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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 31/78, Case No. 2553
Session:	Forty-Fifth Session (2 - 18 November 1978)
Title/Style of Cause:	Clara Anahi Mariani v. Argentina
Doc. Type:	Resolution
Decided by:	Chairman: Dr. Carlos A. Dunshee de Abranches; Vice Chairman: Professor Tom J. Farer; Members: Dr. Andrés Aguilar, Dr. Gabino Fraga, Dr. Carlos García Bauer, Dr. Marco Gerardo Monroy Cabra; Dr. Fernando Volio Jiménez
Dated:	18 November 1978
Citation:	Mariani v. Arg., Case 2553, Inter-Am. C.H.R., Report No. 31/78, OEA/Ser.L/V/II.50, doc. 13 rev. 1 (1979-1980)
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BACKGROUND:

1. In a denunciation communication dated November 28, 1977, the following denunciation was made:

"The purpose of this letter is to determine the whereabouts of a female child, named CLARA ANAHI MARIANI, born on August 12, 1976 in La Plata.

"It is public knowledge that on November 24, 1976, at approximately 1.30 p.m., an armed confrontation took place between the joint forces and the occupants of a farm located on Calle 30, between 55 and 56, in La Plata. This house was the residence of Daniel E. Mariani, his wife Diana E. Teruggi, and their three-month old daughter, CLARA ANAHI.

"According to a newspaper reports and reports from neighbors, the house--where the child was--was completely surrounded by the joint forces before the confrontation which lasted for several hours.

"On the day following the event, an oral report was made to the 5th Police Precinct that the child's name did not appear in the summary proceedings along with the names of those who had died and who had been identified by the police.

"On March 3, 1977, a written reply was received to one of the notes presented to the Chief of Infantry Regiment No. 7, Colonel Conde, reporting that the child's whereabouts were unknown, but that Police Headquarters of Operations Area 113 was continuing the investigation.

"Dr. Sambucetti initiated proceedings No. 36.792 in Juvenile Court No. 2. Reports were obtained from the Children's Hospital, the Fire Departments, the Regional and Police Units. All replies were negative, and the police were informed that no minor had been at the place where the incident occurred.

"After a year of continuous and anguished searching, the child's whereabouts are still unknown. She has not been found alive or dead, and there is no explanation for her disappearance."

2. The Commission is in possession of a newspaper account of the events in reference during which Clara Anahi MARIANI disappeared, and has also received a number of negative replies from the Argentinean authorities as to the child's whereabouts.

3. In a note dated February 7, 1978, the Commission transmitted the pertinent parts of this denunciation to the Government of Argentina, asking it to provide the corresponding information.

4. In a note dated May 11, 1978, the Government of Argentina replied to the Inter-American Commission on Human Rights in the following terms:

...

"D. OBSERVATIONS:

...

55.MARIANI, Clara Anahi: Investigation conducted by the competent authorities to determine her whereabouts has not produced positive results to date (CASE 2553)."

5. In a letter dated March 27, 1978, the pertinent parts of the reply from the Government of Argentina were forwarded to the complainant, and he was asked to make observations to that reply.

6. In a letter of May 4, the complainant contested the reply by the Government of Argentina as follows:

The reply you received from the Government of Argentina is the same as it gives to all inquiries about people who have disappeared, regardless of their age. I believe that for a military government, which has such an efficient intelligence service, it would not be difficult to establish, if it wanted to, the whereabouts of a baby who was not yet walking and who needed to be bottle-fed to survive.

We feel that CLARA ANAHI is in the hands of the Argentine authorities or that the authorities have disposed of her, for the following reasons:

1. The child could only have been removed from her home by the same forces that attacked and occupied it, since it was totally surrounded before the confrontation, as reported in all newspapers of 11.25.76. Also, all of the neighbors know that every home in the neighborhood was vacated before the event (but no one would testify to this out of fear).

2. It is a generally held view throughout the country that some babies removed both from their homes where confrontations have occurred and from the places where their parents 'disappear,' or from the prisons where they were born, are given away or sold. CLARA ANAHI must therefore have been 'given away' or 'sold' like so many other children.

Insofar as giving away other people's children is concerned, I can inform you that Monsignor has told us that he had rescued several little children who were in the hands of policemen who had registered them as their own.

The clergy must be aware of this, just like every other person in this land.

It has not been possible to rescue CLARA ANAHI. Was she given away by some important person? Or it is some very important person who has her? The secrecy surrounding the matter would lead one to think so. (Also some comments that have been heard.) If there is a witness, for obvious reasons, one cannot rely on his coming forward with information.

A further point which lacks confirmation is that apparently DIANA E. TERUGGI was gunned down when the confrontation began, while she was trying to escape through the back of the house carrying her child with her. They cut her in half, and falling, the child was bathed in her mother's blood and although unconscious, was unharmed. From there, they would have wrapped her up and given her to some important person who disposed of her.

What is known therefore is:

1. That they took her away from the house alive.

2. That the intervening forces took her away and that they are therefore responsible for the baby's life, but we cannot demonstrate this.

3. That she must have been given away or sold.

The names of the military and police officers who were present while DANIEL's house was being attacked appeared in the newspapers of November 25, 1976. I believe that they must naturally know CLARA ANAHI's fate. And we also feel that they must be able to remember the event well because it was the longest, one of the bloodiest and I believe the only one, where, at the end, they used a bomb generating a temperature of 2000 degrees, to end the resistance. (This is what was said at the Federal Police in La Plata.)

In this search for CLARA ANAHI MARIANI, case 2553, everything remains unchanged: her whereabouts are unknown, despite numerous inquiries that have been made. We have to go to the Directora Nacional de la Minoridad (the National Juvenile Bureau); the Provincial Director for Juveniles, we have held interviews with all the juvenile judges in Buenos Aires. The Supreme Court took up the case with much interest, but finally declared that it did not have jurisdiction."

The Commission received the following additional information from the complainant in a note dated August 18, 1978:

There was hope of finding CLARA ANAHI through the National Juvenile Bureau, but they say that there are no records on file. There are still checking adoptions during the past two years at our request. They don't know what results this might bring; let us hope that they might be able to locate one of the fifteen babies that we are looking for.

7. In a communication dated August 30, 1978, the Commission forwarded the complainant's observations to the Government of Argentina, and asked it to provide the pertinent information.

8. In note SG 235, dated September 18, 1978, the Government of Argentina replied to the complainant's observations, but failed to refer to the events denounced and forwarded to them; it merely reported in the following terms:

...

"C. Persons on whom investigator proceedings have been started to determine their whereabouts and possible status because there was no record of denunciations earlier than that made by that Commission:

...

16. MARIANI Clara Anahi, (Case 2553)."

9. The pertinent parts of the reply from the Government of Argentina were sent to the complainant in a communication dated October 3, 1978.

10. In a letter dated September 30, 1978, the complainant provided the following additional information:

"I am now able to add to the documentation a newspaper clipping from that fateful date, which mentions the Infantry Corps of the Province of Buenos Aires, which took a very active part in the siege and attack upon the residence of the father of CLARA ANAHI. I believe that its chief, might know to whom the child was given."

11. The Commission has in its possession a photocopy of the writ of habeas corpus presented by the claimant.

12. It should be pointed out that the notes from the Government of Argentina dated May 21 and September 18, 1978 are contradictory, in that the first refers to investigations conducted on the case, while the second states that investigator proceedings were being initiated because no denunciation had been filed prior to the one submitted by the Commission. In that connection, the first communication on

this case from the Commission to the Government of Argentina is dated February 7, 1978 and according to the Certification issued by Juvenile Court No. 2 of the La Plata Judicial Department, the proceedings-- No. 36.792--began on April 26, 1977.

WHEREAS:

1. In light of the background information given above, it is found that the child CLARA ANAHI MARIANI was taken from her home by Argentinean military officers in the operation conducted by those forces on November 24, 1976, on 30th Street, 55-56, in the city of La Plata, and her whereabouts since that date are unknown;
2. The notes from the Government of Argentina of May 21 and September 18, 1978 fail to refer to the events specifically denounced and transmitted to it by the Commission in notes of February 7 and August 30, 1978, and are contradictory,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To observe to the Government of Argentina that such acts are very serious violations of the right to liberty and personal security (Art. I) and of the right to protection from arbitrary arrest (Art. XXV) E the American Declaration of the Rights and Duties of Man.
2. To recommend to the Government of Argentina:
 - a. that it return the child CLARA ANAHI MARIANI to her family;
 - b. that it order a complete, impartial investigation to determine the responsibility for the events denounced;
 - c. that it punish those responsible for such acts, in accordance with Argentine law, and
 - d. that it inform the Commission, within a maximum of 30 days, of the measures it has taken to put into practice the recommendations contained in the present Resolution.
3. To communicate this resolution to the Government of Argentina and to the claimant.
4. To include this Resolution in the Annual Report to the General Assembly of the Organization of American States, pursuant to Article 9 (bis) paragraph c.iii of the Statute of the Commission.