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REPORT No. 219/19
PETITION 459-08
REPORT ON ADMISSIBILITY

ANANT KUMAR TRIPATI
UNITED STATES OF AMERICA

Approved electronically by the Commission on October 24, 2019.

Cite as: IACHR, Report No. 219/19, Petition 459-08. Admissibility. Anant Kumar Tripathi.
United States of America. October 24, 2019



I. INFORMATION ABOUT THE PETITION

Petitioner	Anant Kumar Tripati ¹
Alleged victim	Anant Kumar Tripati
Respondent State	United States
Rights invoked	Articles 5 (right to humane treatment); 8 (right to a fair trial); 12 (freedom of conscience and religion) and 24 (right to equal protection) of the American Convention on Human Rights ² and other international treaties ³

II. PROCEEDINGS BEFORE THE IACHR⁴

Filing of the petition	April 17, 2008
Additional information received during initial review	August 30 and October 12, 2011; February 8 and November 14, 2012
Notification of the petition	September 24, 2013
State's first response	October 22, 2014
Additional observations from the petitioner	January 12, 2015; November 11 and December 4, 2017
Additional observations from the State	August 10, 2015

III. COMPETENCE

<i>Ratione personae:</i>	Yes
<i>Ratione loci:</i>	Yes
<i>Ratione temporis:</i>	Yes
<i>Ratione materiae:</i>	Yes, American Declaration of the Rights and Duties of Man ⁵ (ratification of the OAS Charter on June 19, 1951 and in conformity with Article 20 of the IACHR's Statute and Article 51 of its Rules of Procedure)

IV. DUPLICATION OF PROCEDURES AND INTERNATIONAL RES JUDICATA, COLORABLE CLAIM, EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

Duplication of procedures and international <i>res judicata</i>	No
Rights declared admissible	Articles I (life, liberty and personal security), II (equality before law) III (religious freedom and worship), IV (freedom of investigation, opinion, expression and dissemination), X (inviolability and transmission of correspondence), XI (the preservation of health and well-being), XVIII (fair trial), XXV (protection from arbitrary arrest) and XXVI (due process of law) of the American Declaration
Exhaustion or exception to the exhaustion of remedies	Yes, in the terms set forth in Section VI
Timeliness of the petition	Yes, in the terms set forth in Section VI

V. SUMMARY OF ALLEGED FACTS

1. Mr. Anant Kumar Tripati (hereinafter "Mr. Tripati" or the "alleged victim") claims to be "falsely imprisoned" in the United States since 1992 and that his arrest, prosecution and conviction were the result of fabricated charges and the collusion between the state courts, attorneys and law enforcement officers which has affected his rights. Moreover, the alleged victim claims to have been the subject of retaliatory action while in prison, including the denial of food and medical treatment, the destruction of his

¹ The petition was initially presented by Mr. Frederick A. Romero, whose representation of Mr. Tripati was rescinded on May 5, 2015.

² Hereinafter, "the American Convention" or "the Convention."

³ Articles 7, 9 and 14 of the International Covenant on Civil and Political Rights; and Articles 5, 7, 8, 10, 18 and 30 of the Universal Declaration on Human Rights.

⁴ The observations submitted by each party were duly transmitted to the opposing party.

⁵ Hereinafter, "the American Declaration" or "the Declaration."

personal belongings and legal documents, and the refusal to grant him access to legal counsel, resources and material.

2. The petition alleges that Mr. Tripathi lived in California where he founded Legal Research Associates in Beverly Hills. He claims that he was investigating corruption and other illegal activities of authorities of Maricopa County and Arizona's judicial system and that these authorities took retaliatory measures against him upon learning that he intended to expose his findings.

3. In this regard, he claims that the Maricopa County District Attorney's Office fabricated evidence against him and falsely accused him of attempting to defraud the state of Arizona in a bail bond scheme concerning the release of four persons held in the Maricopa County jail. He claims that as a result of these charges a California court ordered his arrest and the seizure of his property. He states that authorities from the states of California and Arizona arrested him at his workplace on June 24, 1992, and seized documents that were not included in the court order, such as those concerning the corruption and illegal activities of the judicial authorities of Maricopa County, which were later deliberately destroyed by these authorities.

4. Furthermore, Mr. Tripathi affirms that he was denied the right to a fair trial since he was not provided with effective assistance of counsel in both the trial court and on appeal, and because the prosecution intimidated witnesses and presented perjured testimony as evidence. Likewise, he alleges that the public defender assigned to him was overworked and failed to present evidence that was fundamental to his case and that the trial court also prevented him from presenting evidence in his defense. On November 30, 1993 he was convicted and sentenced to 28 years for fraudulent schemes, 20 years for attempted fraudulent schemes and 4 and a half years for false swearing, resulting in a prison sentence of 52 and a half years without the possibility of parole.

5. The petition indicates that the alleged victim appealed his 1993 conviction to the Court of Appeals of the state of Arizona, which issued its judgment on February 22, 1996, finding no fundamental error and affirming the conviction and sentences. He claims to have filed numerous appeals, motions and habeas petitions since then in order to seek relief from his criminal conviction and for the violation of his constitutional rights under the U.S. Civil Rights Act. He claims that proceedings regarding the violation of his civil rights ended when the U.S. Supreme Court denied his *writ of certiorari* on February 19, 2008.⁶

6. The petitioner alleges that prison authorities have taken retaliatory actions against him as a result of his continued efforts to litigate his case and as a result of complaints lodged by him against the Arizona Department of Corrections (hereinafter, "ADOC"). In this regard, he claims that they have denied him access to adequate medical service, have destroyed files relating to his case and denied him access to his counsel and have denied him food prepared in accordance with his Hindu religious beliefs. They have also denied him access to legal resources and information afforded to other inmates and placed him at the farthest end of the prison to restrict access to those resources.

7. According to the petition, the alleged victim has attempted to obtain relief from these measures by communicating them to several authorities. Moreover, in 2017, in order to respond to a request for information from the IACHR, the petitioner requested the U.S. District Court for the District of Arizona to provide him with an electronic copy of judicial documents pertaining to his case since his copies had been lost or destroyed by the ADOC and he did not have funds to pay for new copies. The District Court considered that while it may be able to pay for service of process on behalf of an indigent litigant and, in certain cases, to pay the costs of printing the record on appeal and preparing a transcript of proceedings, the same does not authorize the Court to pay the costs for an indigent litigant's general copy requests. It therefore rejected his request and noted that he could obtain the copies he desired by submitting a written request accompanied by an appropriate payment of 50 cents per page plus a 64 dollar retrieval fee to retrieve his case file from the archives.

⁶ The Commission has not been informed if the petitioner had legal representation throughout all of these proceedings.

8. The United States emphasizes that the U.S. criminal justice system embodies the protections enumerated in the American Declaration and that the petitioner benefited from such safeguards in this case, especially at his criminal trial and through multiple layers of judicial review. In addition, it manifests that by August 2015 the petitioner has filed no fewer than 43 civil cases, the latest of which was a *habeas corpus* petition filed on July 27, 2015, which was still pending a resolution at the time.

9. The State indicates that it does not find any basis for this matter to be considered under the Rules of Procedures of the Commission. Furthermore, it indicates that the petitioner fails to state facts that establish a violation of the rights in the American Declaration and has yet to exhaust the domestic remedies.

VI. EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

10. Both parties indicate that over the past 25 years Mr. Tripati has continued to file numerous appeals and motions seeking the revision of his conviction, both in criminal and civil proceedings. The alleged victim claims that he exhausted domestic remedies on February 19, 2008, the date on which the U.S. Supreme Court rejected the *writ of certiorari* that he filed regarding the violation of his civil rights, and that he then proceeded to file his petition before the IACHR in a timely manner on April 17, 2008. On the other hand, the State, in its submissions filed on August 10, 2015, alleges that since filing his petition before the IACHR, Mr. Tripati has continued to pursue other legal remedies, the latest of which was a *habeas corpus* petition filed on July 27, 2015, and which was still pending a decision at the time. The IACHR has not received additional information concerning the current status of the *habeas corpus* petition.

11. The IACHR recalls that whenever a State alleges a failure to exhaust domestic remedies, it must indicate which remedies should have been pursued and, in addition, demonstrate that they are suitable for remedying the alleged violation. In the present case, the State has indicated that Mr. Tripati has not exhausted domestic remedies due to a pending *habeas corpus* petition filed on July 27, 2015. However, the Commission recalls that the purpose of the requirement of the exhaustion of domestic remedies is to provide the State with an opportunity to remedy the alleged violation, and the information provided by the parties demonstrates that by 2015 the petitioner had already exhausted roughly 40 remedies in challenging his conviction and the alleged constitutional violations, including previous *habeas corpus* petitions. Accordingly, the IACHR considers that the petitioner was not required to exhaust the *habeas corpus* petition filed in July 2015 before presenting his petition before the Commission.

12. In light of the foregoing, the IACHR considers that the petitioner exhausted domestic remedies on February 19, 2008, the date on which the U.S. Supreme Court rejected the *writ of certiorari* that he filed in civil proceedings concerning the alleged violation of his constitutional rights. Furthermore, having exhausted domestic remedies on February 19, 2008, and presented the petition on April 17, 2008, the Commission considers that the requirement of Article 32.1 of the petition has also been met.

13. With respect to the alleged denial of food and medical treatment, the IACHR notes that Mr. Tripati filed multiple medical grievances to the ADOC, many of them subsequent to filing the present petition before the IACHR. Moreover, with respect to the alleged destruction and alteration of evidence, the denial of access to counsel, the opening of his legal correspondence and the denial of access to legal resources, the case file also contains multiple letters sent to the prison warden and the ADOC concerning these matters between 2009 and 2016. In accordance with the doctrine of the IACHR, the analysis concerning the requirements set forth in Article 32.1 of the IACHR Rules of Procedure shall be carried out in light of the situation existing at the moment when it decides on the admissibility or inadmissibility of a petition.⁷

⁷ IACHR, Report No. 15/15, Petition 374-05. Members of the Trade Union of Workers of the National Federation of Coffee Growers of Colombia. Colombia. March 24, 2015, para. 41. Accord I/A Court H.R., *Case of Wong Ho Wing v. Peru*. Preliminary Objection, Merits, Reparations and Costs. Judgment of June 30, 2015. Series C No. 297. paras. 25-28.

VII. COLORABLE CLAIM

14. Without prejudging the merits of the complaint, after examining the position of the parties, and pursuant to the requirements set out in Articles 31 to 34 of its Rules of Procedure, the Inter-American Commission decides to declare the petition admissible for the purpose of examining the alleged violation of the rights set forth in Articles I (life, liberty and personal security), II (equality before law) III (religious freedom and worship), X (inviolability and transmission of correspondence), XI (preservation of health and well-being), XVIII (fair trial), XXV (protection from arbitrary arrest) and XXVI (due process of law) of the American Declaration in the detriment of Mr. Tripati.

15. Furthermore, the IACHR will assess at the merits stage whether the alleged denial of judicial documents to an indigent litigant free of cost could constitute a violation of articles IV (freedom of investigation, opinion, expression and dissemination) of the American Declaration.

16. The IACHR lacks competence *ratione materiae* to declare violations of rights embodied in instruments that are not a part of the inter-American system of human rights. However, in accordance with basic norms of interpretation, the Commission can take the terms of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights into account in applying the American Declaration.

17. Lastly, the IACHR prompts that it has no competence *ratione materiae* to declare violations of the American Convention due to the State has not yet ratified such instrument. However, in accordance with basic norms of interpretation, the Commission can take the terms of the Convention into account in applying the American Declaration.

VIII. DECISION

1. To find the instant petition admissible in relation to Articles I, II, III, IV, X, XI, XVIII, XXV and XXVI of the American Declaration; and

2. To notify the parties of this decision; to continue with the analysis on the merits; and to publish this decision and include it in its Annual Report to the General Assembly of the Organization of American States.

Approved by the Inter-American Commission on Human Rights on the 24th day of the month of October, 2019. Esmeralda E. Arosemena Bernal de Troitiño, President; Joel Hernández García, First Vice President; Antonia Urrejola Noguera, Second Vice President; Margarete May Macaulay, Francisco José Eguiguren Praeli, Luis Ernesto Vargas Silva and Flávia Piovesan, Commissioners.