

WorldCourts™

Institution:	Inter-American Commission on Human Rights
File Number(s):	Cases Nos. 1716 and 1731
Session:	Thirtieth Session (16 - 27 April 1973)
Title/Style of Cause:	Joseph Nicolas Gaetjens, Kesner Blain, Roland Chassagne and others v. Haiti
Doc. Type:	Resolution
Decided by:	President: Dr. Justino Jimenez de Aréchaga (Uruguay) Vice-President: Dr. Carlos A. Dunshee de Abranches (Brazil) Members: Professor Manuel Bianchi (Chile); Dr. Gabino Fraga (Mexico); Dr. Robert Woodward (United States); Dr. Genaro R. Carrio (Argentina); Dr. Andrés Aguilar (Venezuela)
Dated:	24 April 1973
Citation:	Gaetjens v. Haiti, Cases 1716 and 1731, Inter-Am. C.H.R., OEA/Ser.L/V/II.32, doc. 3 rev. 2 (1973)
Terms of Use:	Your use of this document constitutes your consent to the Terms and Conditions found at www.worldcourts.com/index/eng/terms.htm

[I] At its Thirtieth Session (April 1973), the Commission approved resolutions on these cases [Cases 1716 and 1731] in which, pursuant to Article 9 (bis).b of its Statute and Article 52 of its Regulations, it made such recommendations to the Government of Haiti as it considered appropriate in each case.

[II] Those resolutions were transmitted to the Government of Haiti with a note dated June 20, 1973, and to the claimants with a letter of the same date.

[III] At its Thirty-First Session (October 1973), and in view of the fact that the Government of Haiti had not informed the Commission of measures adopted with regard to the recommendations contained in the above-mentioned resolutions, the Commission, in light of the recommendations of the rapporteur, Prof. Manuel Bianchi, and in application of Article 57 of its Regulations, decided to include the resolutions on cases 1716 and 1731 in its annual report to be submitted to the General Assembly.

The resolutions are as follows:

Case 1716 (OEA/Ser.L/V/II.30, doc.9 rev.1, April 24, 1973):

WHEREAS:

[1] A communication of July 8, 1971, denounced the arbitrary detention of a Haitian citizen, Mr. Joseph Nicolas Gaetjens, on July 8, 1964, in the city of Port-au-Prince, indicating that since that date there has been no further information as to his whereabouts or situation, that it has not been shown that he has been brought before the competent authority, and that there is fear for his life;

[2] Pursuant to the power granted by Article 9 (bis) of its Statute, the Commission requested from the Government of Haiti, by note dated July 9, 1971, the appropriate information and forwarded the pertinent

parts of the aforementioned communication, in the manner prescribed by articles 42 (1) and 44 of its Regulations;

[3] At the twenty-seventh session (February-March 1972), the Commission took note of the fact that the Government of Haiti had not supplied the requested information and, in view of the fact that the term of 180 days provided by Article 51 of the Regulations has elapsed, decided again to ask the government for this information. This decision was communicated to that government by note of March 30, 1972, which, moreover, notified that government of the possible application of Article 51 of the Regulations;

[4] The Government of Haiti has not provided the requested data; and

[5] Article 51 of the Regulations reads as follows:

1. The occurrence of the events on which information has been requested will be presumed to be confirmed if the Government referred to has not supplied such information within 180 days of the request, provided always, that the invalidity of the events denounced is not shown by other elements of proof.

2. The Commission may make an extension to the term of 180 days in cases in which it finds it justified;

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLVES:

1. To consider proved the events denounced in the communication of July 8, 1971, through application of Article 51 of the Regulations.

2. To call the attention of the Government of Haiti to the fact that these events constitute a very serious violation of the right to liberty and personal security.

3. To recommend to the Government of Haiti that it order an investigation of these events and that it put an end to the arbitrary detention that Joseph Nicolas Gaetjens might be undergoing and that it adopt the necessary measures to punish those responsible.

4. To recommend to the Government of Haiti that it grant reparation or compensation to those persons to whom it is due by law.

5. To transmit the text of this resolution to the Government of Haiti and to the claimants.

Case 1731 (OEA/Ser.L/V/II.30, doc.10 rev.1, April 24, 1973):

WHEREAS:

[1] The following events were denounced in a communication dated November 26, 1971:

a. The arbitrary arrest of Haitian citizens who had returned to the country to spend their vacation, as in the case of a number of professors and students returning from France and various African countries in July 1971;

b. The torture of political prisoners in the place called "Fort Dimanche," where, since April 1963, Colonel Kesner Blain and Mr. Roland Chassagne, among others, have been kept in cells without adequate ventilation, fed with corn meal and water, and deprived of medical care, and where many prisoners are suffering from tuberculosis;

c. The "amnesty" decreed by the government in April 1971 has had no effect, since it was issued in

an attempt to improve the image of the country and the government before world opinion;

[2] Subsequently, this communication was supplemented by a communication dated January 20, 1972, concerning the case of Mr. Roland Chassagne, denouncing that:

"On April 26, 1963, between 2 and 3 p.m., Roland Chassagne, who was working at the 'Deschamps' printing shop located on Jean Jacques Dessalines Boulevard, Port-au-Prince, was arrested by four 'Tonton-Macoutes' led by a man by the name of Durand, a lawyer domiciled in Clerveaux Street, Petionville. The arrest was witnessed by Georges Chassagne, a brother of Roland Chassagne. The patrol took off in an automobile in the general direction of the Department of the Interior, Police Headquarters in the National Palace.

"Minutes later, Georges Chassagne himself ascertained that his brother was being taken to 'Fort Dimanche.'

"Georges Chassagne was granted an interview by the Secretary of State for the Interior, to whom he reported the illegal arrest and requested the release of his brother. The Secretary stated that the matter would be considered, but since then no information has been forthcoming.

"In accordance with legal procedures, any person arrested is to be brought before the competent authority without delay, therefore, in the case of Roland Chassagne this alone constitutes a violation of basic legal principles. He has not been brought before any judge, and the reason for his arrest and, also, for his disappearance is not know. All this constitutes a violation of human rights, of the principles of the OAS and of other international instruments of which Haiti is a signatory. We request the release of the unfortunate citizen Roland Chassagne";

[3] The Commission, in exercise of the authority granted it by Article 9 (bis) of its Statute, requested the Government of Haiti, in a note of March 29, 1972, to provide information on this matter and transmitted to it, at the same time, the pertinent parts of the above-mentioned communications, in the manner established in articles 42 (1) and 44 of its Regulations;

[4] The Government of Haiti, by note dated May 9, 1972 (POL/NAL/A28-166), informed the Commission that:

"We request that the Commission kindly take note of the fact that in the files of the police (Police Judiciaire) there is no record of any person of that name having been arrested on April 26, 1963. With their wild imaginations, these individuals, despised by the Haitian electorate, in their insatiable thirst for power and easy pleasures, do not hesitate to create other imaginary persons that they try to convert into victims with the evident intent of harming the good name of the Haitian Government abroad. The Commission should guard against continuing to be used by these political hypocrites who, in order to satisfy their ambition, do not hesitate to resort to any means to harm their native land";

[5] Pursuant to Article 42 of the Regulations, the pertinent parts of the information provided by the Government of Haiti were sent to the claimants, under a note dated June 1, 1972;

[6] The claimants, in a communication dated July 15 of the same year, supported their complaint, with particular reference to the information supplied by the Government of Haiti, with documents corroborating the events denounced;

[7] At its twenty-ninth session (October 16-27 1972), the Commission considered this case on the basis of the complaint, the information provided by the Government of Haiti, and the additional data supplied by the claimants and decided to again request the Government of Haiti to send further information on the case and extended by 60 days the term 180 days provided for in Article 51 of the Regulations upon the expiry of which, if no reply were received from the government, the provisions of

this article would be applied;

[8] This decision was communicated to the Government of Haiti by a note dated November 27, 1972;

[9] The term of 60 days has elapsed without the Government of Haiti having supplied the additional information requested, and

[10] Article 51 of the Regulations reads:

1. The occurrence of the events on which information has been requested will be presumed to be confirmed if the Government referred to has not supplied such information within 180 days of the request, provided always, that the invalidity of the events denounced is not shown by other elements of proof.

2. The Commission may make an extension to the term of 180 days in cases in which it finds it justified,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RESOLVES

1. To consider the occurrence of the events denounced in communications of November 25, 1971, and January 20, 1972, to be confirmed, through the application of Article 51 of the Regulations of the Commission, under which case 1731 falls, and which constitute a very serious violation of human rights.

2. To recommend to the Government of Haiti that it grant adequate reparation or compensation to the parties legally entitled thereto for the damage that they may have suffered because of the arbitrary arrest and subsequent disappearance of Roland Chassagne and that it punish the parties responsible for these violations.

3. To recommend to the Government of Haiti that it adopt, in accordance with its internal legislation, effective and prompt measures to ensure respect of these fundamental human rights.

4. To transmit the text of this resolution to the Government of Haiti and to the claimants.

[IV] The Commission transmitted the foregoing resolutions on cases 1716 and 1731 to the Government of Haiti with a note dated June 20, 1973.