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Institution:	Inter-American Commission on Human Rights
File Number(s):	Cases Nos. 1604, 1721, and 1726
Session:	Thirtieth Session (16 - 27 April 1973)
Title/Style of Cause:	Pedro Luis Boitel, Eloy Gutiérrez Menoyo, Hubert Matos, César Paez, T. Lamas, A. Gamis, L. Blanco, J. Pujal, J. Valls, O. Figueroa and Oriol Acosta y García v. Cuba
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:	27 April 1973
Citation:	Boitel v. Cuba, Cases 1604, 1721 and 1726, Inter-Am. C.H.R., OEA/Ser.L/V/II.32, doc. 3 rev. 2 (1973)
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[I] With respect to these cases, the Commission, at its Twenty-ninth Session (October 1972), decided to make such observations on each case as it considered appropriate in its annual report to the General Assembly of the Organization.

[II] Accordingly, at its Thirtieth Session (April 1973) the Commission approved three resolutions containing appropriate observations for consideration by the General Assembly.

The resolutions read as follows:

Case 1604 (OEA/Ser.L/V/II.30, doc.4 rev.2, April 27, 1973):

WHEREAS:

[1] By communication of October 14, 1965, the following was denounced:

"Reports indicate that Pedro Luis Boitel, the ex-President of the Association of Engineering Students of the University of Havana and candidate for the office of President of the University Student Federation in 1959, is on the brink of death.

"We beseech you to approach the Representatives of the Havana Government in order to see to it that Pedro Luis Boitel is included among the ailing Cubans who are authorized to leave Cuba";

[2] In exercise of the authority granted it by Article 9 (bis) of its Statute, this Commission requested the Government of Cuba, by note of April 28, 1966, 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 its Regulations;

[3] The Government of Cuba did not reply to that request, notwithstanding the urgency and seriousness of the facts set forth in the denunciation;

[4] At its twentieth session (December 1968), the Commission noted that the Government of Cuba had not yet furnished the information requested and, since the 130-day period specified in Article 51 of the Regulations had elapsed, it decided, pursuant to subparagraph 1) of that article, to presume the confirmation of the occurrence of the events denounced;

[5] By note of February 14, 1969, it informed the Government of Cuba of the decision adopted at its twentieth session and stated, in addition, that the Commission assumed that the appropriate authorities of that government had already taken the necessary steps to terminate the conditions in which Mr. Pedro Luis Boitel found himself, because they constitute violations of the American Declaration of the Rights and Duties of Man;

[6] The Government of Cuba did not reply to that note either;

[7] Inasmuch as it continued to receive communications or claims from persons and organizations, including Mr. Pedro Luis Boitel himself, describing the distressing conditions under which he and other political prisoners continued to be confined in Cuba, the Commission decided at its twenty-second session (November 1969) to reopen consideration of this and other cases and, by note of November 22, 1969, informed the then Council of the Organization of American States that:

"At the present moment, the Commission has been informed through many denunciations and various depositions, which it considers trustworthy, of the extremely serious situation that has been created for the political prisoners of that country, of which there are tens of thousands".

The aforementioned note stated that:

"According to these denunciations and dispositions as a consequence of the cruel, inhuman, and degrading treatment of these prisoners, especially in the prison 'La Cabaña', a hunger strike took place several months ago which lasted 36 days and ended with the deaths of several of them and the lives of many of the others in danger. This desperate reaction on the part of the political prisoners, initiated in 'La Cabaña', under the slogan 'deportation or death' (in response to the fact that the Government of the United States had indicated its willingness to receive those deported from the island) provoked similar movements in other prisons. According to reports in the hands of the Commission, the Cuban Government's response has been to aggravate the inhuman treatment of these citizens to unbearable levels. We have also received denunciations of the elimination of medical attention and medicines, the deprivation of proper clothing and indispensable minimum diet, the imposition of forced labor and of all kinds of physical and mental torture to the point of feigning executions, etc. However, not only the political prisoners have received this unacceptable treatment but their mothers and wives have also been submitted to all kinds of harassment and moral torture. These women have been denied any communication with their jailed relatives and the acme of cruelty was reached during the hunger strike when announcements were made from time to time to them of the deaths of prisoners but without giving names";

In addition, the communications of November 22, 1969, reported that:

"According to news received by the Commission, aggravation of the conditions of the Cuban political prisoners is continuing at the present time with many of them in imminent danger of death. Specifically, in relation to the circumstances referred to in this note, the Commission sent a request for information by

cable to the Government of Cuba on October 18 and 23rd, 1969, to which there has been no reply so far";

Finally, that note to the then Council of the Organization stated that:

"Moved by deeply humane considerations, the Commission has deemed it necessary to urgently advise the Council of the Organization regarding these extremely grave events so that the member states may be cognizant of them and in the hope that the Council, with broader and more varied means of action at its disposal, as well as the governments represented on it, may arrange effective formulas for the protection of so many human beings under imminent risk of death".

[8] On May 15, 1972, the Commission was informed that Mr. Pedro Luis Boitel, still a prisoner in the "El Principe" Castle in Havana, was seriously ill as a result of the maltreatment and torture to which he continued to be subjected;

[9] The Commission, in exercise of the authority granted in by Article 9 (bis) of its Statute, again requested the Government of Cuba, in a note of May 24, 1972, to provide information on this 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 its Regulations;

[10] On May 28, 1972, the Commission received a communication informing it that Mr. Pedro Luis Boitel had died in prison, after eleven years of captivity, as a result of the ill-treatment he had received;

[11] At that time, and pursuant to its Regulations, the Commission sent a note on June 6, 1972, to the Government of Cuba requesting it to send the information it considered appropriate on this case;

[12] The Commission, at its twenty-ninth session (October 1972), in application of Article 9 (bis) c) of its Statute, decided to make the observations it deemed appropriate on this case in the annual report it is required to submit to the General Assembly of the Organization;

[13] Neither the formulation of such observations nor, in general, the competence of this Commission to take cognizance of denunciations regarding violations of human rights committed in the territory of Cuba is barred by the measures adopted by the Organization of American States with respect to the present government of that country, since that government has not denounced the Charter of the Organization, as provided for in Article 148 of the Charter, for which reason it is the duty of this Commission to continue to take cognizance of these denunciations;

[14] In view of the systematic silence of the present Government of Cuba in the face of the numerous communications received from the Commission, it would serve no practical purpose to make recommendations to that government of the type envisaged in articles 9 paragraph b) and 9 (bis) paragraph b) of the Statute. However, this does not prevent the Commission from making known to the Assembly the judgments merited by the events denounced.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RESOLVES:

1. To make known to the Assembly that the events denounced in case 1604, and imputable to the Government of Cuba, constitute a very serious case of violation of the right to life, liberty, and personal security, set forth in Article I of the American Declaration of the Rights and Duties of Man.
2. To transmit the text of this resolution to the Government of Cuba and to the claimants.

Case 1721 (OEA/Ser.L/V/II.30, doc.5 rev.2, April 27, 1973):

WHEREAS:

[1] The following was denounced in a communication of August 5, 1971:

"In El Principe Castle, Sixth Section, there is a group of ten men, political prisoners, who have been totally isolated from the other inmates since December 19, 1970.

"Their names are: Eloy Gutiérrez Menoyo, Hubert Matos, Pedro Luis Boitel, César Paez, T. Lamas, A. Gamis, L. Blanco, J. Pujal, J. Valls, and O. Figueroa.

"The majority of these ten men were kept in the Guanajay Prison, and on December 13 they were ordered to collect their few and wretched belongings and were kept totally incommunicado until the next day, when they were transferred to El Principe Castle and confined in the Sixth Section.

"Since then (exactly seven and a half months ago), the only contact these men have had with other persons is on visiting days, once a month, when one or two relatives are allowed inside the prison. The visit lasts for one or two hours and it is conducted in private (not in the place intended for visits), and nobody else is allowed to see them, nor can they see anybody else.

"They are allowed to use a tiny patio measuring approximately 3 by 10 meters, enclosed on all four sides by huge whitewashed walls which, despite their height, allow the passage of a little sunshine from 12 to 3 p.m.";

[2] In exercise of the authority granted it by Article 9 (bis) of its Statute, the Commission requested the Government of Cuba, in a note of November 17, 1971, to provide information on the matter and transmitted to it, at the same time, the pertinent parts of the above-mentioned communication, in the manner established in articles 42(1) and 44 of its Regulations;

[3] At its twenty-ninth session (October 1972), the Commission noted that the Government of Cuba had not yet furnished the information requested and that the 180-day period specifies in Article 51 of its Regulations had elapsed;

[4] 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;

[5] At that twenty-ninth session (October 1972), the Commission, through application of Article 9 (bis), paragraph (c), of the Statute, resolved to include in the annual report to be submitted to the General Assembly of the Organization such observations on the matter as it considered appropriate.

[6] Neither the formulation of such observations nor, in general, the competence of this Commission to take cognizance of denunciations regarding violations of human rights committed in the territory of Cuba is barred by the measures adopted by the Organization of American States with respect to the present government of that country, since that government has not denounced the Charter of the Organization as provided for in Article 148 of the Charter, for which reason it is the duty of this Commission to continue to take cognizance of these denunciations;

[7] In view of the systematic silence of the present Government of Cuba in the face of the numerous communications received from this Commission it would serve no practical purpose to make

recommendations to that government of the type envisaged in articles 9 paragraph (b), and 9 (bis) paragraph (b) of the Statute. However, this does not prevent the Commission from making known to the Assembly the judgments merited by the events denounced,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLVES:

1. To consider confirmed, through application of Article 51 of the Regulations, the occurrence of the events denounced in the communication of August 5, 1971.
2. To make known to the Assembly that the events in question constitute a very serious violation of the right to liberty and personal security, set forth in Article I of the American Declaration of the Rights and Duties of Man, and that such events are imputable to the Government of Cuba.
3. To transmit the text of this resolution to the Government of Cuba and to the claimants.

Case 1726 (OEA/Ser.L/V/II.30, doc.6 rev.2, April 27, 1973):

WHEREAS:

[1] A communication of October 10, 1971, alleged that, in the jail of the town of Manacas, Province of Las Villas, Cuba, Mr. Oriol Acosta y García, a political prisoner, had been murdered in his cell by guards on August 5, 1971, and other prisoners have been wounded;

[2] Pursuant to the authority conferred upon it by Article 9 (bis) of its Statute, this Commission requested the Government of Cuba, by note of March 26, 1972, 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 its Regulations;

[3] At its twenty-ninth session (October 1972), the Commission noted that the Government of Cuba had not yet furnished the information requested and that the 180-day period specified in its Regulations had elapsed;

[4] 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;

[5] At that twenty-ninth session (October 1972), the Commission, through application of Article 9 (bis) paragraph (c) of the Statute, resolved to: include in the annual report to be submitted to the General Assembly of the Organization such observations on the matter as it considered appropriate.

[6] Neither the formulation of such observations nor, in general, the competence of this Commission to take cognizance of denunciations regarding violations of human rights committed in the territory of Cuba is barred by the measures adopted by the Organization of American States with respect to the present government of that country, since that government has not denounced the Charter of the Organization, as provided for in Article 148 of the Charter, for which reason it is the duty of this Commission to continue to take cognizance of these denunciations;

[7] In view of the systematic silence of the present Government of Cuba in the face of the numerous communications received from this Commission, it would serve no practical purpose to make recommendations to that government of the type envisaged in articles 9 paragraph b) and 9 (bis) paragraph b) of the Statute. However, this does not prevent the Commission from making known to the Assembly the judgments merited by the events denounced,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLVES:

1. To consider confirmed, through application of Article 51 of the Regulations, the occurrence of the events denounced in the communication of October 10, 1971, and that such events are imputable to the Government of Cuba.
 2. To make known to the Assembly that the events described in case 1726 constitute a very serious case of violation of the right to life, liberty, and personal security, set forth in Article I of the American Declaration of the Right and Duties of Man.
 3. To transmit the text of this resolution to the Government of Cuba and to the claimants.
- [III] These resolutions were transmitted to the Government of Cuba with a note dated June 15, 1973.
- [IV] The Government of Cuba has not replied.