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News from the Inter-American System

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FGM Asylum, continued from previous page

aged to escape it. The judge's finding came in spite of testimony by Professor Posnansky, an expert on Togo who testified for Ms. Kasinga, which verified the

On May 2, the BIA, the highest administrative court in the U.S. immigration system, will hear Fauziya's asylum claim.

pervasiveness of the practice. Professor Posnansky stated under oath that it was "very probable . . . that [Fauziya] was able to avoid FGM while her father was still alive."

On May 2, the BIA, the highest administrative court in the U.S. immigration system, will hear Fauziya's asylum claim. The BIA's decision will likely set important precedent that would be binding on the nation's 179 immigration judges.

Professor Karen Musalo, Supervising

Attorney at WCL's International Human Rights Clinic, which is currently representing Ms. Kasinga, believes that Fauziya qualifies for asylum because she has a well-founded fear of persecution on account of her membership in the social group of young women of her tribe who are opposed to the tribal practices of both FGM and forced polygamous marriages but have no protection against it. Profes-

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sor Musalo also points out that there are no adverse discretionary factors which would justify a denial of relief. The INS has stated in its brief to the BIA that FGM can be a basis for asylum, and it is not directly contesting Fauziya's credibility.

While her asylum case is pending, Fauziya remains in detention. A request for Fauziya's release on humanitarian

grounds was denied in November. The International Human Rights Clinic currently is challenging detention and prison

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conditions through a petition for writ of habeas corpus in U.S. District Court. Twenty-five members of Congress have written a letter to the Attorney General requesting Fauziya's release and expressing their belief that FGM should be a basis for asylum. A press conference is scheduled for April 26 in support of Fauziya's release from detention. ☺

We are pleased to report that Ms. Kasinga was released on April 24. Her request for asylum is still pending.—Ed.

NEWS FROM THE INTER-AMERICAN SYSTEM

by Angela Collier

The Inter-American Commission on Human Rights

In its 91st session, held February 26 – March 8, 1996, the Inter-American Commission on Human Rights heard from government representatives, NGOs, and individuals regarding the observance and protection of human rights. Testimony was presented on individual cases currently before the Commission and on the general human rights situation in various countries in the hemisphere. The Commission issued reports in the following cases:

- *Giménez v. Argentina*
- *Feldman v. Colombia*
- *Bolaños Quinonez v. Ecuador*
- *COMADRES v. El Salvador*
- *Richmond Hill v. USA*
- *Clark v. Grenada*
- *Mack v. Guatemala*
- *Chumbivilcas v. Peru*
- *de Mejía v. Peru*

The Commission also appointed new officers and welcomed new members. Professor Claudio Grossman accepted the position of Chairman and expressed the Commission's appreciation for the invaluable service rendered by his predecessor,

Dr. Alvaro Tirado Mejía. The Commission also recognized the work of Dr. Leo Valladares Lanza, Professor Michael Reisman, and Dr. Patrick Robinson, whose terms ended on December 31, 1995. New members Dr. Carlos Ayala Corao, Dr. Jean Joseph Exume, and Professor Robert Goldman, were sworn in.

The Commission scheduled a Meeting of Experts on the Future of the Inter-American Human Rights System to consider proposals for strengthening the system and improving its procedures. During the meeting, Commission members discussed the future of the Commission itself with OAS Secretary-General Dr. César Gaviria. The Commission recognized the spread of democracy in the Western hemisphere and examined how to further advance this process. As a case in point, the meeting discussed the Commission's recent cooperation with the Haitian National Committee for Truth and Justice, to whom the Commission provided legal advice and assistance in gathering information from complainants.

The Commission will present its Annual Report to the General Assembly in June 1996. The report will include a study of the conditions of detention in the Americas. The Commission decided to continue observation of penal institutions in the hemisphere.

Government, NGO and expert reports regarding the future Inter-American Declaration on the Human Rights of Indigenous Peoples are due in June 1996, and the Commission expects to send the draft to the General Assembly in 1997. The Commission expressed its satisfaction that Argentina and Panama ratified the Inter-American Convention on the Forced Disappearance of Persons in February 1996 and noted that the Convention is therefore now in force.

The Commission also coordinated with UN Special Representative Mr. Francis Deng regarding Internally Displaced Persons and appointed Commissioner Goldman as Rapporteur on the matter.

Finally, the Commission scheduled its 92nd special session from April 29 – May 3, 1996, and its 93rd regular session from September 30 – October 20, 1996.

The Inter-American Court on Human Rights

The XXXIII Session of the Inter-American Court of Human Rights was held in San José, Costa Rica, from January 22 to February 3, 1996. During this session the Court considered, *inter alia*, the following matters:

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1. Paniagua, et al. (Panel Blanca) v. Guatemala*

• **Stage of the Proceedings:** This case involves allegations that agents of the Guatemalan Treasury Police kidnapped and murdered several civilians. The Court ruled against the preliminary objections of the Guatemalan government that the Commission failed to bring the case before the Court in a timely and appropriate manner. The Court has not yet decided the merits of this case.

2. Castillo Páez v. Peru*

• **Stage of the Proceedings:** This case involves an alleged forced disappearance by agents of the Peruvian National Police. The Court rejected the preliminary objections posed by the Government of Peru that domestic remedies had not been exhausted and that the petition was inadmissible. The Court has not rendered a decision on the merits of this case.

3. Loayza Tamayo v. Peru**

• **Stage of the Proceedings:** This case involves the illegal deprivation, torture, inhuman and cruel treatment of Ms. Loayza Tamayo and the violation of the right to fair trial and double jeopardy. The Commission considers that Peru violated previous recommendations offered by the Commission under Article 51(2). The Court ruled against the Peruvian Government's preliminary objection that domestic remedies had not been exhausted. The Court will continue hearing the merits of the case.

4. Garrido, et al. v. Argentina**

• **Stage of the Proceedings:** This case involves the disappearances of Adolfo Garrido and Raul Baigorria. The Court issued a judgment in the case noting that Argentina accepted both the statement of facts in the petition and responsibility for the disappearances. The Court granted the parties six months to agree on reparations and reserved time for a hearing on reparations if an agreement is not reached in this period.

5. Blake, et al. v. Guatemala**

• **Stage of the Proceedings:** This case involves the disappearance of Mr. Blake, ineffective judicial remedies and obstruc-

tion of justice. Guatemala made preliminary objections that the Court lacks jurisdiction regarding the subject matter of the petition and that the Commission violated the rule of interpretation set forth in Article 29(d) of the American Convention. The Commission contends Guatemala violated the obligation to respect rights, right to life, right to personal liberty, right to a fair trial, freedom of thought and expression, freedom of movement and residence, and right to judicial protection. The Commission requests compensation for the victim's relatives and payment of the costs of the judicial proceedings. The Court has not yet ruled on the preliminary objections or on the merits of this case.

6. Reparations in the case: Indalecio Guerrero et al. (El Amparo) v. Venezuela+

• **Stage of the Proceedings:** The Court recognized Venezuela's acceptance of responsibility and ordered Venezuela to repair all damages and pay fair compensation to the surviving victims and the deceased's next of kin.

7. Provisional Measures in the case: Colotenango v. Guatemala

• **Stage of the Proceedings:** On June 22, 1994 the Court adopted provisional measures to protect the life and personal integrity of witnesses, members of their families, and their lawyers. The Court extended these measures for an additional six months.

8. Provisional Measures in the case: Carpio Nicolle v. Guatemala**

• **Stage of the Proceedings:** The Court extended for six months urgent measures requested by the Commission for the protection of certain witnesses and a prosecutor.

9. Reparations in the case: Neira Alegria et al. v. Peru+

• **Stage of the Proceedings:** The Court heard oral arguments by the Inter-American Commission and the Republic of Peru regarding reparations and costs in this case, but has not yet rendered a decision in these matters. In January 1995, the Court found that Peru was liable to pay compensation to the next of kin of the victims and to reimburse the expenses of judicial proceedings because Peru had violated the right to life and right to habeas corpus.

10. Cases against Suriname: Aloboetoe and Gangaram Panday+

• **Stage of Proceedings:** The Court requested that Suriname submit an update to the Court on the status of its compliance with the judgments on reparations.

11. Provisional Measures in the case: Aleman Lacayo v. Nicaragua

• **Stage of the Proceedings:** The Commission requested provisional measures for the protection of the life and the provision of humane treatment of Arnolando Aleman Lacayo, a presidential candidate in Nicaragua. The Court ordered such provisions and requested that Nicaragua investigate the events and punish those responsible.

12. Suarez Rosero v. Ecuador

• **Facts:** The petition alleges that Ecuador illegally detained Suarez Rosero and held him incommunicado for 36 days. The petition further states that Mr. Rosero is still being detained and that Ecuador has not provided an effective judicial remedy. The Commission found that Ecuador violated the obligation to respect rights, right to domestic legal effects, right to humane treatment, right to personal liberty, right to a fair trial and right to judicial protection. The Commission asks the Court to order Ecuador to release Mr. Rosero, punish those responsible for his detention, and provide compensation.🌐

* See the Winter 1995 and Fall 1995 issues for further background.

** See the Fall 1995 issue for further background.

+ See the Summer 1994 issue for further background.

