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News from the Inter-American System

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NEWS FROM THE INTER-AMERICAN SYSTEM

The Inter-American Commission on Human Rights

The 93rd session of the Inter-American Commission on Human Rights (the Commission) was held from September 30 to October 18, 1996. Those in attendance included Dean Claudio Grossman, Commission Chairman; Ambassador John Donaldson, First Vice Chairman; Dr. Carlos Ayala Corao, Second Vice Chairman; Ambassador Alvaro Tirado Mejía, Dr. Oscar Luján Fappiano, Professor Robert K. Goldman and Dr. Jean Joseph Exumé.

The Commission examined 38 reports on individual cases and granted 63 hearings, during which they heard from individuals, government representatives and non-governmental organizations (NGOs).

Consultations are continuing regarding the forthcoming Inter-American Declaration on the Rights of Indigenous Peoples. Work is also continuing on the draft report of the current study being done by the Commission on Detention Conditions in the Americas. A delegation

was recently sent to Venezuela at the invitation of that government to examine prison conditions. At the invitation of the US government, another delegation will be sent in December to examine the situation of Cuban "Marellitos" refugees in Louisiana jails.

The Commission reviewed the findings of the Special Rapporteur on Women's Rights in drafting a report on member countries' compliance with the norms established in the American Convention on Human Rights and the American Declaration on the Rights and Duties of Man.

In their meeting, the Commission exchanged experiences and opinions with members of the African Commission on Human Rights about the operation of the Inter-American System for the Protection of Human Rights, the processing of individual cases, and the need to expand promotion activities in the region.

A Seminar on the Inter-American System for the Promotion and Protection of Human Rights will be held in

Washington D.C., December 2-4, 1996. The Commission will present a report on the seminar as a contribution to the current process of reflecting on the effectiveness of the Inter-American system for promoting and protecting human rights.

The Inter-American Court of Human Rights

During the fall 1996 session, the Inter-American Court of Human Rights considered, *inter alia*, the following matters:

1. *María Elena Loayza Tamayo v. Peru*

Stage of the Proceedings: This case was brought by the petitioner's sister, who is an attorney in Peru, and was referred to the Court in January 1995. The case involves a professor who was acquitted on charges of treason by a military court and then retried and convicted by a civil court. Petitioner claims her conviction was based on unreliable testimony and constitutes double jeopardy, and alleges that she suffered torture and rape by police officials. The Court during this session issued provisional measures that were requested by the Commission in May. The government has now admitted that the petitioner was put in solitary confinement, a fact which had previously been denied. In December, members of the Commission will travel to Peru to hear witness testimony.

2. *Reparations in the case: Indalecio Guerrero, et al. (El Amparo) v. Venezuela*

Stage of the Proceedings: This case was brought to the Commission by NGOs in Venezuela along with the Center for Justice in International Law (CEJIL) and HRW/Americas. After Venezuela accepted responsibility for the October 1988 killing of 14 fisherman on the Colombian border, the Court determined in January 1995 that the government should pay "fair compensation" to the survivors and the families of the victims. When no agreement on reparations could be reached, the

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Court undertook to determine the amount and scope of the compensation. The Court issued a judgment in September ordering Venezuela to pay both compensatory and moral damages.

3. *Reparations in the case: Neira Alegria, et al. (El Frontón) v. Peru*

Stage of the Proceedings: This case was brought to the Commission by CEPAZ, an NGO in Peru, HRW/Americas (then Americas Watch) and CEJIL. The victims in this case were three men who were charged with terrorist acts and detained at the San Juan Bautista prison. The prison was placed under the control of the Peruvian army after a riot, and the three men have not been seen since that time. The Court in January 1995 rendered a judgment on the merits finding that Peru had violated several provisions of the American Convention on Human Rights and is obligated to compensate the victims' next of kin. The Court then heard oral argument regarding reparations in the case and issued a judgment in September, ordering Peru to pay compensation.

4. *Provisional Measures in the case: Arnoldo Aleman Lacayo v. Nicaragua*

Stage of the Proceedings: In January 1996, the Court ordered provisional measures for the protection of the life and the provision of humane treatment of Arnoldo Aleman Lacayo, a presidential candidate in Nicaragua, and these provisional measures are still in place. The petitioner was elected President of Nicaragua in September and will take office on January 2, 1997.

5. *Jean Paul Genie v. Nicaragua*

Stage of the Proceedings: The case was brought before the Commission by a Nicaraguan attorney, HRW/Americas, and CEJIL. The case arises from the killing of Jean Paul Genie in October 1990 by bodyguards of General Humberto Ortega. In January 1995, the Court denied Nicaragua's preliminary objections and deferred consideration of the exhaustion of domestic remedies issue until it rendered a judgment on the merits. In September 1996, the Court heard testimony of several wit-

nesses and the parties presented closing arguments. The Court should issue a judgment in the spring.

6. *Isidro Caballero Delgado and María del Carmen Santana v. Colombia*

Stage of the Proceedings: This case was brought by Comisión Colombiana de Juristas, CEJIL and HRW/Americas. Two members of Movimiento 19 de Abril, formerly a rebel group and now a political party, were disappeared by the Colombian military. The Court in February 1996 issued a judgment ordering the government to pay compensation. In September, the Commission participated in a hearing before the Court on compensation issues.

In August 1996, the Commission referred the following matters to the Court:

1. *Efrain Bamaca Velasquez v. Guatemala*

Facts: The petition alleges that Efrain Bamaca Velasquez, a guerrilla commander, was captured by the Guatemalan army in March 1992. The Army claimed that Velasquez had committed suicide to avoid capture, and directed investigators to the burial site of an unidentified man who matched Velasquez's description. Forensic tests later concluded that this was not Bamaca. Evidence later showed that Efrain Bamaca Velasquez was detained and tortured by the army, and he is now considered to have been killed in army detention.

Stage of the Proceedings: The case was brought to the Commission by Jose Pertierra, Jennifer Harbury, and the Guatemalan Human Rights Commission. It is still in the written proceedings stage.

2. *Juan Cantoral v. Peru*

Facts: This case involves two brothers who were tried by military courts for terrorism. The petitioner was acquitted, but his brother was convicted. Because their names are very similar, a court error allowed the condemned brother to go free and he quickly fled

the country. The petitioner, who had been acquitted, was then retried before a civil court on the same facts, but with new evidence which petitioner alleges was falsified. He was found guilty of terrorism and sentenced to twenty years. Petitioner alleges double jeopardy and violations of due process, and also claims that he was subjected to beatings and torture.

Stage of the Proceedings: The case was brought by SEDEPAZ, a Peruvian NGO, Human Rights Watch/Americas (HRW/Americas) and CEJIL. The case is still in the written proceedings stage.

3. *Gabriel Ugarte and Nolberto Duran v. Peru*

Facts: The petitioners in this case were disappeared in the late 1980's while incarcerated in Peruvian jails.

Stage of the Proceedings: The case was brought before the Commission by Instituto Defensa Legal, HRW/Americas and CEJIL. Peru has recently responded to the petitions and has submitted preliminary objections to both. The case is still in the written proceedings stage.

4. *Consuelo Benavides v. Ecuador*

Facts: This case involves a woman who was disappeared in 1985. Her family attempted to discover her whereabouts using domestic remedies, but when that failed, the National Congress in 1988 initiated an investigation that determined she had been killed by members of Ecuador's naval marines.

Stage of the Proceedings: The case was brought by Alejandro Ponce-Villacís, the WCL Human Rights Law Clinic, and William Clark Harrell. The government has filed an answer, and the case is still in the written proceedings stage. 🌐

