

INTER-AMERICAN COURT OF HUMAN RIGHTS

ALOEBOETOE ET AL. CASE

JUDGMENT OF DECEMBER 4, 1991

In the case of Aloeboetoe *et al.*,

the Inter-American Court of Human Rights, composed of the following judges:

Héctor Fix-Zamudio, President
Thomas Buergenthal, Judge
Rafael Nieto-Navia, Judge
Sonia Picado-Sotela, Judge
Julio A. Barberis, Judge
Antônio A. Cançado Trindade, *ad hoc* judge;

also present,

Manuel E. Ventura-Robles, Secretary and
Ana María Reina, Deputy Secretary

delivers the following judgment pursuant to Articles 44(1) and 45 of the Rules of Procedure of the Court in force for matters submitted to it prior to July 31, 1991 (hereinafter "the Rules") in the instant case submitted by the Inter-American Commission on Human Rights against the Republic of Suriname (hereinafter "the Government" or "Suriname").

I

1. The Inter-American Commission on Human Rights (hereinafter "the Commission") submitted the instant case to the Inter-American Court of Human Rights (hereinafter "the Court") on August 27, 1990. It originated in a petition (N° 10.150) against Suriname, which the Secretariat of the Commission received on January 15, 1988.

2. In filing the application with the Court, the Commission invoked Articles 51 and 61 of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and Article 50 of its Regulations, and requested that the Court determine whether the State in question had violated Articles 1 (Obligation to Respect Rights), 2 (Domestic Legal Effects), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty) and 25 (Right to Judicial Protection) of the Convention, to the detriment of Messrs. Daison Aloeboetoe, Dedemanu Aloeboetoe, Mikuwendje Aloeboetoe, John Amoida, Richenel Voola (alias Aside), Martin Indisie Banai and Beri Tiopo. The Commission also asked the Court *"to adjudicate this case in accordance with the terms of the Convention, and to fix responsibility for the violation described herein and award just compensation to the victims' next of kin."* It appointed the following Delegates to represent it in this matter: Oliver H. Jackman, Member; Edith Márquez-Rodríguez, Executive Secretary; and David J. Padilla, Assistant Executive Secretary.

3. On September 17, 1990, the Secretariat of the Court transmitted the application and its attachments to the Government.

4. By fax of November 6, 1990, the Government of Suriname appointed Lic. Carlos Vargas-Pizarro, of San Jose, Costa Rica, as its Agent.

5. By Order of November 12, 1990, the President of the Court, in agreement with the Agent of Suriname and the Delegates of the Commission and in consultation with the Permanent Commission of the

Court, set March 29, 1991, as the deadline for the Commission's submission of the memorial provided for in Article 29 of the Rules and June 28, 1991, as the deadline for submission by the Government of the counter-memorial provided for in that same article.

6. By note of November 12, 1990, the President asked the Government to appoint an *ad hoc* judge for this case. In a communication dated December 13, 1990, the Agent informed the Court that the Government had named Professor Antônio A. Cançado Trindade of Brasília, Brazil, to that position.

7. By note of February 7, 1991, the Commission appointed Professor Claudio Grossman to serve as its legal adviser in this case.

8. The Commission submitted its memorial on April 1, 1991, and the Court received the counter-memorial of Suriname on June 28 of that same year. Together with the counter-memorial, the Government interposed its preliminary objections.

9. By Order of August 3, 1991, the President directed that a public hearing be convened on December 2, 1991, at 15:00 hours, at the seat of the Court, for the presentation of oral arguments on the preliminary objections. At the request of the Government, the Order also subpoenaed the following witnesses to testify on the preliminary objections: A. Freitas, Military Auditor of the Government of Suriname, and Darius Stanley, investigator of the Department of Investigations of the Military Police of Suriname. The Government subsequently waived the right to have these persons appear as witnesses. In a communication dated November 28, 1991, the Agent informed the Court that Messrs. Ramón de Freitas, Albert Vrede and Fred M. Reid would appear "*as members of the delegation of Suriname*" and identified them as Attorney General of the Republic of Suriname, pathologist and expert, and Third (Embassy) Secretary of the Ministry of Foreign Affairs of Suriname, respectively.

10. The public hearing was held at the seat of the Court on December 2, 1991.

There appeared before the Court

for the Government of Suriname:

Carlos Vargas-Pizarro, Agent

Ramón de Freitas

Albert Vrede

Fred M. Reid;

for the Inter-American Commission on Human Rights:

Oliver H. Jackman, Delegate

David J. Padilla, Delegate.

Although the hearing was convened for the purpose of dealing with the preliminary objections, the Government used it to accept responsibility for the events giving rise to the instant case (*infra* 22).

II

11. The petition filed with the Commission on January 15, 1988, indicates that the events reported occurred in Atjoni (landing stage of the village of Pokigron, District of Sipaliwini) and in Tjongalangapassi, off kilometer 30 in the District of Brokopondo. In Atjoni, more than 20 male, unarmed maroons (**bushnegroes**) were beaten with rifle-butts by soldiers who had detained them under suspicion that they were members of the Jungle Commando. Some of them were seriously wounded with bayonets and knives. They were forced to lie face-down on the ground while the soldiers stepped on their backs and urinated on them.

12. According to the petition, these events occurred in the presence of some 50 persons. Both victims and witnesses came from Paramaribo. In order to return to their village, they had to pass through Atjoni. All of them denied that they belonged to the Jungle Commando. The Captain of the village of Gujaba made a point of telling Commander Leeftang of the Army that the persons in question were civilians from several different villages. Commander Leeftang ignored this information.

13. After the events at Atjoni, the soldiers allowed some of the maroons to continue on their way. However, seven of them, including a 15-year old boy, were blindfolded and dragged into a military vehicle and driven towards Paramaribo along the Tjongalangapassi road. Before leaving, a soldier declared that they would celebrate the end of the year with them. The names of the persons taken away in the military vehicle, their place of origin and birth dates (in some cases) are as follows: Daison Aloeboetoe, of Gujaba, born on June 7, 1960; Dedemanu Aloeboetoe, of Gujaba; Mikuwendje Aloeboetoe, of Gujaba, born on February 4, 1973; John Amoida, of Asindonhopo (resident of Gujaba); Richenel Voola, alias Aside or Ameikanbuka, of Grantatai (found alive); Martin Indisie Banai, of Gujaba, born on June 3, 1955; and Beri Tiopo, of Gujaba.

14. The petition goes on to state that the vehicle stopped on reaching kilometer 30 and that the soldiers ordered the victims to get out. Those who did not were forcibly dragged out. They were given a spade and ordered to begin digging a short distance away from the road. When one of the victims asked what they were digging for, one of the soldiers answered that they were going to plant sugar cane and another repeated that they would be celebrating the end of the year with them. Aside tried to escape. They shot at him and he fell to the ground, wounded, but they did not go after him. A little later, shooting and screaming were heard. The other six maroons were killed.

15. On Saturday, January 2, 1988, men from Gujaba and Grantatai took the road to Paramaribo in order to demand information from the authorities about the seven victims. When they reached Paramaribo,

nobody was able to tell them the whereabouts of the victims. While in Paramaribo, they met with Orna Albitrouw (Coordinator of the Interior at Volksmobilisatie) and with the Military Police of Fort Zeeland, where they tried to see Vaandrig Achong, the Head of S-2. On Monday, January 4, they returned to the Tjongalanga area. When they came to kilometer 30 at 7 p.m., they found Aside, who was seriously wounded and in critical condition, as well as the bodies of the other victims. Aside, who had a bullet embedded in the muscle above his right knee, stated that he was the only survivor of the massacre, the victims of which had already been partially devoured by vultures. Aside's wound was infested with maggots, and an "X" had been carved into his right shoulder blade. The group returned to Paramaribo. The representative of the International Red Cross obtained a permit to evacuate Mr. Aside after negotiating with the authorities for 24 hours. He was admitted to the Academic Hospital of Paramaribo on January 6, 1988. Despite the care provided, however, he died some days later. On January 8 and 9, the Military Police prevented Aside's relatives from visiting him in the hospital. It was not until January 6 that the next of kin of the other victims received permission to bury them.

16. The petition is signed by Stanley Rensch. He avers that he spoke twice with Aside about the events reported and that Aside's version of the events coincides with that provided by more than 15 persons, among them eyewitnesses and participants in the search.

17. On February 1, 1988, the Commission opened case N° 10.150 and processed it through May 15, 1990. On that date, invoking Article 50 of the Convention, it drew up Report N° 03/90 in which it resolved the following:

1. To admit the present case.
2. To declare that the parties have been unable to achieve a friendly settlement.
3. To declare that the Government of Suriname has failed to fulfill its obligations to respect the rights and freedoms contained in

the American Convention on Human Rights and to assure their enjoyment as provided for in Articles 1 and 2 of the same instrument.

4. To declare that the Government of Suriname violated the human rights of the subjects of this case as provided for by Articles 1, 2, 4(1), 5(1), 5(2), 7(1), 7(2), 7(3), 25(1), and 25(2) of the American Convention on Human Rights.

5. To recommend to the Government of Suriname that it take the following measures:

a. Give effect to Articles 1 and 2 of the Convention by assuring respect for and enjoyment of the rights contained therein;

b. Investigate the violations that occurred in this case and try and punish those responsible for their occurrence;

c. Take necessary measures to avoid their reoccurrence;

d. Pay a just compensation to the victims' next of kin.

6. To transmit this report to the Government of Suriname and to provide the Government with 90 days to implement the recommendations contained herein. The 90 day period shall begin as of the date this report is sent. During the 90 days in question the Government may not publish this report, in keeping with Article 47(6) of the Commission's Regulations.

7. To submit this case to the Inter-American Court of Human Rights in the event that the Government of Suriname should fail to implement all of the recommendations contained in numeral 5 above.

18. On August 27, 1990, the Commission referred the instant case to the Court.

III

19. The Court has jurisdiction to hear the instant case. Suriname has been a State Party to the Convention since November 12, 1987, when it also recognized the contentious jurisdiction of the Court pursuant to Article 62 of the Convention.

IV

20. In its memorial, the Commission requested the following:

That the Honorable Court find the State of Suriname responsible for the deaths of Messrs. Aloeboetoe, Daison; Aloeboetoe, Dedemanu; Aloeboetoe, Mikuwendje; Amoida, John; Voola, Richenel, alias Aside [or] Ameikanbuka (found alive); Banai, Martin Indisie, and Tiopo, Beri, while in detention, and hold that these deaths violate Articles 1(1) (2), 4(1), 5(1) (2), 7(1) (2) (3) and 25 of the American Convention on Human Rights.

That the Court find that Suriname must pay adequate reparation to the victims' next of kin and, consequently, order the following: payment of indemnization for indirect damages and loss of earnings; reparation for moral damages, including the payment of compensation and adoption of measures to restore the good name of the victims; and the investigation of the crime committed, with due punishment for those found to be guilty.

[. . .]

That the Court order Suriname to pay for the costs incurred by the Commission and the victims in the instant case.

21. The counter-memorial presented by Suriname requested the Court to declare that:

1.-Suriname cannot be held responsible for the disappearance and death of the persons named by the Commission.

2.-In view of the fact that it has not been proved that the violation attributed to Suriname was committed, Suriname should not have to pay compensation of any type whatsoever for the death and disappearance of the persons listed in the Commission's report.

3.-Suriname be exempted from the payment of costs in the instant case, since its responsibility for the executions attributed to it has not been demonstrated.

V

22. At the hearing, convened on December 2, 1991, for the purpose of dealing with the preliminary objections (*supra* 10), the Agent of Suriname declared that "[t]he Republic of Suriname, having reference to the first case being considered in the proceedings now before the Court, accepts responsibility for the consequences of the Pokigron case, better known as Aloeboetoe et al." He later added: "I simply wish to reiterate [that Suriname] accepts its responsibility in the instant case." Following a request for clarification by the Commission's Delegate, Mr. Jackman, the Agent for Suriname subsequently explained: "I believe my statement was clear: it accepts responsibility. Consequently, the Court has the right to close the case, file it, determine the compensation payable or do whatever is appropriate under the law."

23. In view of the fact that the Government of Suriname has acknowledged its responsibility, the Court holds that the dispute concerning the facts giving rise to the instant case has now been concluded. As a result, all that remains is for the Court to decide on reparations and court costs.

VI

Now, therefore,

THE COURT

unanimously,

1. Notes the admission of responsibility proffered by the Republic of Suriname and finds that the dispute relating to the facts giving rise to the instant case has now been concluded.

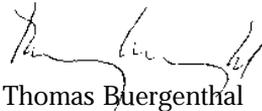
unanimously,

2. Decides to retain the case on its docket in order to fix reparations and costs.

Done in Spanish and English, the Spanish text being authentic, at the seat of the Court in San Jose, Costa Rica, this fourth day of December, 1991.



Héctor Fix-Zamudio
President



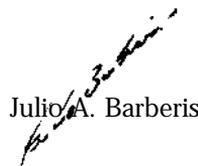
Thomas Buergenthal



Rafael Nieto-Navia



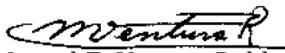
Sonia Picado-Sotela



Julio A. Barberis



Antônio A. Cançado Trindade



Manuel E. Ventura-Robles
Secretary

Read at the public hearing held at the seat of the Court in San Jose, Costa Rica, on December 6, 1991.

So ordered,



Manuel E. Ventura-Robles
Secretary



Héctor Fix-Zamudio
President