National Criminal Sentencing Court of the First Instance No. "V", where the merits of the case are now being presented. That juridical action notwithstanding, a case was brought before the National Criminal Magistrates Court of the first Instance No. 25, Secretariat No. 161 to investigate an alleged "unlawful detention".

The inference from the above explanation is that the denunciation filed with the Commission was unnecessary and non-productive, since the claimant cannot fail to be aware that domestic legal remedies under Argentine law have not been exhausted and, as noted, the information on the case is in the hands of the corresponding judicial authorities.

Lastly, it should be pointed out that according to written statements by the woman's father to Argentine government authorities, she was a militant activist in an extreme left-wing youth organization. Many of its members have left the organization to join bands of terrorists. The possibility therefore cannot be discarded that after being allowed to leave the police station, and fearing that a more thorough investigation into the passengers' background would bring to light her membership in that organization, she decided to leave voluntarily and/or to go underground in order to avoid possible judicial action. This has been the experience with other similar cases.

5. In a note dated April 12, 1980, the pertinent parts of the Government response were transmitted to the claimant, who was asked to provide observations on that response.

6. In a note of September 6, 1980, the claimant disputes the Argentine Government's reply; the text is given in the appendix attached to this resolution of which it is an integral part.

7. In a note of December 11, 1980, the Commission transmitted the claimant's observations to the Government of Argentina and asked it for the corresponding reports within 30 days. The Government of Argentina has not yet replied to that request for information.

8. The Commission has in its possession the various court proceedings and respective decisions, along with the testimony of a number of people who were eye-witnesses to the circumstances in which Miss Ollero was detained.

9. In its recent sessions, the Commission has been examining the situation of people who have disappeared in the Argentine Republic, and has reiterated to the Argentine Government the urgency of informing family members of their whereabouts.

WHEREAS:

1. In light of the background information indicated and the documents in the possession of the Commission there is clear evidence as to the place and time of Miss Ollero's detention, and the procedure

used, from which it is deduced that the detention was carried out publicly by authorities of the Argentine Government;

2. Since Miss Ollero's detention, her whereabouts are unknown and there is fear for her life and personal safety;

3. It is deduced from the evidence in the Commission's possession that the events denounced are true;

4. Despite the foregoing, the Government of Argentina has not to date replied to the observations presented by the claimant, as requested by the Commission in its note of December 11, 1980.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
RESOLVES:

1. That there is sufficient evidence that Miss Ollero was unlawfully detained on July 19, 1977 in an operation conducted by the Naval Mechanics School, when she was on a public bus (line 187), and that she has disappeared.

2. To declare that such events constitute serious violations of the right to life, liberty and personal security (Article I), and of the right of protection from arbitrary arrest (Article XXV) of the American Declaration of the Rights and Duties of Man.

3. To recommend to the Government of Argentina:

a) that it immediately take the measures necessary to clarify the whereabouts of Miss Ollero and to inform her family;

b) that it conduct a complete, impartial investigation to determine responsibility for the events denounced;

c.) that it punish, according to Argentine law, those responsible for the detention and subsequent disappearance of Miss Ollero, and

d) that it inform the Commission within 30 days as to the measures taken to put these recommendations into practice.

4. To communicate this resolution to the Government of Argentina and to the claimant.

5. To include this resolution in the Annual Report to the General Assembly of the Organization of American States, in accordance with Article 50.4 of the Commission's Regulations, if the Argentine Government does not adopt the stated recommendations within the abovementioned time period.

APPENDIX

Case: 4326 (Argentina)

Name: Ines Ollero

Date: September 6, 1980

Observations by the Claimant

Part One, Description of the case

When, contrary to custom, my daughter was unexpectedly away from our home on the evening of July 19, 1977, at the time she should have returned, as she did every day at the end of her studies as a biology student In the University of Buenos Aires, I made some personal inquires and learned with a fair degree

of certainty about the basic facts of her detention by security forces that night.

I took a number of steps to find out where she was and to have her released, but without result.

This being the case, I applied for a writ of habeas corpus on August 16, 1977. The application came before the National Criminal Sentencing Court, Letter V, Secretariat No. 30, to which right from the beginning, I gave the basic information that I had at that time.

I was thus in a position to say that on the night of July 19, 1977, my daughter Ines Ollero was on a line 187 bus, Internal number 13, traveling from the Chacarita Station (In the Federal Capital) to our home in San Andres In the Province of Buenos Aires. I added that the bus was intercepted at approximately 10:30 p.m. on the corner of Constituyentes and Albarelos, in the jurisdiction of the Federal Capital, by officials conducting a control operation. Both the bus and the passengers were taken to Federal Police Station No. 49. The other passengers were released, but my daughter has remained in detention ever since.

On that same date (16.8.77), the Court asked for detailed reports, with an exact account of the abovementioned events, from the Commander-in-Chief of the Army, from the Federal Police and from the Ministry of the Interior. The replies, which were given on 25.8.77, 18.8.77 and 19.8.77 respectively, were all negative: the Army reported that it had no information, and the Police and the Interior Department said that she had not been detained.

In order to prove the allegations, the facts of which had already been transmitted by the Court to the agencies along with the requests, we offered the testimony of the driver of the bus and its passengers.

Immediately after this (31.3.77), but before the testimony was taken, the Court received a report entitled "Military Message", signed by Colonel Roberto L. Roualea, the Deputy Commander of the Federal Capital Subregion. The report said that on August 19, 1977, a vehicle check procedure had been conducted in the place and at the time I had indicated, and that as a result, all passengers on bus No. 111 has been taken to the police station indicated earlier, from where they were said to have been "set free". The correct date of the procedure was the 19th of July and not August, and the correct number of the bus was 187 and not 111, as erroneously stated in the military report.

The statements by the witnesses were then given and they confirmed the correct information, saying that the date was July 19 and the number of the vehicle was 187.

On September 9, 1977, the Court ordered further requests for information from the Commander-in-Chief of the Army and from the Federal Police, confirming the factual information in the case, and with an express indication that the investigation on this matter should be completed. On September 12, 1977, the Federal Police informed the Court that Ines Ollero was in detention, and that "there was no record along the lines of what was requested". The Army's reply (27.9.77) restates exactly what it said in its previous report, repeating the same errors as to the month and the number of the bus. It gave no explanation at all of the discrepancy between its own reply and the facts given in the request for information, which were the correct ones.

Subsequently, on October 4, 1977, the Court handed down a ruling denying the action. I entered an appeal with the National Criminal and Correctional Appeals Court, Chamber III on November 8, 1977, but the decision was confirmed.

EXTRAORDINARY APPEAL FILED AGAINST THE DECISION

The Supreme Court of Justice of the Nation handed down a ruling on April 25, 1978, the text of which

was printed by the IACHR in its "Report on the Situation of Human Rights in Argentina" (11.4.80), Chapter 6, E6. The ruling accepted our request for continued action.

With this order from the Supreme Court, the writ of habeas corpus continued in the court of original jurisdiction, which thus took further steps to obtain evidence.

Firstly, (24.5.78), new reports were requested (the agencies consulted were still always provided with the exact information in the file in order to facilitate their replies) from the Commander-in-Chief of the Army, the Federal Police, and for the first time in the proceedings, from the Commander of the First Army Corps.

For the third time, (26.5.78) the Federal Police denied that any measures had been taken "to restrict the freedom of the person in reference".

On 12.6.78 Colonel Rouldes reiterated the "military message" referred to above, on behalf of the First Army Corps. This time, he corrected the date to July 19, was still in error as to the number of the bus, and in reply to the request for the names of the officials taking part in the procedure, said that "this is denied for operational reasons, and because the information is not available at this time, since papers without value had been destroyed as being documents containing nothing new" (sic.).

Meanwhile, the Court took testimony from all the officers of Federal Police Station No. 49 who were working on the night of July 19, 1977.

It was learned from the statements of 35 officers, junior officers and agents of the Federal Police that officials from the Naval Mechanics School routinely conducted operations in that area, and used the police station for that purpose.

The most striking element of proof was the appearance of a report written at the time (19.7.77) in the memorandum book of the police station, reporting the operation with which we are concerned. It has the complete list of passengers, the numbers of their identity papers and their addresses. Ines Ollero is obviously included. There was an express indication that the officials taking part belonged to the Naval Mechanics School.

The report lists the number of the bus incorrectly, putting 111, when in fact the bus line was 187. It also says that all the passengers had been "set free" from the police station.

Clearly, the repeated information from the Federal Police that there was no record of the operation was flatly disproved as a result of this documentary evidence in a book belonging to the police station signed by two officers.

After this identification by the police of the officials taking part from the Naval Mechanics School, Rear Admiral Ruben Jacinto Chararro, Chief of the Naval Mechanics School, was ordered to give testimony. In his written statement (31.8.78), he admits the possibility of the existence of the operation, but he states that he does not know whether it in fact took place, "...an was unable to specify which officials took part in them because nothing new was reported."

The action was again rejected by the Court of the First Instance (25.9.78); but this time, the National Criminal and Correctional Court of Appeals, Chamber III, in our appeals procedure, ordered that the investigation continue (15.12.78).

Continuing the investigation, the Court decided (21.12.78) to question all the passengers on the bus; their

names police record of 19.7.77, which formed part proceedings.

The testimony of the fifteen summoned revealed in great detail how the people traveling that night on the intercepted bus were treated. It was also learned that Ines Ollero was taken apart from the other passengers because she was suspected of carrying allegedly subversive pamphlets found in the bus. The existence of these pamphlets was admitted in an official report for the first time when the Argentine Government's response was forwarded to the IACHR.

Deputy Police Chief Dante Manuel Cardozo made a second statement to the Court (he had made an initial statement along with the rest of the police officers on 7.o.78). He was the police officer who had been in charge of the police station. He acknowledged the existence of such pamphlets, not having mentioned them in his first statement, but he did not say what they contained. He also insisted that Ines Ollero had been released like the other passengers.

The Court repeatedly demanded that the Navy Mechanics School report the list of the personnel taking part in the operation. It had failed to provide the Court with this information in its replies of 22.1.79 and 11.4.79.

Responding to a further request for detailed reports, the Commander-in-Chief of the Army merely said on June 1, 1979: "... I report that to date there is no information in the office of the Commander-in-Chief of the Army about Ines Ollero".

The Court denied the action for the third time because it considered that the habeas corpus proceeding had been completed.

On October 12, 1979, the National Criminal and Correctional Court of Appeals, Chamber III admitted our appeal and ordered that the habeas corpus procedure continue. It ordered that new evidence be taken and expressly stated that according to the reports in the proceedings, Ines Ollero was not released (as stated in official reports) but that she remained in detention. It then ordered the proceedings conducted in camera "because of the nature of the inquiries to be made and the undeniable institutional importance of the case ..."

The case is still being heard.

Second Part

We give below in quotation marks each paragraph of the Government's reply and then make our observations on it:

I. "On 19.7.77, Miss Ollero was on a line 187 bus, presumably going home, when the bus was stopped at the intersection of Albarellos and Constituyentes, in the jurisdiction of the Federal Capital, for a routine traffic check. As the check began, propaganda pamphlets from a terrorist organization were found inside the bus. When the owner could not be determined, all the passengers were taken to the local police station in order to investigate the matter."

The first paragraph of the Government's reply contains information that is substantially correct. One might ask, however, where the Argentine Government obtained the information it gives in its reply.

The question is asked because it is surprising that prior to this reply from the Government, none of the state police or military bodies consulted by the Court had admitted to knowing of all the events described in the paragraph. Furthermore, those official agencies that did admit to knowing more about the events referred to bus line 111, while both the Army and the Navy still maintain that they have no information on

Ines Ollero.

II. "Once inside the police station, all the passengers were identified and duly questioned about the pamphlets that had been found. When no affirmative answer was obtained, it was decided not to keep the passengers there any longer, and they were all released, as stated the legal case brought subsequently, to which reference will be made below."

It is true that the passengers were taken to the police station and that they were identified and questioned there about the pamphlets that had been found.

Again, the question could be raised as to the source on which the Government's reply is based, for the reasons we indicated above.

But the most important thing is that the statement that "all" were released has been flatly disproved by the evidence in the court proceedings.

If indeed terrorist pamphlets were found, possession of them might constitute a crime under the terms of Law 20.840. It would therefore be ingenuous to suppose that all the passengers would have been released within a few hours, since the elements of the *corpus delicti* had been found. Furthermore, the failure in such circumstances to notify the competent judicial authority of the facts was a clear violation of procedural law. It should be added that Deputy Police Chief Cardozo stated that he did not know the present whereabouts of the pamphlets that had been found on the bus.

Both the Naval Mechanics School that took part in the operation in question, and the Commander-in-Chief of the Navy, informed the judge that nothing new had happened in their operations on those days. The official in charge of the military area also reported on 12.o.78 that nothing new had occurred.

There is an obvious contradiction between those statements and the evidence that the pamphlets were found, corroborated by the bus driver and the passengers. Did the military personnel in the operation not tell their superiors about finding the pamphlets? Where are the pamphlets? Why does the Government's response admit the existence of the pamphlets while the military authorities say that nothing new had happened?

The paragraph cited says that the passengers were all released "as stated in the legal case." This interpretation of what came out of the court case is totally illogical, and--what is more important--is contrary to the flat statement made by the Government agency that is competent to make such a judgment, the Honorable National Criminal and Correctional Court of Appeals, Chamber III, in its ruling of October 12, 1979, that on examining the facts, it had come to the conclusion that Ines Ollero was not released after her detention.

III. "When she did not return home, Miss Ollero's father applied for a writ of habeas corpus before the National Criminal Sentencing Court of the First Instance, letter V, where the merits of the case are now being heard."

During the proceedings, I was forced three times to file appeals against lower court rulings that had denied the action and declared it closed. I also had to file an extraordinary appeal against the final decision of the higher court, which had ruled in the same way. This latter appeal produced the ruling from the Supreme Court of Justice handed down in the proceedings on April 25, 1978, which appears in Chapter VI E6 of the "Report on the Situation of Human Rights in Argentina" produced by the Inter-American Commission on Human Rights.

IV. "That judicial action notwithstanding, a case was brought before the National Criminal Magistrates Court of the First Instance No. 25, Secretariat No. 161 to investigate an alleged 'unlawful detention.'"

The information in this paragraph is also correct, although incomplete. The action was brought on October 14, 1977 because of the Judge's rejection of the habeas corpus when he denied the action for the first time.

No investigations at all have been conducted thus far in this action brought on the issue of unlawful detention, unless a request sent to the Federal Police on the day the case was brought asking them to determine the whereabouts of Ines Ollero, in order to serve her a summons to give testimony, can be considered to be an investigation. After that request, a provisional stay was granted without waiting for a reply; the reply, of course, never came.

The file is at present before the Supreme Court of Justice for consideration of an extraordinary appeal I have filed against the decision ordering referral of the proceedings to the military courts, as having jurisdiction over the case, for a ruling on my daughter's unlawful detention.

V. "The inference from the above explanation is that the denunciation filed with the Commission is unnecessary and non-productive, since the claimant cannot fail to be aware that domestic legal remedies under Argentine law have not been exhausted, and as noted, the information on the case is in the hands of the corresponding judicial authorities."

Even a glance at the first part of the paragraph shows that the denunciation I filed with the Commission was neither unnecessary nor non-productive, as the paragraph quoted would have us believe.

It is quite true that the facts of the case, which the judiciary has managed to gather after so long, are in the hands of the courts, and that the domestic legal remedies permitted under Argentine law have not been exhausted, and that we shall go on until there is a definitive clarification of what happened, as ordered by the Supreme Court in its ruling of April 25, 1978.

I am aware of the principle in the Regulations governing the work of the Commission, that in taking up any denunciations filed, the Commission "shall verify, as a condition precedent" whether the internal legal procedures and remedies of each state have been exhausted. I am also aware that the Regulations establish that it shall verify whether the procedures were "duly applied."

It is my belief that the present case, despite the undeniable progress made in the investigation (which was not exactly due to the reports from the security agencies), is an eloquent example of how internal legal procedures were not duly applied.

According to the Argentine Constitution and procedural law, action seeking the release of a person unlawfully detained, i.e., an application for a writ of habeas corpus, must be processed within a few days. That was the case in earlier times, before the events that concern us here. The processing of this application for a writ of habeas corpus has now been going on for more than three years. There have been innumerable reports from entities of the armed forces and security agencies, which have been contradicted by other elements of proof--at times provided by the same forces. In addition, court requests for reports from the Commander-in-Chief of two of the services have also been awaiting a reply for more than a year and a half. It is not possible to say that the information available to the courts, most of which has been provided to the military and police authorities, is not enough to enable the truth to be found, because most of the information was uncovered despite the inaccuracies of much of the information conveyed by official organs.

Moreover, the Argentine Government authorities themselves have used the ruling handed down in this case on 24.4.78 by the Supreme Court of Justice of the Nation as an example of the Court's actions "in exercise of its function as custodian of individual guarantees. "This quotation is taken from the book *EL Terrorismo en la Argentina* (Terrorism in Argentina) presented to the Inter-American Commission on Human Rights by the Ministry of the Interior on the occasion of its visit in September 1979. Appendix No. 41 of the book (p.423, paragraph 4) cites the legal theory established in the case of "Ollero, Cesar, re habeas corpus" on this premise. In light of this, it bears asking: to what extent have the authorities of the Executive Branch complied with the instructions in that ruling within their area of jurisdiction?

This is the necessary and proper denunciation that we reiterate to the Inter-American Commission on Human Rights for the purposes of its statutory objectives.

VI. "Lastly it should be pointed out, that according to written statements by the woman's father to Argentine Government authorities, she was a militant activist in an extreme left wing youth organization. Many of its members have left the organization to join bands of terrorists. The possibility cannot therefore be discarded that after being allowed to leave the police station, and fearing that a more thorough investigation into the passengers' background would bring to light her membership in that organization, she decided to leave voluntarily and/or to go underground, in order to avoid possible judicial action. This has been the experience with other similar cases."

As part of the innumerable legal remedies I have undertaken in order to obtain information on my daughter's whereabouts, I have written repeatedly to various authorities of the Argentine Government and of the Armed Forces explaining the facts. Only exceptionally have I received a reply, albeit negative. At my request, I have had several interviews with military authorities in which I have told them orally how I feel as a father and have expressed my constructive opinion as an industrialist respectful of my country's institutions. This opinion that I still hold and will always hold.

I have repeatedly said that I know my daughter Ines Ollero is affiliated with the youth branch of the communist party. I have never said that "she was a militant activist in an extreme left-wing youth organization.

I am unaware of the facts that behind the hypothesis that the paragraph quoted says should not be discarded, since it is outside the sphere of my professional or vocational activities.

I must point out, however, that the conjecture put forward in the Government's reply was demolished even before it was made, inasmuch as the National Criminal and Correctional Court of Appeals stated on October 12, 1979 that Ines Ollero was not released as reported when the vehicle control procedure was revealed.

It is inappropriate for agencies of the Executive Branch to make groundless conjectures in an attempt to evade their responsibilities and throw arbitrary suspicion on the victim of the facts being investigated, when they themselves have failed to provide the courts with the information demanded of them.

The inner logic of the hypothesis proffered in the Government's reply is also absurd. The "observations and critical comments of the Argentine Government" on the report of the Inter-American Commission on Human Rights, as reported in the newspaper *La Nacion* of Buenos Aires on May 8, 1980, page 16, last column, refer to the political party mentioned above, among others, and say "these political organizations have not been dissolved, and their members, like members of other parties of a similar tendency, such as the Popular Left Wing Front (*Frente de Izquierda Popular*), have not been harassed merely on account of belonging to that tendency." In light of this overall assessment by the Argentine Government, the

conjecture put forward in the paragraph on which I am commenting is contradictory.

I hope that the information I have provided here will be of use in considering the Government's response in this case.