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REPORT No. 250/23
PETITION 706-21
REPORT ON ADMISSIBILITY

METHONI VERNON
ANTIGUA & BARBUDA

Approved electronically by the Commission on October 10, 2023.

Cite as: IACHR, Report No. 250/23, Petition 706-21. Admissibility. Methoni Vernon. Antigua and Barbuda. October 10, 2023.

I. INFORMATION ABOUT THE PETITION

Petitioner:	Under confidentiality in accordance with Article 28.2 of the Rules of Procedure
Alleged victim:	Methoni Vernon
Respondent State:	Antigua & Barbuda
Rights invoked:	No provisions invoked

II. PROCEEDINGS BEFORE THE IACHR¹

Filing of the petition:	May 3, 2021
Additional information received at the stage of initial review:	May 7, 2021, April 13, 2022, June 23, 2022
Notification of the petition to the State:	May 26, 2022
State's first response:	August 16, 2022
Additional observations from the petitioner:	January 5, 2023, and June 2, 2023

III. COMPETENCE

Competence <i>Ratione personae</i>:	Yes
Competence <i>Ratione loci</i>:	Yes
Competence <i>Ratione temporis</i>:	Yes
Competence <i>Ratione materiae</i>:	Yes, American Declaration of the Rights and Duties of Man ² (ratification of the OAS Charter on December 3, 1981)

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 (right to security of the person), XVIII (right to fair trial), XXV (right to humane treatment; right to be tried without undue delay), and XXVI (right to due process of law) of the American Declaration
Exhaustion of domestic remedies or applicability of an exception to the rule:	Yes, in terms of Section VI
Timeliness of the petition:	Yes, in terms of Section VI

V. ALLEGED FACTS

1. The petition is presented on behalf of the alleged victim Methoni Vernon ("Mr. Vernon"), a national of Jamaica. According to the petition, Mr. Vernon has been in pre-trial custody (in Antigua and Barbuda) awaiting trial for murder since 2016. The petition alleges that this delay violates Mr. Vernon's right to due process. The petition also alleges that Mr. Vernon was physically coerced into making a confession by police officers, in violation of his right to physical security and humane treatment.

2. According to the petition, up to July 2014 Mr. Vernon was a resident of Antigua and Barbuda ("AB"). The petition states that Mr. Vernon travelled to Dominica in July 2014 for a visit. While there, the

¹ The observations submitted by each party were duly transmitted to the opposing party.

² Hereinafter "Declaration" or "American Declaration."

petition indicates that he got romantically involved with a young woman. In 2015, the petition indicates that Mr. Vernon impregnated this young woman, who subsequently gave birth to a son in July 2015.

3. The petition indicates that in early January 2016, Mr. Vernon was arrested by the Dominican police and taken into custody at the police headquarters in Roseau. It appears that Mr. Vernon was arrested for immigration offences³ which rendered him liable to deportation. According to the petition, Mr. Vernon was in police custody for two weeks. The petition alleges that while Mr. Vernon was in custody, an immigration officer asked him if he could afford to buy a plane ticket to return to Jamaica. The petition indicates that Mr. Vernon's son's mother agreed to purchase a plane ticket and that his information was conveyed to the immigration officer.

4. According to the petition, on January 16, 2016, Mr. Vernon was transferred from the police headquarters to the airport. According to the petition, Mr. Vernon was told that he was going to be deported to Jamaica. While at the airport the petition indicates that Mr. Vernon was given travel documents by officials which did not include a plane ticket to Jamaica. The petition further indicates that Mr. Vernon asked the officials about the missing plane ticket. He was told that he was going to be put on a flight to AB; and that on arrival, the government of AB would provide him with a plane ticket to go to Jamaica. The petition indicates that later that day, Mr. Vernon was placed on a flight to AB.

5. The petition alleges that upon arrival in AB, Mr. Vernon was arrested by the AB police and taken to the police headquarters where he was confined to a cell. A few hours later, the petition indicates that Mr. Vernon was taken to a room where two police officers told him that he was responsible for committing the murder of a farmer on July 1, 2014.

6. According to the petition, Mr. Vernon denied any knowledge of this murder and asked to speak to a lawyer. The petition states that a lawyer called Lawrence Daniel came to see Mr. Vernon. The petition indicates that Mr. Vernon told the lawyer that he had no idea of what the police were talking about regarding the alleged murder of the farmer. According to the petition the lawyer asked Mr. Vernon who would be responsible for paying his legal fees. Mr. Vernon indicated that he did not know who would be responsible for paying the legal fees. The petition indicates that after the lawyer left, police officers came back to Mr. Vernon. According to the petition, these police officers beat Mr. Vernon and coerced him into signing a confession that he murdered the farmer. A few days later Mr. Vernon was formally charged with murder.

7. The petitioner indicates that for over five years Mr. Vernon has been remanded in custody at the 1735 prison in Antigua, without being tried. According to the petitioner, it appears that Mr. Vernon has been taken before the courts numerous times, but without any conclusive determination. The petitioners indicate that the criminal proceedings against Mr. Vernon are at a "voir dire" phase; that is to say, that the court is in the process of determining whether the confession that he gave to the police was lawfully or unlawfully obtained; and, whether the confession may be admissible evidence (or not). According to the petitioner, the latest date scheduled for Mr. Vernon to return to court is October 23, 2023. The petitioner states that Mr. Vernon is now being represented by a lawyer called Andrew Okola. The petitioners also indicate that in October 2022, the court granted bail to Mr. Vernon. However, the petitioner alleges that the necessary paperwork has not been made available for signature by the sureties identified to secure bail for Mr. Vernon. Therefore, the petitioner asserts that Mr. Vernon continues to be remanded in custody. The petition contends that the delay in conducting and completing Mr. Vernon's trial is a violation of his right to due process. The petition was filed on behalf of Mr. Vernon on May 3, 2021.

8. The State rejects the petition's claim that Mr. Vernon has been subjected to delay in completing his criminal trial. With reference to a chronology supplied by the Director of Public Prosecutions, the State indicates that between June 2017 and Jun 2022, criminal proceedings relating to Mr. Vernon have come before the courts fifty-three times, with the intention of setting trial dates. According to the State, the chronology shows that there were numerous adjournments attributable for several reasons including: absence of counsel;

³ The petition is a bit disjointed, but it does appear that Mr. Vernon was arrested for overstaying his visitor's visa, which in turn made him liable to deportation.

and multiple changes of counsel by Mr. Vernon. The State also indicates that the trial of Mr. Vernon commenced on June 3, 2022. The State indicates that a *voir dire* was requested⁴, but this process ended prematurely because Mr. Vernon made certain allegations⁵ against another of his own attorneys who then recused himself from the matter.

VI. ANALYSIS OF EXHAUSTION OF DOMESTIC REMEDIES AND TIMELINESS OF THE PETITION

9. The Commission observes that the petition contains two main complaints: (a) the physical assault of Mr. Vernon by police officers to extract a confession; and (b) unwarranted delay in conducting or completing the trial of Mr. Vernon (since his arrest in 2016).

10. With respect to the first complaint, the Commission has long established that under international standards applicable to cases like this one, where serious human rights violations such as torture or inhumane treatment are alleged, the appropriate and effective remedy is precisely the undertaking of an effective criminal investigation aimed at clarifying the facts and, if necessary, individualize and prosecute the persons responsible. Based on the record, the alleged physical assault on Mr. Vernon occurred in January 2016 shortly after his arrest. The State has not disputed this allegation. Further, the Commission observes that based on the record, there appears to be a *voir dire* proceeding pending to determine whether the confession extracted from Mr. Vernon was lawful. Accordingly, the State would presumably be on notice of Mr. Vernon's allegation that the police physically assaulted him to extract a confession). The Commission further notes that after more than seven years, there is no indication that the State undertook or completed any criminal investigation to clarify the facts or to identify or prosecute those responsible for the alleged assault on Mr. Vernon. Consequently, the IACHR concludes that in accordance with the provisions of Article 31.2 (c) of its Rules of Procedure the exception to the exhaustion of domestic remedies applies.

11. Having regard for the absence of a criminal investigation, and the time that has elapsed since the alleged physical assault, the IACHR considers that the filing of the claim (under the petition of May 3, 2021), was filed within a reasonable time, pursuant to Article 32.2 of the Commission's Rules of Procedure.

12. Regarding the second complaint, the record shows that Mr. Vernon was charged with murder in 2016, but to date has not had the benefit of a completed trial. According to the State, the criminal proceedings have been adjourned fifty-three times between June 2017 and June 2022, with a trial date scheduled for September 2022. The State has attributed the delays to Mr. Vernon (for reasons such as frequent changes of counsel). However, the State did not provide any information on whether any criminal proceedings regarding Mr. Vernon were conducted between 2016 and 2017. In this regard, without prejudging the merits of this matter, the Commission notes that every individual who has been deprived of his liberty has the right the right to be tried without undue delay or, otherwise, to be released. Accordingly, the Commission considers that this places the onus on the State of conducting and completing a criminal trial within a reasonable time. Given the foregoing, the Commission considers that, *prima facie*, seven years constitutes an unwarranted delay in completing the trial of Mr. Vernon, particularly given that he has been in custody since his arrest. The Commission therefore considers that pursuant to Article 32.2(c) of its Rules of Procedures this claim qualifies for an exception to the exhaustion requirement. Given that the consequences of the delay are ongoing, the IACHR further considers that the claim was filed (under the petition of May 3, 2021), was done within a reasonable time, pursuant to Article 32.2 of the Commission's Rules of Procedure.

⁴ The State does not expressly state the purpose of the *voir dire* proceedings. However, based on the totality of the record, it is inferred that the *voir dire* (essentially a trial within a trial) was initiated for the purpose of determining the admissibility of Mr. Vernon's alleged confession to the police.

⁵ The State does not indicate the nature of these allegations.

VII. ANALYSIS OF COLORABLE CLAIM

13. In view of the factual and legal elements presented by the parties and the nature of the matter brought to its attention, the Commission considers that the petition is not manifestly unfounded. In this regard, the Commission believes that the allegations regarding: (a) physical assault on Mr. Vernon by police officers (to extract a confession); and (b) the failure of the State to act with due diligence or within reasonable time to investigate and clarify the facts (regarding the alleged abuse) are not manifestly unfounded and could characterize possible violations of Article I (right to security of the person); Article XXV (right to humane treatment); and Article XXVI (right to due process of law) of the American Declaration.

14. Secondly, the Commission considers that the allegations regarding the delay in conducting or completing the trial of Mr. Vernon are not manifestly unfounded, and if proved, could characterize violations of Article XVIII (right to fair trial) and Article XXV (right to be tried without undue delay) of the American Declaration.

VIII. DECISION

1. To find the instant petition admissible in relation to Articles I, 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 10th day of the month of October, 2023. (Signed:) Margarete May Macaulay, President; Roberta Clarke, Second Vice President; Julissa Mantilla Falcón and Carlos Bernal Pulido, Commissioners.