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Institution:	Inter-American Commission on Human Rights
File Number(s):	Case No. 1696
Session:	Thirtieth Session (16 - 27 April 1973)
Title/Style of Cause:	Unknown v. Ecuador
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:	26 April 1973
Citation:	Unknown v. Ecuador, Case 1696, Inter-Am. C.H.R., OEA/Ser.L/V/II.32, doc. 3 rev. 2 (1973)

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Case 1696, November 17, 1970, denouncing several events in violation of articles I and XXV of the American Declaration (right to life, liberty, and personal security and right to protection from arbitrary arrest, respectively).

The Commission began its examination of this case at its Twenty-sixth Session (October 1971).

The procedures in the case having been exhausted and the largest possible amount of data having been gathered, the Commission approved the following resolution (OEA/Ser.L/V/II.30, doc.8 rev.l, April 26, 1973) at its Thirtieth Session (April 1973):

WHEREAS:

[1] The following events were denounced in a communication dated November 17, 1970:

"On Tuesday, October 27, 1970, between 3 and 4 a.m., members of the military forces broke into a number of homes, throughout the Republic, belonging to persons considered to be opponents of the present government (liberal, conservative, socialiat, communist, and independent leaders) and proceeded to brutally remove them from their homes, abusing them both physically and verbally; if they did not find the persons they were seeking, they took as hostages their wives, sisters, children, parents, etc., with no regard for their age, health, etc. Sir, this system had never before been put into effect in Ecuador by any government. Mine was one of the homes broken into in Guayaquil, since they did not find me, they took as hostages two of my children, one of them under fifteen years of age.
"On the same day, Tuesday, October 27, the government dictatorially decreed a so-called curfew throughout the Republic, between 9 p.m. and 5 a.m.; it also established martial law. From the early morning of October 27, my home was under close surveillance by government forces. At 3 a.m., on Wednesday, October 28, while the curfew was fully in effect and, therefore, only government forces were on the streets, my home was attacked by government forces and a bomb was set off in the garage. The

bomb was so powerful that the building was destroyed, a distinguished matron who lived next door was killed, and the lives of my wife, sisters, and domestic staff who were with them were seriously endangered.
"Meanwhile, the political prisoners who were being held in the military barracks were subjected to all kinds of abuse and physical and mental torture: they were made to stand for hours with their hands held high on the walls; they were made to sleep on the cement floor; they were threatened during the night and deliberately awakened to be told they were going to be shot. Some prisoners were cruelly beaten and tortured in different ways. This was publicly denounced by the distinguished Ecuadorean writer of international renown, Enrique Gil Gilbert, who was one of the victims and for whom they showed no regard, despite his age and poor health.
"Even at the risk of my life -since, being opposed to the present government, I am considered, along with all other political opponents, a pariah with no guarantee for his life and property- I demand that the body over which you preside intervene directly and forcefully in order to ensure that an end is put to the systematic violation of human rights in Ecuador and that the Ecuadorean Government is required to respect those rights without any kind of political discrimination.
"The rule of law, the enforcement of law, the stability of world peace cannot prevail, cannot be imbued in mankind, cannot be maintained among men, unless indiscriminate respect for human rights is effectively enforced";

[2] In exercise of the authority granted by Article 9 (bis) of its Statute, the Commission requested the Government of Ecuador, by note of January 25, 1971, to provide information on the matter and transmitted to it, at the same time, the pertinent parts of the aforementioned communication, in the manner established in articles 42 (1) and 44 of the Regulations;

[3] By a note dated February 25, 1971, the Government of Ecuador supplied the following information:

"I am pleased to reply to your communication of January 25, in which, pursuant to the Regulations of the Commission over which you preside, you request information concerning the complaint made November 17, 1970, by the Ecuadorean citizen Dr. Jorge Zavala Baquerizo, alleging that the Government of Ecuador has violated fundamental human rights.
"I am pleased to inform you, Mr Chairman, that the Government of Ecuador fully complies with the principles of respect for the rights of man, which have characterized the Republic of Ecuador throughout its history. A serious government, inspired by the deepest idealism, arising from a mutual relationship between the government and the citizens, for if this were not so, the juridical, political, and social order which is the basis for coexistence among citizens and the peace of the Republic would be in jeopardy.
"From the very beginning of Dr Velasco Ibarra's term in office, the Government of Ecuador has maintained the democratic bases of its power and has at all times fully guaranteed the freedoms of its people, both as men and as citizens. Contrary to what Dr. Zavala Baquerizo claims in his complaint, the political parties of Ecuador are completely free to carry on their activities; the mass communication media are absolutely free to carry out their work, a circumstance which has even been acknowledged by the Inter-American Press Association, which has made no criticism whatsoever of the Republic of Ecuador. The Universities of Guayaquil, Cuenca, and Loja are fully open and the Central University of Quito is in the process of being reopened. The prisons of the country are occupied exclusively by common criminals and there are no political prisoners or detainees whatsoever. Only one citizen, Mr. Assad Bucaram, is in exile as a political refugee in the Republic of Panama. The reason for this is that he made an attempt to subvert the public order on September 28, 1970, while he was serving as Provincial Prefect of Guayas. In open rebellion, he took advantage of a public demonstration, inciting the masses with a view to inducing them to commit excesses and violent acts with the clear intention of taking power.
"On the dates referred to in said complaint, the Ecuadorean Government was faced with a serious emergency which required unusual security measures. On October 27, 1970, the Commanding General of

the Ecuadorean Air Force, General César Rohon Sandoval, was kidnapped by individuals who identified themselves as belonging to an influential political group. Their intention was to create a state of chaos and anarchy in order to bring down the government in power. In view of this situation, the government had to take preventive action, which is essential in any state in similar circumstances. It became necessary to arrest temporarily certain opposition leaders and to order the arrest of other citizens -including Dr. Zavala Baquerizo- since there were sufficient grounds to assume, as it was later fully established, that these people were seriously involved in the kidnapping of General Rohon. The aforementioned preventive measures made it possible to discover the motives behind the kidnapping of the General of the Ecuadorean Armed Forces and to complete the investigation into the crime. When, after six days, General Rohon was able to escape from his captors, and the government established, with ample evidence, the causes for the kidnapping, the political leaders who had been arrested were released and the warrants for the arrest of others who had escaped the preventive action were rescinded. Normal conditions were restored, as was the full exercise of civil liberties.
"The kidnapping of the highest officer of the Ecuadorean Air Force, the maltreatment and abuse to which he was subjected, constitute a violation of the most fundamental human rights, which is legally punished in every country in the world. Similar events do occur in certain countries, especially in Latin America, thus making it necessary to remain in a permanent state of emergnecy in order to maintain order and the principles of authority and compliance with civil liberties. In Ecuador such a serious emergency has only occurred once, in October 1970, and once it was overcome the normal state of affairs was restored; this is not the case in other countries. The author of the complaint himself, Dr. Jorge Zavala Baquerizo, presently enjoys absolute liberty and his civic activities are guaranteed by the protection which the State owes to all inhabitants of the Republic. The regrettable criminal assault on the home of Dr. Zavala Baquerizo, which he describes in his complaint, is being thoroughly investigated by the competent government authorities, with a wiew to discovering and duly punishing the plotters, perpetrators, accomplices, and accesories intellectually and materially responsible for it, in accordance with the penal system established by Ecuadorean legislation.
"The press and other information media in the Republic of Ecuador are proof enough to anyone not living in the country of the respect and tolerance of the Ecuadorean Government towards political parties and groups and their leaders, provided they do not attempt to disrupt the order and security of the Ecuadorean State. This is the best evidence of what I have stated in this communication and I therefore refrain from any further comment on the subject";

[4] Pursuant to Article 42 of the Regulations, by a communication dated March 22, 1971, the Commission transmitted to the complainant the pertinent parts of the information supplied by the Government of Ecuador;

[5] At its Twenty-sixth session, held in Washington, D.C., from October 26 to November 4, 1971, the Commission continued its consideration of the case on the basis of the complaint, the information submitted by the Government of Ecuador, and the supplementary information provided by the complainant, and appointed a rapporteur to submit such recommendations as he might deem appropriate;

[6] In accordance with the recommendation of the rapporteur, the Commission again addressed a note to the complainant, dated December 3, 1971, which included the following paragraph:

"Since the Ecuadorean government, in the information it has supplied, states that ‘the regrettable criminal assault on the home of Dr. Zavala Baquerizo, which he describes in his complaint, is being throughly investigated by the competent government authorities, with a view to discovering and duly punishing the plotters, perpetrators, accomplices, and accesories responsible for it, in accordance with the penal system established by Ecuadorean legislation,’ the Commission has decided to ask you to provide supplementary information on the status of such investigations and any other information that may be pertinent to the case";

[7] By a communication dated January 28, 1972, the complainant abandoned his complaint;

[8] Despite such abandonment, and in compliance with its mandate to keep vigilance over the observance of human rights in the American states, the Commisaion pursued its examination of the case at its twenty-seventh session, held in Viña del Mar from February 28 to March 8, 1972, and decided, in accordance with the recommendations of the rapporteur appointed at that session, to request the Government of Ecuador to supply the following supplementary information: "a) what authority has been in charge of the investigation into the assault against the home of Dr. J. Zavala Baquerizo, mentioned in the note from the Government of Ecuador dated February 25, 1971; (b) the status of that investigation; and (c) should any appeal be pending, information on its purpose and status." The Commission further decided to request the Government of Ecuador to supply a "copy of any ruling or decision that might have been issued by the court authorities against the alleged plotters, perpetrators, accomplices, and accesories reaponsible for the assault against the home of Dr. Zavala Baquerizo";

[9] This decision was implemented by a note dated March 29, 1972;

[10] At its twenty-ninth session, held in Washington, D.C., from October 16 to 27, 1972, the Commission noted that the Government of Ecuador had not supplied the information requested and that the period of 180 days specified in Article 51 of the Regulations had elapsed.

[11] Consequently, by a note dated November 1, 1972, the Commmission repeated its request for the aforementioned information, and to this end granted an extension of 60 days to the 180-day period;

[12] The extension granted has elapsed and the Government of Ecuador has not supplied the supplementary information without which the Commission, in view of the abandonment of the case by the complainant, cannot pursue its examination of the matter;

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLVES:

[1] To file the case without making any pronouncement on the merits, in view of the fact that neither the complainant nor the Government of Ecuador has supplied the supplementary information requested and that the Commission has not been able to obtain such information by other means.

[2] To deplore the fact that the Government of Ecuador has not supplied the supplementary information needed for the examination of the case, which was requested by the Commission in exercise of the authority granted it by Article 9 (bis), paragraph b) of the Statute.

[3] To transmit the text of this resolution to the Government of Ecuador and to the complainant.

Pursuant to operative paragraph 3 of that resolution, the Commission addressed the Government of Ecuador in a note dated June 15, 1973, and the claimant on June 19, 1973.