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Institution:	Inter-American Commission on Human Rights
File Number(s):	Case No. 2291
Session:	Forty-Sixth Session (5 – 9 March 1979)
Title/Style of Cause:	Esteban Cabrera, Eduardo Sotero Franco Venegas and Lidia Esther Cabrera de Franco v. Argentina
Doc. Type:	Resolution
Decided by:	Chairman: Carlos A. Dunshee de Abranches Vice-Chairman: Tom J. Farer Members: Carlos García Bauer; Marco Gerardo Monroy Cabra. Andrés Aguilar, Gabino Fraga and Fernando Volio Jiménez were unable to attend for either personal or health reasons.
Dated:	6 March 1979
Citation:	Cabrera v. Arg., Case 2291, Inter-Am. C.H.R., OEA/Ser.L/V/II.47, doc. 13 rev. 1 (1978)
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BACKGROUND:

1. The following denunciation was made in a communication of April 10, 1977:

On January 18 of the present year (1977), Esteban Cabrera, Eduardo Sotero Franco Venegas, Paraguayan citizens with legal residence in Argentina, and Lidia Esther Cabrera de Franco, an Argentine citizen, were detained in the town of Puerto Iguazu in the Province of Misiones.

They were taken by members of the National Guard. On the following day, January 19, the Guard Post was informed that they were to be transferred to Posadas. A few hours later, officers from the post left Mrs. de Franco's small girl with family members in Puerto Iguazu.

On January 21, there was information in the Second Army Corps, based in Posadas, that the three 'had been released that same day'. However, eyewitnesses said that the three detainees had been transferred to the city of Asuncion (Paraguay) 'where they were handed over to the Paraguayan Police authorities.'

This information was confirmed by a family member in Asuncion, who verified the fact that the three were being detained in the Police Investigation Section in Asuncion.

A number of habeas corpus suits were entered with the judicial authorities in Posadas. The response in each case was that they had been released in Posadas on January 21. No information could be obtained about their legal or physical status or the reason for their transfer to another country.

2. In a note of June 30, 1977, the Commission transmitted the pertinent parts of the denunciation to the Government of Argentina, asking it to provide the corresponding information.

3. In a note of September 29, 1977, the Government of Argentina responded to the Commission's request for information, but failed to refer to the events denounced, and replied as follows:

"C) Persons deported or released:

...

34) CABRERA, Esteban: released 21/1/77.

35) CABRERA de FRANCO, Lidia Esther: released 21/1/77.

36) SOTERO FRANCO BENEGAS, Eduardo: released 21/1/77.

4. In a letter dated October 13, 1977, the pertinent parts of the Government's reply were transmitted to the complainant, and he was asked to make his observation to this response.

5. In a communication dated October 27, 1977, the complainant replied to the Commission, objecting to the Government's reply, and reiterating his original denunciation.

6. In a communication dated June 5, 1978, the Commission wrote to the Government of Argentina in the following terms:

"I have the honor de write to Your Excellency, in reference to the above-mentioned case, to ask you kindly to report to the Commission as to the reason for the detention of Esteban Cabrera, Lidia E. Cabrera de Franco y Eduardo Sotero Franco B., detention and release of whom was reported to the Commission by your Government in Note SC 252 of September 29, 1977 of the Permanent Mission of Argentina to the OAS.

I would be most grateful if you could provide us copies of the warrants ordering the detention and release of the afore-mentioned persons."

To date, the Commission has not received the information requested.

7. The Commission received additional information from the complainant in a note dated June 5, 1978, in which he stated:

"Esteban Cabrera Maiz, a citizen of Paraguay, and Lidia Cabrera Maiz, a citizen of Argentina with her husband Eduardo Franco, a citizen of Paraguay have been violently kidnapped from their homes in the city of Iguazu, Province of Misiones, Argentina, on January 18, 1977, presumably by Paraguayan authorities together with Argentine forces. Initially, there was no information about them, but it was later found out that they had been taken to Iguazu and handed over to the Guard authorities of El Dorado (Argentina). From El Dorado, they were taken incommunicado and in secret to the city of Posadas, where they were handed over to the Argentine army, whose regimental commander was at that time Colonel Beltramati.

Surely with the knowledge and the responsibility of this Colonel of the Argentine army still held incommunicados, they were delivered to the Paraguayan Police and Army, clandestinely in the border city of Encarnacion (Paraguay), and from there taken to the capital city of Asuncion, to the dark and sinister Investigation Police, where they were humiliated, denigrated and inhumanly tortured.

Lidia Cabrera Maiz is the mother of two small children, one is two years old and the other 10 months, who were with their parents during this unjust, despicable journey and were still kept with them in the Emboscada concentration camp.

The people in question, who are now detained in the Emboscada (Paraguay) penal colony, are humble people, but honest, upright and hardworking. The truth is that they have no political orientation or militancy; and so the real cause of such violent and arbitrary treatment, which was in violation of all the rules of international law, of guarantees and protection of persons and of sacred human rights, is unknown.

Allow me, Mr. Executive Secretary, to point out to you that the undersigned is neither a politician nor an exile; I am simple a young Paraguayan musician, and I travel the world as an artist to earn my living in an honest and decent fashion.

Any comment on the true drama of Esteban, Lidia and her husband Eduardo Franco and of the two

children, the oldest barely 2 years old and the youngest 10 months old, who were with their parents in the Emboscada prison, would be quite superfluous."

8. In a communication of October 24, 1978, the Commission transmitted to the Argentine Government the pertinent parts of the additional information, and requested it to provide reports on the case, these have not been forthcoming to date.

9. The Paraguayan Government reported to the Commission on a note (04740/78 of July 24, 1978, and 0473/78 of July 27, 1978), on the release of Esteban and Lidia Cabrera, as follows:

A note of July 24, 1978: "Mr. Executive Secretary: I have the pleasure to write to you to inform you of the names of the persons released by the Government of my country, persons who had been accused of violating the provisions of Law 209:

20. Lidia CABRERA DE FRANCO.

Note of July 27, 1978: "Mr. Executive Secretary: I have the pleasure to write to you to inform you that on the 25th of this month, Mr. Esteban CABRERA MAIZ was released."

10. On December 28, 1978, the Commission received additional information from the claimant reporting the released of Esteban and Lidia Cabrera and Eduardo Sotero. He also confirmed the manner in which they had been delivered to the Paraguayan authorities by Argentina, without a legal warrant, with no legal proceedings and under degrading human conditions.

WHEREAS:

1. Article 51.1 of the Regulations of the Commission provides that:

Article 51:

"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 now shown by other elements of proof."

2. The Government of Argentina, in a note of September 29, 1977, acknowledges having released the aforementioned persons on January 21, 1977, and has failed to reply to the Commission's request for information made in its note of June 5, 1978.

3. Likewise, it has not replied to the communication of October 24, 1978, in which the denunciation was confirmed and additional information was given.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. In application of Article 51.1 of the Regulations of the Commission, to presume to be confirmed the material facts of the denunciation related to the detention by agents of the Government of Argentina of Mr. Esteban Cabrera, Mrs. Lidia Cabrera and Mr. Eduardo Sotero Franco, and the manner in which they were delivered to the Government of Paraguay, without fulfilling the requirements established for this type of action.

2. To declare that the Government of Argentina violated the right to life, liberty and personal security (Article I); the right to residence and movement (Article VIII), and the right to protection from arbitrary arrest (Article XXV) of the American Declaration of the Rights and Duties of Man.

3. To recommend to the Government of Argentina:

- a) that it order a complete, impartial investigation to determine responsibility for the events denounced;
- b) that it sanction those responsible for these events in accordance with Argentine law;
- c) to inform the Commission within a maximum of thirty days as to the measures taken to put into practice the recommendations listed in the present Resolution.

4. To communicate this Resolution to the Government of Argentina and to the claimant.

5. 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, without prejudice to the fact that the Commission may reconsider the case at its next session in the light of such measures as the Government may have adopted.

(Approved at the 607th meeting of March 5, 1979 (46th Session) and transmitted to the Government of Argentina on March 23, 1979).