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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 52/81; Case No. 4666
Session: Fifty-Fourth Session (8 – 17 October 1981)
Title/Style of Cause: Miguel Angel Rojas Abarca v. Chile

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; Andrés Aguilar; César Sepúlveda.

Dated: 16 October 1981
Citation: Rojas Abarca v. Chile, Case 4666, Inter-Am. C.H.R., Report No. 52/81, OEA/Ser.L/V/II.57, doc.6 rev.1 (1981-1982)

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BACKGROUND:

1. On November 7, 1979, the Inter-American Commission on Human Rights received a denunciation from Miguel Angel Rojas Abarca as follows:

"SWORN STATEMENT"

Santiago, Chile this eighteenth day of October, 1979, I, a notary public of this city, hereby state that Mr. Miguel Angel Rojas Abarca, a student, unmarried, age 16, residing at Fernando Yunge Street No. 1899, in the Nogales District of Santiago, without identification document, appeared before me to state the following under oath:

FIRST:

He was detained at his home at about 4:00 a.m., on Saturday October 13, 1979 by investigations officers who broke in violently, took him out of his bed while he was asleep and put him in a vehicle without any explanation, without showing any warrant for his arrest and without having found him in the commission of a crime.

SECOND:

He studies at the Bernado O'Higgins Industrial School, he is 16 years old, he lives with his parents and has never been arrested.

THIRD:

Since his captors also detained another person, they decided to put Mr. Rojas Abarca between a spare tire and some tools in the trunk of the automobile, which was completely closed. They had earlier punched him about the face while he was in the passenger compartment. Still in the trunk, he was taken to one of the investigations barracks, which is about ten blocks from the Apoquind Street near Américo Vespucio, although, since he did not know the area, he was unsure exactly where he was. His captors pushed him into the barracks, and kept on asking him about a certain person they called "ojo de buey" (bull's-eye), about whom he knows absolutely nothing and of whom he has never heard. Since, according to the

captors, his reply was not satisfactory, they kept on punching him hard every so often on his face and in the stomach, leaving him completely winded. Taking no account of his age, they constantly threatened to put an electric current to him, but luckily did not during the days he was detained.

During the days following, that is Monday, Tuesday and Wednesday they went on ill-treating him, insulting him and being generally rude, despite his insistence that he knew nothing and that he was just a student. He even showed them his school identification card. They told him that he was not going to get out until he said who "ojo de buey" was. They repeatedly threatened him with giving him electricity, and added that many people had died in that place as a result of the electricity. So his captors then made him write a document on his own handwriting in which he said that he had been well treated and that he did not blame any of them for any ill treatment.

2. In a note dated November 12, 1979, the Commission transmitted the pertinent parts of the denunciation to the Government of Chile, and asked it to provide the relevant information in accordance with Articles 42 and 44 of the Regulations. In a letter dated the same day, it informed the claimant that it had received the communication and told him how it had been handled.

3. Since no reply was received from the Government, the Commission reiterated its request for information in a note dated February 26, 1981, and notified the Government of possible application of Article 39 of the Regulations.

WHEREAS:

1. The communication submitted to the Inter-American Commission on Human Rights denounces the arbitrary detention and torture of Miguel Angel Rojas Abarca, by officials of the National Investigations Center (CNI);

To date, the Government of Chile has not provided the information requested by the Commission in its note of November 12, 1979 and reiterated on February 26, 1981;

2. Article 39 of the Regulations establishes the following:

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. In application of Article 39 of its Regulations, to presume to be true the event denounced in the communication of November 7, 1979, concerning the arbitrary detention and torture of Miguel Angel Rojas Abarca.

2. To declare that these events constitute a most serious violation of the right to life, liberty and personal security (Article I), and of 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 Chile:

a) that in order an investigation to determine responsibility for the events denounced;

b) that in punish those responsible for those events according to Chilean law, and
c) that it inform the Commission within 60 days as to the measures taken to put the above mentioned recommendations into practice.

4. To communicate this resolution to the Government of Chile in light of Article 50.2 of the Regulations of the Commission, for all pertinent purposes.

5. To include this resolution in the Annual Report to the General Assembly of the Organization of American States, in accordance with Article 50.4 of the Regulations of the Commission, if the Government of Chile does not adopt the stated recommendations within the above mentioned time period.