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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No.36/81; Case No. 7581
Session:	Fifty-Third Session (22 June – 2 July 1981)
Title/Style of Cause:	Nehemías Cúmez, Adolfo Cúmez, Anastasio Sotz, René Gómez Ovalle, Antonio Muz, Ernesto Apén, Maximiliano Otzoy, Juan Muz, Roque Salazar, Julio Tuyucard and Miguel Curruchiche v. Guatemala
Doc. Type:	Resolution
Decided by:	Chairman: Tom J. Farer; First Vice Chairman: Marco Gerardo Monroy Cabra; Second Vice Chairman: Francisco Bertrand Galindo; Members: Carlos A. Dunshee de Abranches; César Sepúlveda
Dated:	25 June 1981
Citation:	Cúmez v. Guat, Case 7581, Inter-Am. C.H.R., Report No. 36/81, OEA/Ser.L/V/II.54, doc. 9 rev. 1 (1980-1981)
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## BACKGROUND:

1. In a communication of November 6, 1980, the following denunciation was made to the Inter-American Commission on Human Rights:

In March 1980, Mr. Nehemías Cúmez, Chief of the Department of Low-Cost Housing, of the town of Comalapa, was abducted on the way to his house when an automobile blocking the road forced his Land Rover to a stop. When he got out of his Land Rover, four men armed with shotguns and submachine guns made him get into their automobile. Since that time no news has been received of his whereabouts, although his Land Rover turned up in the town of Sunpango, 60 kilometers away.

In July, two related abductions occurred in Comalapa. On July 24, some soldiers stationed on the outskirts of Comalapa stopped a bus traveling from Comalapa to the capital, and abducted Adolfo Cúmez, the 18-year-old nephew of Nehemias. When he tried to intercede, Anastasio Sotz, 24, the Secretary of Low-Cost Housing, who had replaced Nehemias Cúmez as President of that agency, was also taken away.

In August, René Gomez Ovalle, 30, the son of a well-known merchant in Comalapa, was detained in Chimaltenango.

In August, three kilometers from Comalapa, on the road to the capital, a ravine some 120 feet deep was discovered, which has been used regularly to dump the bodies of abducted persons. Some 30 bodies were taken from there. Campesinos have reported that there were many more but the Government did not want to remove all of them. For a year, according to some witnesses, vehicles arrived at the place at night, turned off their lights and then disappeared. Eyewitnesses have reported that there are still many bodies at that place and that the Government has been duly informed of this.

On October 4, Juan Muz, 40, a friend of Nehemías Cúmez, was abducted from his home by four persons, as witnessed by his wife, his 17-year-old son and several neighbors. His body was found two days later 30 kilometers away, showing signs of torture. On the following day, some 15 soldiers patrolled the market to quell any demonstration that might have taken place during the burial.

On October 10, 1980, Antonio Muz, 35 years of age, and Roque Salazar, 30, employees of the Reconstruction Board, were abducted from a bus traveling from the capital to Comalapa by persons armed with Guatemalan Army submachine guns who were dressed in civilian clothes but wore Army boots. The body of Salazar was found on October 15, with the teeth pulled out and the tongue cut out, among other mutilations.

On October 15, two other persons were abducted from a Chimaltenango office: another employee of the Reconstruction Board, Ernesto Apén, 28, and Maximiliano Otzoy, a legal aide, both residents of Comalapa.

In November, several other murders occurred. A 17-year-old youth, Paquixic, was murdered in a nearby village in front of his family. A few days after, Julio Tuyuc, 25, was abducted on the public road in Comalapa by armed persons who made him get into their car. His body was found the following day.

Three Comalapa residents, including Lic. Miguel Curruchiche, were murdered in the capital when their car stopped at a red light. All of these persons were connected, as was Nehemías Cúmez, with the Comalapa Reconstruction Board.

The Government is held responsible for these acts.

2. In a note of December 16, 1980, the Commission transmitted the pertinent portion of this denunciation to the Guatemalan Government, requesting information on these cases.

3. In a note of April 20, 1981, the Commission again requested information from the Guatemalan Government.

#### WHEREAS:

1. To date, the Government has not replied to the Commission's requests for information.

2. Article 39 of the Commission's Regulations provides as follows:

#### Article 39

The facts reported in the petition whose pertinent parties have been transmitted to the government of the state in reference shall be presumed to be true if, during the maximum period set by the Commission under the provisions of Article 31, paragraph 5, the government has not provided the pertinent information, as long as other evidence does not lead to a different conclusion.

#### THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS

#### RESOLVES:

1. Based on Article 39 of its Regulations, to presume to be true the acts denounced in the communication of November 6, 1980, concerning the arbitrary arrests of the following persons from the village of Comalapa: Nehemías Cúmez and his nephew Adolfo Cúmez, Anastasio Sotz, René Gómez Ovalle, Antonio Muz, Ernesto Apén and Maximiliano Otzoy; the arbitrary arrest and later torture and murder of Juan Muz and Roque Salazar; the arbitrary arrest and later murder of Julio Tuyuc and the murder of Lic. Miguel Curruchiche.

2. To declare that the Government of Guatemala violated Articles 4 (right to life), 5 (right to humane treatment), 7 (right to personal liberty), 8 (right to a fair trial) and 25 (right to judicial protection) of the American Convention on Human Rights.

3. To recommend that the Guatemalan Government investigate the acts denounced and, if warranted, punish those responsible; and that it communicate its decision to the Commission within 60 days.

4. To transmit this resolution to the Government of Guatemala and to the claimant.
5. To include this resolution in the Commission's Annual Report to the General Assembly of the Organization of American States pursuant to Article 18 (f), of the Statutes and Article 59 (g) of the Regulations of the Commission.

Note:

Dr. Francisco Bertrand Galindo declined to hear and decide on this case because he was living in Guatemala when the reported events occurred.