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Inter-American Systems News

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NEWS FROM THE INTER-AMERICAN SYSTEM

by Claudia Martín

The Inter-American Commission of Human Rights

During 1994, the Inter-American Commission on Human Rights held three sessions, the 85th between January 31 and February 11, the 86th (an extraordinary session) on April 6 and 7, and the 87th between September 19 and September 30. The 88th session will take place February 6 to February 17, 1995.

The Commission also conducted seven on-site visits to various countries in the hemisphere. Between March 4 and 11, Commission members visited the Communities in Resistance (CPR) in Guatemala to observe the resettlement of CPR members in the Quiché Department. May 16–20, the Commission monitored the deteriorating human rights situation in Haiti and subsequently, May 22–27, in the Bahamas where it investigated the situation of Haitian refugees and political asylum seekers. Following President Aristide's return to Haiti, the Commission conducted an additional visit from October 24–27. Between November 7–11, Commission members travelled to Ecuador to monitor the general human rights situation there, and from December 7–9, to Jamaica to verify the prevailing prison conditions in Jamaican jails. Finally, the Commission visited Guatemala on a second on-site visit December 12–15.

The following cases were referred by the Commission to the Inter-American Court on Human Rights:

1. *Guillermo Maqueda v. Argentina*

• **Facts:** Guillermo Maqueda was an active member of the political party MTP (Movimiento Todos por la Patria). On January 23, 1989, members of MTP attacked a military barracks killing a number of soldiers. MTP claimed that it acted to prevent a *coup d'état*. Although Maqueda did not participate in the event, he met with members of MTP the night before the attack. Maqueda was accused of co-authoring the crime of qualified illicit association and secondary participation in the crimes of rebellion, usurpation, and others. He was sentenced to serve ten years. Among the allegations of due process violations is that Maqueda was not permitted to appeal his conviction.

• **Stage of the Proceedings:** The Commission referred the case to the Court on May 25, 1994. On October 4, 1994, the

Commission asked the Court to discontinue the action as it had reached a friendly settlement with the petitioner, his legal counselors, and the Argentine Government. The settlement provided that the petitioner would be released and his sentence reduced.

2. *María Elena Loayza v. Perú*

• **Facts:** María Elena Loayza, a professor at San Martín de Porres University, was accused of treason and prosecuted before a military court under Peruvian anti-terrorism laws. Although she was acquitted in these proceedings, Loayza's case was transferred to a civil court on the same facts where she was found guilty of terrorism and sentenced to twenty years. In addition to the issue of double jeopardy, petitioner claims that her conviction was wrongly based on testimony provided by a former Shining Path member who benefitted from the "Repentance Law." Furthermore, Loayza alleges that she was subjected to torture, including rape, by police officials while she was held incommunicado.

• **Stage of the Proceedings:** The Commission referred the case to the Court on January 12, 1995.

3. *Ernesto R. Castillo Páez v. Perú*

• **Facts:** Ernesto Castillo Páez, a student of sociology, was arrested by police officials on October 21, 1990. His whereabouts are still unknown.

• **Stage of the Proceedings:** The Commission submitted the case to the Court on January 12, 1995.

4. *Ana Elizabeth Paniagua et al. (Panel Blanca) v. Guatemala*

• **Facts:** Using a white panelled van, agents of the Guatemalan Treasury Guard allegedly abducted, detained, and tortured numerous victims between June 2 and February 19, 1988. Seven of the victims were executed; five survived their capture, four of whom were reportedly beaten. Of the seven execution victims, two bore bullet wounds, one had marks consistent with a hanging, and the others had knife wounds. The bodies all showed signs of torture.

• **Stage of the Proceedings:** The Commission referred the case to the Court on January 18, 1994.

The Inter-American Court of Human Rights

In its last session, the Inter-American Court considered the following cases:

1. *Neira Alegria et al. (El Frontón) v. Perú **

• **Stage of the Proceedings:** The Court rendered a decision on the merits on January 19, 1995, declaring that Peru violated the following provisions of the American Convention on Human Rights: right to life (Art. 4.1) in connection with the general obligation to protect and ensure the enjoyment of rights protected by the Convention (Art. 1.1), and the right to habeas corpus (Art. 7.6), in relation to the obligation not to derogate from certain rights and the judicial guarantees necessary to protect them (Art. 27.2). In addition, the Court declared that Peru is obligated to compensate the victims' next of kin and to reimburse them for expenses incurred in proceedings before the national authorities.

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

• **Stage of the Proceedings:** Between November 28 and December 1, 1994, the Court heard the testimony of witnesses presented by the Commission and the Government.

3. *Advisory Opinion No. 14 +*

• The Court rendered its opinion on questions submitted by the Commission on December 9, 1994. The Court first asserted that a law that is manifestly contrary to obligations undertaken by a Government when it ratifies the American Convention *per se* violates the Convention. Moreover, if this law applies to individuals, thereby violating their rights and liberties, the State will be held internationally accountable. On the second question, the Court stated that if an individual applies a state's law that is *per se* an international crime, that application generates international responsibility for the individual.

4. *Jean Paul Genie v. Nicaragua **

• **Stage of the Proceedings:** On January 27, 1995, the Court rendered a decision on the preliminary objections filed by Nicaragua. The Court rejected Nicaragua's arguments, except on the question

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of exhaustion of domestic remedies which it will consider at a later time with the decision on the merits.

5. *Indalecio Guerrero et al. (El Amparo) v. Venezuela* *

• Stage of the proceedings: The Court rendered its decision on the merits on January 18, 1995. After Venezuela conceded its responsibility for the killing of 14 fishermen on its border with Colombia, the Court determined that the State is obligated to compensate the surviving victims, and the next of kin of those victims who perished.

6. *Guillermo Maqueda v. Argentina*

• Stage of the Proceedings: After the Commission requested the Court to discontinue the case on the grounds that a friendly settlement was reached, the Court issued its final decision on January 17, 1995. The Court accepted the Commission's request but reserved the right to re-open the case if circumstances that motivated the settlement change.

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

• Stage of the Proceedings: At the request of the Commission, 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 in the case of Colotenango (No. 11.212), currently under the Commission's consideration. On November 28, 1994, the Court heard

the Commission and the Government present their arguments, after which it extended application of the measures for six months.

* The facts of these cases can be found in the Summer 1994 (Vol. 1 No. 2) issue of *The Human Rights Brief*.

+ The questions submitted by the Commission to the Court can be found in the Summer 1994 (Vol. 1 No. 2) issue of *The Human Rights Brief*.

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