



Loayza-Tamayo v. Peru

Country: Peru

Region: Americas

Year: 1997

Court: Inter-American Court of Human Rights Inter-American Court of Human Rights

Health Topics: Mental health, Prisons

Human Rights: Freedom from torture and cruel, inhuman or degrading treatment

Facts

Loayza Tamayo (L) had allegedly been confined in a tiny prison cell for twenty-three and a half hours a day for one year. The Inter-American Commission on Human Rights had requested provisional measures whereby Peru would be requested to end her solitary confinement and incommunicado detention and to return her to the pavilion of the prison in the same conditions in which she had been held prior to her transfer. The President ordered Peru to adopt such measures as were necessary to effectively ensure her physical, psychological, and moral integrity and to report within thirteen days on the measures taken. The Court held that (a) the President's order was consistent with the law and the merits of the proceedings, (b) the conditions of L's confinement had not been refuted, (c) it was necessary to uphold the measures taken by the President for the purpose of preserving her physical, psychological and moral integrity since it was difficult to determine from the reports submitted by the parties the precise circumstances of the prison regime applied to L, (d) the President's order should be ratified and Peru called upon once more to take all provisional measures necessary for the effective safeguard of L's physical, psychological and moral integrity; and (e) Peru should continue to report every two months on the provisional measures taken and that the Commission should be called on to submit its comments on that information.

The Commission subsequently informed the Court that L's health had deteriorated because she was being subjected to a regime of inhuman and degrading treatment caused by incommunicado detention and by being enclosed twenty-three and a half hours a day in a damp, cold cell measuring approximately two by three metres without direct ventilation, only dimly and indirectly lit by fluorescent lighting in the corridors and containing cement bunks, a latrine and a hand-basin. The prison's chief medical officer certified that L was suffering from physical and psychological disorders, including depressive anxiety syndrome. Peru had not reported on the measures taken in accordance with the previous order.

[Adapted from INTERIGHTS summary, with permission]

Decision and Reasoning

The Court held that, in default of the report which Peru should have provided, it was presumed that the conditions of imprisonment imposed on L seriously endangered her physical, psychological and moral health. The Court further held that Peru should modify the conditions in which L was being held, particularly with regard to her solitary confinement, so as to bring the situation in line with the American Convention on Human Rights, Article 5 and that Peru should provide L with medical treatment (both physical and psychiatric) without delay. Peru was ordered to inform the Court of the measures taken to comply with its order within fifteen days and thereafter report every two months on their status.

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Decision Excerpts

"Although the Commission contended in its application that the victim was raped during her detention, after examination of the file and, given the nature of this fact, the accusation could not be substantiated. However, the other facts alleged, such as incommunicado detention, being exhibited through the media wearing a degrading garment, solitary confinement in a tiny cell with no natural light, blows and maltreatment, including total immersion in water, intimidation with threats of further violence, a restrictive visiting schedule (*supra*, para. 46 c., d., e., k. and l.), all constitute forms of cruel, inhuman or degrading treatment in the terms of Article 5(2) of the American Convention. A study of the arguments and evidence proffered shows grave and

convergent acts that were not refuted by the State and give reason to believe that cruel, inhuman and degrading treatment was meted out in the instant case of Ms. María Elena Loayza-Tamayo, in violation of her right to humane treatment enshrined in Article 5 of the American Convention." Para. 58.

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