

September 1, 2014

Re: Case No. 12,745
Rigoberto Tenorio Roca et al.
Peru

Mr. Secretary:

It is my pleasure to address you on behalf of the Inter-American Commission on Human Rights for the purpose of submitting Case 12,745 – Rigoberto Tenorio Roca *et al.* with respect to the Republic of Peru (hereinafter “the State,” “the Peruvian State,” or “Peru”), to the jurisdiction of the Honorable Inter-American Court of Human Rights.

The instant case is related to the detention, transfer, torture, and subsequent forced disappearance of Mr. Rigoberto Tenorio Roca as of July 7, 1984 by members of the Marine Infantry in the province of Huanta, department of Ayacucho. These facts took place in a context of systematic violations of human rights during the internal armed conflict in Peru, in a zone and in a period when the use of forced disappearance against persons perceived as terrorists or collaborators of terrorism was systematic and widespread. To this day no determination has been made as to the fate or whereabouts of Mr. Tenorio Roca and his forced disappearance has met with impunity.

The State ratified the American Convention on Human Rights on July 12, 1978, and accepted the compulsory jurisdiction of the Court on January 21, 1981.

Mr. Pablo Saavedra Alessandri, Secretary
Inter-American Court of Human Rights
Apartado 6906-1000
San José, Costa Rica

Attachments

The Commission has designated Commissioner James Cavallaro and Executive Secretary Emilio Álvarez Icaza L. as its delegates. In addition, Elizabeth Abi-Mershed, Assistant Executive Secretary, and Silvia Serrano Guzmán, attorney with the Executive Secretariat of the IACHR, will serve as legal advisers.

In keeping with Article 35 of the Rules of Procedure of the Inter-American Court, the Commission attaches a copy of Report 34/13, prepared pursuant to Article 50 of the Convention, as well as a copy of the entire record before the Inter-American Commission (Appendix I) and the attachments used in the preparation of Report 34/13 (Attachments). Notice of that report on the merits was given to the State of Peru by communication of August 1, 2013; Peru given two months to report on compliance with the recommendations. The Commission, having granted four extensions, observes that the State has not carried out the recommendations. In particular, the State did not report on a specific proposal for integral reparation to Mr. Tenorio Roca's family. Moreover, the investigations and the search for Mr. Tenorio Roca or his mortal remains have shown no significant progress.

In view of the foregoing, the Commission decided to deny the fifth request for an extension, and to refer the case to the Inter-American Court in view of the need to obtain justice for the victims. The Inter-American Commission submits to the jurisdiction of the Court all of the facts and human rights violations described in Report on the Merits 34/13.

In that regard, the Commission asks the Court to conclude and find the international responsibility of the State of Peru for the violation of the human rights enshrined in Articles 3, 4, 5(1), 5(2), 7, 8(1), and 25(1) of the American Convention, in relation to Articles 1(1) and 2 of that international instrument; and for violating Articles I and III of the Inter-American Convention on Forced Disappearance of Persons, all to the detriment of Rigoberto Tenorio Roca. In addition, the Commission asks the Court to conclude and find the international responsibility of the State of Peru for the violation of the rights enshrined in Articles 5(1), 8(1), and 25 of the American Convention in relation to Articles 1(1) and 2 of the same international instrument, to the detriment of his next-of-kin.

The Commission asks the Court to establish the following measures of reparation:

1. Conduct a thorough, impartial, and effective investigation into the whereabouts of Rigoberto Tenorio Roca. If it is established that the victim is deceased, adopt the measures needed to deliver his remains to his next-of-kin.
2. Carry out the domestic proceedings related to the human rights violations found in the report and conduct the criminal proceeding for the crime of forced disappearance to the detriment of Rigoberto Tenorio Roca, currently under way, in an impartial and effective manner and within a reasonable time for the purpose of completely clarifying the facts, identifying all those responsible, and imposing the applicable punishments.
3. Make integral reparation for the human rights violations found in the report, addressing both material and moral damages, including fair compensation, determining and disseminating the historical truth of the facts, recovering the

memory of the disappeared victim, and implementing an appropriate program of psychosocial care of his next-of-kin.

4. Bring the domestic legislation into line with inter-American standards regarding the definition and prosecution of the crime of forced disappearance of persons, in the terms of paragraph 176 of the report.

5. Adopt the measures necessary to prevent the recurrence of similar events in the future, in keeping with the duty to prevent violations and to guarantee the human rights recognized in the American Convention and all other applicable inter-American instruments. In particular, implement permanent programs on human rights and international humanitarian law in the schools for training the Armed Forces.

6. Publicly acknowledge its international responsibility and publicly apologize for the violations declared in the report.

In addition to the need to obtain justice, the Commission notes that this case involves issues of inter-American public order. Specifically, the case will enable the Honorable Court to rule on the systematic and widespread use of forced disappearance during the Peruvian armed conflict and the special impact which, according to the Truth Commission, it had in the department of Ayacucho. In addition, the case presents a series of factors of impunity that are in need of an express pronouncement by the Court. In particular, the Commission notes the interpretation of the criminal statute definition of forced disappearance of persons under the principle of legality and non-retroactivity, mindful of the nature of the perpetrator.

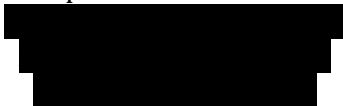
As these issues have a significant impact on the inter-American public order, as per Article 35(1)(f) of the Rules of Procedure of the Inter-American Court, the Commission takes this opportunity to offer the following expert witness statements:

Expert whose name will be provided soon, who will testify on the international standards applicable to the apparent tension between the application of the criminal statute definition of forced disappearance of persons and the principle of legality and non-retroactivity.

Expert whose name will be provided soon, who will testify on the relationship between the measures of reparation domestically and those provided for internationally as the result of the determination of responsibility of a state.

The *curriculum vitae* of the experts offered will be included in the attachments to Report on the Merits 34/13. The Commission informs the Court of the following information regarding those who have served as petitioners throughout the case:

Cipriana Huamaní Anampa and Asociación Pro Derechos Humanos



Sincerely yours,

Signed in the original

Mario López-Garelli

By authorization of the Executive Secretary