



Luis E. Lopez Medrano, et al. v. Peru

Luis E. Lopez Medrano, et al. v. Peru, P703-98, et al., Inter-Am. C.H.R., Report No. 9/10 (2010).

Country: Peru

Region: Americas

Year: 2010

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

Health Topics: Mental health, Violence

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

Facts

This case deals with a number of petitions lodged against Peru alleging a violation of the rights to humane treatment, personal liberty, fair trial, privacy and judicial protection enshrined in Articles 5 (Right to humane treatment), 7 (Right to personal liberty), 8 (Right to a fair trial), 9 (Freedom from ex post facto laws), 11 (Right to privacy) and 25 (Right to judicial protection) of the American Convention on Human Rights and of Articles 1 (States undertake the obligation of prevent and punish torture in accordance with the convention), 6 (States obligation of taking effective measures to prevent and punish the crime of torture) and 8 (States obligation of conducting an effective investigation) of the Inter-American Convention to Prevent and Punish Torture. Further, one petitioner claimed violation of the right of every women to be free from violence contained in Article 7 (Duties of the States in order to condemn all kind of violence against women) of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women.

The petitioners argued that between 1993 and 1995 they were arrested, prosecuted and convicted under decree laws applicable to the crimes of terrorism and treason against the fatherland, which were allegedly incompatible with the American Convention and the Constitution of Peru. They claimed that they were tortured to sign confessions, that they could not meet in private with defense counsel and that they were not informed of the charges against them. Further, the petitioners alleged that they were kept in isolation for long periods of more than 23 hours a day and held in subhuman conditions such as extremely low temperatures and restricted visits. Finally, they considered that their retrial in new criminal proceedings under the new anti terrorist legislation was in violation of the principle of freedom from ex post facto criminal laws.

The State claimed that it had amended its legislation for the prosecution and punishment of the crime of terrorism by 2003, which led to the voiding of all the trials conducted in the 1990s. Further, the State argued that the American Court had not questioned the validity of the 2003 anti terrorist legislation, which allegedly provided defense attorneys and took into account the petitioners' initial arrests in calculating the new penalties. Finally, the State rebutted the allegations regarding the conditions of detention.

Decision and Reasoning

After recognizing its competency and declaring the petition admissible, the Commission found that there could tend to be a violation of the rights enshrined in Articles 5 (Right to humane treatment), 7 (Right to personal liberty), 8 (Right to a fair trial), 9 (Freedom from ex post facto laws), 11 (Right to privacy) and 25 (Right to judicial protection) of the American Convention on Human Rights and of Articles 1 (States undertake the obligation of prevent and punish torture in accordance with the convention), 6 (States obligation of taking effective measures to prevent and punish the crime of torture) and 8 (States obligation of conducting an effective investigation) of the Inter-American Convention to Prevent and Punish Torture. Further, The Commission held this decision in the light of the circumstances of the arrests, the torture suffered and the detention conditions in the facilities and prisons.

Further, the Commission found that the alleged acts of violence against a petitioner including sexual abuse could tend to establish a violation of Article 7 (Duties of the States in order to condemn all kind of violence against women) of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence Against Women.

Decision Excerpts

"21. Regarding their detention conditions, the alleged victims were reportedly kept in isolation for periods of more than 23 hours a day; they were given no socio-pedagogical activities to foster their rehabilitation; they were subjected to continuous transfers, to locations far away from their families; they were housed in prisons with extremely low temperatures and allegedly precarious detention conditions, such as Challapalca-Tacna and Yanamayo-Puno, located at more than 4,000 meters above sea level; and their right to receive visits was restricted."

"45. (...) Based on its own interpretation of judgments handed down by the Inter- American Court of Human Rights, the State maintained that the San Jos   court has not questioned the validity of the antiterrorist legislation currently in force."

"75. (...) The Commission must conduct a prima facie assessment to examine whether the complaint entails an apparent or potential violation of a right protected by the Convention and not to establish the existence of such a violation. Said examination is a summary analysis that does not imply prejudging the merits or offering an advance opinion on them."

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