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Institution:	Inter-American Commission on Human Rights
File Number(s):	Case No. 1688
Session:	Thirtieth Session (16 - 27 April 1973)
Title/Style of Cause:	Unknown v. Nicaragua
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:	16 - 27 April 1973
Citation:	Unknown v. Nicar., Case 1688, Inter-Am. C.H.R., OEA/Ser.L/V/II.32, doc. 3 rev. 2 (1973)
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[I] Case 1688, of August 15, 1970, denouncing events alleged to be inviolation of human rights in Nicaragua, namely, the right to life, liberty, and personal security and the right to protection from arbitrary arrest, as set forth in articles I and XXV of the American Declaration of the Rights and Duties of Man.

[II] With respect to this case, the Commission, at its Twenty-eighth Session (May 1-5, 1972), approved a resolution that was communicated to the Government of Nicaragua in a note dated May 5, 1972, and to the claimants in a communication of the same date (OEA/Ser.L/V/II.28, doc.20 rev.1).

[III] A reasonable time for the Government of Nicaragua to report on measures adopted with regard to the recommendations contained in the resolution of May 5, 1972, having elapsed, and no replay having been received, the Commission, at its Thirtieth Session (April 1975), pursuant to Article 57 of its Regulations, decided to include that resolution in its annual report to the General Assembly of the Organization.

The text of the resolution follows (OEA/Ser.L/V/II.28, doc.20 rev.1, May 5, 1972):

WHEREAS:

[1] A communication of August 15, 1970 denounced the following acts:

"In the region of Wasblán, Department of Jinotega, around 32 leagues from this city, a patrol of the National Guard, commanded by Captain René Zelaya and Lieutenants Ortega and Villalobos, arrived about noon on April 4 of this year at "Isla del Rosario," a ranch owned by Félix Pedro Moncada Moncada, 62 years old, and demanded that Mr. Moncada turn in his arms and cam his sons. Since Mr. Moncada is a farmer completely dedicated to cultivating his land and raising cattle, he knew nothing about firearms. He was taken captive with three of his six children. On the next day, April 5, he and his

son Jesús, only 17 years old, were killed by the patrol and on April 6 the other two sons, José Santos and Francisco, were also killed. The body of Félix Pedro was buried by his daughter Delia and his daughters-in-law Corina and Sonia; the body of Jesús was buried by the Judge of Mesta, Leoncio Gutiérrez, by order of the G.N.; the body of José Santos was buried by a farmer named Francisco Chavarría and his sons; the patrol killed Francisco Moncada while he was going down the river in a canoe; it is not known where he was buried. Rodolfo, Bernardo, and Delia, the other Children of Félix Pedro Moncada Moncada, escaped. Delia was especially pursued and they tried to rape her."

[2] Pursuant to the power granted by Article 9 (bis) of its Statute, the Commission requested from the Government of Nicaragua, by note dated September 18, 1970, the pertinent information and forwarded the pertinent parts of the above communication in the manner prescribed by articles 42 (1) and 44 of its Regulations.

[3] The distinguished Government of Nicaragua, by note dated September 28, 1970 (CME No. 0096), informed the Commission that:

"I have studied with due attention the denunciation that human rights are still being violated in Nicaragua, depriving citizens of their liberty for long periods of time without bringing them to trial. I can assure you that, in this respect, there have been no violations of human rights nor are they being violated now, since the authorities strictly follow the Constitution and the other laws of the Republic, accused persons being detained for the legal time during investigation, or as the case may be, placed before the competent judicial authority for trial. In regard to the denunciation that a National Guard patrol, commanded by Captain René Zelaya, had killed several persons in the region of Wasblán, Department of Jinotega, about 32 leagues from that city on April 4 of this year, it seems to me to be a case of a meeting between an army patrol and an armed group of bandits and horse thieves who were operating in that zone of the mountain, committing crimes, robberies, led assaults that kept peasant families, dedicated to farming, in a state of chaos and desolation; but, to make sure, I have requested more information on this complaint from the pertinent authority."

[4] By note dated November 23, 1970, the Government of Nicaragua was informed of the decision approved by the Commission during its twenty-fourth session. That decision postponed the consideration of this case until the twenty-fifth session, in the hope of receiving the additional information referred to in the note of September 28, 1970;

[5] During its twenty-fifth session, the Commission took note that the Government of Nicaragua had not yet supplied the information offered and, in view of the fact that the term of 130 days provided by Article 51 of the Regulations had elapsed, it decided to reiterate its request to the government that it send the information. The government was informed of this decision by note dated May 10, 1971;

[6] By note dated November 17, 1971, the decision to reiterate the request for information and extend the term until December 28, 1971, approved by the Commission during its twenty-sixth session, held in October-November 1971, was made known to the Government of Nicaragua;

[7] More than 400 days have elapsed since the Commission requested, on November 23, 1970, additional information from the Government of Nicaragua on this case and more than 360 days have passed since the eventual application of Article 51 was announced by note dated May 10, 1971;

[8] The Government of Nicaragua has not provided the requested information, and

[9] 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 apply Article 51 of its Regulations and, therefore, to consider proved the events denounced in the communication of August 15, 1970.
2. To request the Government of Nicaragua that it impose on those persons found guilty of the acts denounced in the communication of August 15, 1970, the punishment provided by the law in such a case and offer reparation or indemnization to those persons to whom it is due by law.
3. To request that government to inform this Commission on the measures that it adopts, in sufficient time so that such report might be considered in the next regular session of the Commission.
4. To forward a copy of this resolution to the Government of Nicaragua and to the claimants.