



Paul Lallion v. Grenada

Paul Lallion, Report No. 55/02, Case 11.756, IACHR, Doc. 5 rev. 1 at 551, 21 October 2002

Country: Grenada

Region: Americas

Year: 2002

Court: Inter-American Commission on Human Rights Inter-American Commission on Human Rights

Health Topics: Diet and nutrition, Health care and health services, Poverty, Prisons

Human Rights: Freedom from discrimination, Freedom from torture and cruel, inhuman or degrading treatment, Right to due process/fair trial, Right to liberty and security of person, Right to life

Facts

Paul Lallion appealed to the Inter-American Commission on Human Rights alleging that his death penalty sentencing and appeal process, as well as the prison conditions he was subjected to during this process, violated Articles 4 (right to life), 5 (right to humane treatment), 7 (right to personal liberty), 8 (right to a fair trial), and 24 (right to equal protection) of the American Convention on Human Rights (the Convention).

Mr. Lallion was detained by the police in connection with the murder of the deceased, Mr. Joseph, and was held for three days before being charged. While in police custody, Mr. Lallion was repeatedly questioned, punched in the stomach, shown the deceased's body, and coerced into signing a confession. Subsequently, Mr. Lallion was tried and convicted of murder. Under Section 234 of the Criminal Code of Grenada, the death penalty was the mandatory sentence for a murder conviction. Based on this law, the trial court imposed the death penalty on Mr. Lallion without considering any mitigating factors for the sentence.

After receiving his sentence, Mr. Lallion was placed in the Richmond Hill Prison on death row. He resided alone in a 9 by 6 foot cell where he spent approximately 23 hours of his day. The cell lacked ventilation, natural lighting, and plumbing. A bucket was used as a toilet and he was allowed to empty its contents only once a day. Mr. Lallion was also denied access to prison services, such as the library or the chaplain. A visitor was permitted to meet with him once a month and he could write and receive one letter a month. Lastly, the medical care available was provided infrequently and inefficiently.

While detained, Mr. Lallion attempted to seek relief by pursuing a Constitutional Motion in the domestic courts of Grenada. This process was inhibited due to a lack of legal counsel. The state did not provide Mr. Lallion with an attorney even though he was financially unable to obtain one on his own. Unable to resolve the issue in the domestic courts, Mr. Lallion requested review by the Inter-American Commission on Human Rights (the Commission).

Decision and Reasoning

The Commission held that the mandatory death penalty sentence of Grenada violated Articles 4(1), 5(1), 5(2), and 8(1) of the Convention. As articulated in past cases, these Articles require the presence of a mechanism for a defendant to present evidence on whether the death penalty is an appropriate sentence. The Commission emphasized the importance of an individualized sentencing process when applying the death penalty. Due to Section 234 of the Criminal Code of Grenada, Mr. Lallion was not afforded the opportunity to present such mitigating evidence that would give the judge or jury the ability to consider the circumstances of the crime when determining the remedy.

The application of the amnesty, pardon, and commutation process of Grenada in Mr. Lallion's case also violated Article 4(6) of the Convention. This Article guarantees the right to apply for amnesty, pardon, or commutation in all death penalty cases. While the Prerogative of Mercy in Grenada offered an opportunity to exercise this right, the Commission found it lacked certain procedural aspects to fulfill the requirements of Article 4(6). The Commission reached this conclusion in cases before Mr. Lallion but found Grenada had not adapted in response to these prior rulings. By not establishing appropriate mechanisms for Mr. Lallion to seek amnesty, pardon, or commutation of sentence, Grenada was in violation of Article 4(6) of the Convention.

Article 8(1) of the Convention guaranteed the right to a fair trial while Article 25 established a right to

recourse. Read together, the Commission stated an individual has a right to a tribunal that will conduct a competent, impartial and independent judicial investigation on the presence of a violation (97). To fully access this right, a party may require legal services. In Mr. Lallion's case, legal services, which he could not afford, were necessary for him to effectively pursue a Constitutional Motion in response to his conviction. By not providing legal aid, Grenada effectively barred recourse for Mr. Lallion and had thus violated these Articles.

In addition to his procedural claims, Mr. Lallion raised issue with the conditions of his initial detention by the police and treatment in prison. The Commission held that both of these situations violated the Convention. The prison conditions breached Article 5(1) because Grenada failed to meet the minimum standards of proper treatment articulated by international authorities, such as the United Nations. Mr. Lallion's detainment for 3 days violated Articles 7(2), 7(4), and 7(5). Article 7(4) guaranteed prompt informant of the charges against the defendant. While in custody, Mr. Lallion was not formally informed of the charges against him. Mr. Lallion was also unable to appear before a judge during this period or soon after he was charged. The Commission held that this infringed upon his right to be brought promptly before a judge under Article 7(5). Lastly, Article 7(2) prohibited arbitrary deprivation of one's right to personal liberty. Since Grenada did not provide justification for its extended detainment of Mr. Lallion, the Commission found his detainment by the police to be an arbitrary restriction of personal liberty in violation of the Article.

To remedy these violations, the Commission recommended that Grenada commute Mr. Lallion's sentence and compensate him, as well as adopting legislative or other measures to address the issues in the future.

Commissioner Helio Bicudo concurred with the opinion, further arguing that, considering legal precedent, the intentions of the Convention drafters, and arguments made under other regional and international human rights treaties, the death penalty should be considered to violate the prohibition on torture, cruel, inhumane or degrading punishment in the Convention.

Decision Excerpts

The Commission has found that the supervisory bodies of international human rights instruments have subjected the death penalty provisions of their governing instruments to a rule of restrictive interpretation, to ensure that the law strictly controls and limits the circumstances in which a person may be deprived of his life by authorities of the state. This includes strict compliance with standards of due process. Paragraph 60.

The Commission has determined that imposing the death penalty in a manner that conforms with Articles 4, 5 and 8 of the Convention requires an effective mechanism by which a defendant may present representations and evidence to the sentencing court as to whether the death penalty is a permissible or appropriate form of punishment in the circumstances of his case. Paragraph 64.

By failing to make legal aid available to Mr. Lallion to pursue a Constitutional Motion in relation to his criminal proceedings, the State has effectively barred recourse for Mr. Lallion to a competent court or tribunal in Grenada for protection against acts that potentially violate his fundamental rights under Grenada's Constitution and under the American Convention. Moreover, in capital cases, where Constitutional Motions relate to the procedures and conditions through which the death penalty has been imposed and therefore relate directly to the right to life and to humane treatment of a defendant, it is the Commission's view that the effective protection of those rights cannot properly be left to the random prospect as to whether an attorney may be willing or available to represent the defendant without charge. The right to judicial protection of these most fundamental rights must be guaranteed through the effective provision of legal aid for Constitutional Motions. Paragraph 98

In order to ensure the effective judicial oversight of the detention, the competent court must be quickly appraised of the persons who are held in confinement. One of the purposes of such action is to protect the well-being of the persons detained and to avoid any violation of their rights. Paragraph 102.