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Institution: Inter-American Commission on Human Rights
File Number(s): Communication No. 1769
Session: Thirty-Sixth Session (6 - 24 October 1975)
Title/Style of Cause: François Jentel and Pedro Casadágua v. Brazil
Doc. Type: Report
Decided by: President: Dr. Andrés Aguilar (Venezuela)
Vice-President: Dr. Carlos A. Dunshee de Abranches (Brazil)
Members: Professor Manuel Bianchi (Chile); Dr. Gabino Fraga (Mexico);
Dr. Justino Jimenez de Aréchaga (Uruguay); Mr. Robert F. Woodward
(United States); Dr. Genaro R. Carrio (Argentina)
Dated: 6 - 24 October 1975
Citation: Jentel v. Braz., Comm. 1769, Inter-Am. C.H.R., OEA/Ser.L/V/II.37, doc. 20,
corr. 1 (1975)
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[1] 1769, presented through a communication dated June 26, 1973, supplemented on July 7 and 17 of that year, denounces the arbitrary arrest and trial of a Catholic priest and the arrest of a Catholic bishop and members of the personnel of the dioceses (sic) of San Felix, Matto Grosso, events that are alleged to be in violation of Articles IX, XXV and XXVI of the American Declaration of the Rights and Duties of Man (right to inviolability of the home, to protection from arbitrary arrest, and to due process).[FN1]

[FN1] Articles IX and XXV of the American Declaration of the Rights and Duties of Man.

[2] In notes dated September 4, 1973, and January 9, 1974, the Commission requested the Government of Brazil to provide the corresponding information. These (sic) request for information were repeated in a note dated May 29, 1974, since the period of time for provision (sic) of that information by the Government provided for under Article 51 of the Regulations had elapsed.

[3] As to the thirty-fourth session (October 1974), the Commission decided, on the basis of information according to which the military tribunal had ultimately dismissed the case against the Catholic priest, François Jentel, to file case 1769 insofar as the status of that priest was concerned and to continue its study of the other matters denounced in that claim reiterating to the Government of Brazil its request that it send the information requested, advising it of the deadline provided for under Article 51 of the Regulations. [FN2]

[FN2] See the report of the thirty-fourth session (OEA/Ser. L/V/II.34, doc. 30, page 41).

[4] Pursuant to this decision, the Commission sent a note to the Government of Brazil on December

18, 1974. Likewise, it also informed the claimants of this decision through a note dated November 14, 1974.

[5] In a note of February 6, 1975 (No. 28), from the Brazilian Mission to the OAS, the Government of Brazil requested that period of time provided for in Article 51 of the Regulations of the Commission be extended in order to provide information on the case. In a note of February 21, 1975, the Commission informed the Brazilian Government that a 120-day extension had been granted, pointing out that this extension would expire on May 2, 1975.

[6] Through a note dated April 30, 1975 (No. 81) from the Brazilian Mission to the OAS, the Government of Brazil provided information on the case. The information provided is, in summary, as follows:

a. That the incidents that took place beginning in 1972 in Santa Terezinha, San Felix, Matto Grosso, reflect some of the unusual measures taken as part of the effort undertaken by the Government of Brazil to establish order in the settlement or a large part of that territory currently unexplored, since the land in that zone was for many years isolated from the more progressive centers of the country and had no value whatever because of access problems.

Having overcome these obstacles, some settlers managed to reach those areas in order to settle down, building ranches and establishing families; they live by hunting, fishing and rudimentary agriculture.

b. In seeking a means to effectively incorporate the Amazon region into the country's economy high government officials have increased communication and transportation to the area and have been establishing agricultural projects and introducing modern techniques for agricultural improvement. These changes led to some conflict between settlers and the titleholders of the property.

c. The Government of Brazil has implemented legal instruments that enable it to peacefully (sic) resolve agricultural conflicts (since this involves public lands, which, for the most part have been returned to the Union), through the Law (sic) Law (Law No. 4504, November 30, 1964), Supplementary Legislation, and more specifically, by virtue of Decree No. 7730, of April 17, 1972, which provides for needed assistance to individuals residing in zones in which new agricultural projects are being conducted.

d. Mindful of the social implications of its territorial settlement programs, the Government of Brazil decided in favor of the old occupants of the lands in keeping with Decree 773 which states that "individuals residing in a zone where the programs referred in the above article are being conducted, who have formed urban communities, may not be dispossessed of their dwellings or their cultivated lands without prior Permission from the Ministry of Agriculture."

e. The Government of Brazil cannot allow an individual, taking advantage of just claims in connection with agrarian problems, to raise the banner of agitation or disorder or based on legitimate expectations, to seek to grossly mystify (sic) extremism.

f. In the case of Santa Terezinha, the Ministry of Agriculture, through the National Institute of Land Settlement and Agrarian Reform, having identified the land owners (120), and with the prior permission of the business (sic) that is conducting the agricultural project and has title control over the funds; 'CODEARA', granted 12,000 hectares for final settlement of those rural workers.

g. The measures taken by the Government with regard to Father François Jentel and Bishop Pedro Casadágla were aimed at avoiding a worsening of the tensions existing in the area and Father Jentel was tried and condemned at the first hearing by the competent Military Tribunal and later acquitted by the High Military Court, at which point he left the country of his own free will.

h. Bishop Pedro Casadágla was not being held and continues to exercise (sic) his priestly duties.

[7] The Commission continued its examination of this case at its thirty-fifth session (May 1975), together with the information provided by the Government of Brazil; it decided to again address to Government of Brazil to request more information with regard to the circumstances under which the priests and religious personnel of the diocese of San Felix were arrested.

[8] Pursuant to this decision, a note was sent to the Government of Brazil on August 7, 1975, through the Brazilian Mission to the OAS. In a letter of August 11, 1975, the claimants were informed of this decision. In a note dated October 2, 1975 (No. 2), from the Brazilian Mission to the OAS, the Government of Brazil replied to the Commission's note of August 7, reporting, in summary, the following:

a. In 1973, proceedings began in the Eighth Military Circuit Court (Matto Grosso), to investigate the events that took place subsequent to those that gave rise to the action taken against Father Francois Jentel, who had returned to his country (France).

b. During the course of the proceedings in 1973, the Bishop of San Felix, Pedro Casaldágia, despite his being the intellectual author of subversive activities, was simply summoned to appear in court to testify, without ever having been deprived of liberty much less having been placed under arrest or in prison quarters. The same procedure was followed in the affair involving the Bishop of Goiás, Tomas de Balduvico.

c. The priest accused during the proceedings referred to which reference is made in the request for information filed by the CIDH, under point 3 of the note dated August 7, prelates Antonio Canuto, Pedro Sola Barbarin and Eugenio Consoli, were detained for questioning in connection with the proceedings and set free, having been kept only in custody, in accordance with the provisions contained in Article 59 of Decree Law No. 898/69 and in Article 18 of the Military Police Procedure Code; therefore, the settlement made in the denunciation to the effect that these priests were "simultaneously" arrested along with Bishop Casaldágia could not have taken place, since as stated before, Bishop Casaldaglia was never held prisoner despite the fact that it has been proved that he has committed acts in violation of the Penal Code, such as distribution of pamphlets to incite subversion of legal order.

d. With regard to point C of the note of August 7 from the CIDH, it should be stated that he (sic) property search of the Directory was conducted seeking arms and documents, in accordance with Articles 172, 176 and 185 of the Military Police Procedure Code; there officials found arms of undetermined ownership, and

e. Therefore, the aforementioned search and seizure was not conducted on an arbitrary basis, but rather in accordance with legal provisions contained in the pertinent legislation. In accordance with the Regulations, the Commission in a letter dated October 3, 1975, transmitted to the claimant the pertinent parts of the information provided by the Government.

[9] The Commission continued its examination of case 1769 at its thirty-sixth session, along with the information provided by the Government of Brazil and in view of the fact that the pertinent parts of the information provided by the Government had been transmitted to the claimant, it agreed to postpone any decision on the matter so that the claimant, if he deems it appropriate, may formulate his observations on the information provided by the Government of Brazil.