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Title/Style of Cause:	Tomas Fernández Travieso v. Cuba
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:	Fernández Travieso v. Cuba, Case 3347, Inter-Am. C.H.R., Report No. 40/81, OEA/Ser.L/V/II.54, doc. 9 rev. 1 (1980-1981)
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BACKGROUND:

1. In a communication of June 26, 1978, the following denunciation was made:

"Political prisoner, Mr. Tomás Fernández Travieso, was sentenced to 30 years in prison on April 18, 1961, for having committed crimes against the powers of the State."

During his long 17-year stay in prison, Tomás Fernández Travieso developed his early literary ambitions, writing short stories, poems and one drama, most of which remain unpublished. "Prometeo," which contains a noble message of love and forgiveness, was staged for the first and only time on March 20-21, 1976, by the Miami-Dade Community College drama group in Miami. The performance was presented as a College activity, not as a primarily political act.

Several months after the performance of "Prometeo," its author, Tomás Fernández Travieso, who was on the way to obtaining his release under the "Plan Progresivo," after serving over half his 30-year sentence, was again transferred to a maximum security prison, Combinado del Este, in Havana, with a new charge against him, this time that his drama had been staged, an act for which he was not, nor is, responsible. Despite the fact that he was not tried, because in this case it was not necessary to sentence him again for the same offense, Tomás Fernández Travieso has remained in the prison since that time, under the worst conditions.

2. In a note of January 8, 1979, the Commission transmitted the pertinent portions of the denunciation to the Cuban Government, requesting information on the case.

3. The Government of Cuba has thus far not replied.

WHEREAS:

1. To date, the Cuban Government has not yet replied to the Commission's request dated January 8, 1979.

2. Article 39 (1) of the Commission's Regulations provides as follows:

Article 39

The facts reported in the petition whose pertinent parts 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. Pursuant to Article 39 (1) of its Regulations, to presume to be true the events denounced in the communication of June 26, 1978, concerning the detention of Tomás Fernández Travieso.

2. To declare that the Government of Cuba violated the right to a fair trial (Art XVIII of the American Declaration of the Rights and Duties of Man), the right of protection from arbitrary arrest (Art. XXV), and the right to due process of law (Art. XXVI).

3. To transmit this decision to the Government of Cuba and to the claimants

4. To include this resolution in the Commission's Annual Report to the General Assembly of the Organization of American States pursuant to Article 18, subparagraph (g), of the Commission's Regulations.