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## News From the Inter-American System

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## NEWS FROM THE INTER-AMERICAN SYSTEM

### *Caso Lori Berenson—Admissibility (Peru)*

**Facts:** On January 22, 1998, Lori Berenson's representatives presented her case to the Inter-American Commission on Human Rights (Commission), alleging that Peruvian police detained Berenson on November 30, 1995. They also alleged that, during her subsequent interrogation, Berenson was neither notified of the charges against her nor allowed to give testimony in her defense. While in detention, she was subjected to cruel, inhumane, and degrading punishment. Sentenced to life imprisonment by an anonymous military tribunal, Berenson appealed her conviction without success. The petitioners claimed that Peru violated Berenson's rights under the American Convention on Human Rights (Convention), including the rights to the assistance of defense counsel (Article 8.2.d), adequate time and resources to prepare her defense (Article 8.2.c), humane treatment (Article 5), and judicial protection (Article 25).

**Decision:** The Commission determined that the petitioners had exhausted all effective internal judicial remedies, had presented the case to the Commission in a timely manner, and had not initiated proceedings before any other international body. Based on this conclusion, the Commission declared the case admissible and announced its intention to solicit the parties' opinions about the possibility of initiating friendly settlement proceedings.

### *Caso Castillo Páez—Reparations (Peru)*

**Facts:** The Commission submitted this case to the Inter-American Court of Human Rights (Court) on January 13, 1995. The Commission alleged that, on October 21, 1990, Peruvian security forces in Lima forced Ernesto Rafael Castillo Páez, a 22 year old university student, into the trunk of a police vehicle. After his abduction, he was never seen again. A Peruvian court determined that members of the Peruvian National Police detained Castillo Páez, but found that there was insufficient evidence upon which to convict them.

The Court released its decision on the case's merits on November 3, 1997. It determined that Peru violated Castillo Páez's rights under the Convention, including the rights to personal liberty (Article 7), humane treatment (Article 5), life (Article 4), and effective recourse in a competent national court or tribunal (Article 25). The Court also ordered Peru to pay reparations to the victim's family and to reimburse them for expenses incurred in the Peruvian domestic proceedings.

**Decision:** On November 27, 1998, the Court released its decision regarding reparations. The Court ordered Peru to pay Castillo Páez's family the equivalent of U.S.\$245,021.80 for the loss of the victim's future earnings, his family's pain and suffering, and expenses they incurred investigating his

"disappearance." The Court also ordered Peru to pay the equivalent of U.S.\$2,000 to compensate the victim's family for costs associated with the domestic judicial proceeding. Finally, the Court directed Peru to investigate, identify, and prosecute the persons responsible for Castillo Páez's "disappearance."

### *Caso Loayza Tamayo—Reparations (Peru)*

**Facts:** The Commission submitted this case to the Court on September 26, 1994. Peruvian authorities detained María Elena Loayza Tamayo on suspicion of being a member of the Shining Path rebel group and imprisoned her from 1993 to 1997. The Commission alleged that, during her detention, she was held *incommunicado*, isolated in a small cell without fresh air or natural light, and subjected to cruel and degrading treatment such as beatings and threats of being drowned.

On September 17, 1997, in its decision on the merits of the case, the Court ruled that Loayza Tamayo suffered cruel, inhumane, and degrading treatment during her detention in Peru. The Court held that Peru violated Loayza Tamayo's rights under the Convention, including the rights to personal liberty (Article 7), humane treatment (Article 5), and judicial guarantees (Articles 8.1, 8.2, and 8.4), and it ordered her release. The Court also found that Peru was obligated to make reparations to the victim and her family. In accordance with the Court's decision, Peru released Loayza Tamayo on October 16, 1997.

**Decision:** On November 27, 1998, the Court released its decision regarding reparations. The Court ordered a number of restitution measures, including the reinstatement of Loayza Tamayo's university teaching position and pension benefits. The Court also awarded the equivalent of U.S.\$167,190.30 to the victim and her family for damages including the victim's lost income, her family's expenses in travelling to visit her in prison, the loss of income by the victim's sister, an attorney, who represented the victim, and the victim and her family's pain and suffering. The Court further ruled that Peru must pay Loayza Tamayo's attorney, her sister, U.S.\$20,000 to cover legal fees and costs. It directed Peru to bring certain national laws concerning terrorism and treason into conformity with the Convention. Peru is also obligated under the Court's ruling to investigate, identify, and punish those persons responsible for violating the victim's rights. Finally, the Court declined to order monetary reparations for "life project" damages, which the victim defined as losses to her personal and professional development. Although the Court recognized that the victim suffered "life project" damages, it declined to formulate a standard to quantify such damages. ☉

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amendment into the Foreign Operations Appropriations Act of 1999, by a 50-43 vote. Representative Lantos plans to reintroduce the HRIA in the 106th Congress and is optimistic about its passage.

The HRIA's drafters hope that the bill's declassification procedures will further reveal the truth about U.S. government knowledge of human rights violations. Around the

world, processes intended to expose the truth about government participation in such activities, such as the South African Truth and Reconciliation Commission, have shown that they are imperative to ensure the accuracy of historical records and to aid the healing of victims of human rights violations, their families, and society as a whole. ☉

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