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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 6/82; Case no. 7602
Session:	Fifty-Fifth Session (1 – 9 March 1982)
Title/Style of Cause:	María Eugenia Calvar Rivero and Maudie Valero Calvar v. Cuba
Doc. Type:	Resolution
Decided by:	Chairman: Mr. Tom J. Farer; First Vice Chairman: Marco Gerardo Monroy Cabra; Second Vice Chairman: Francisco Bertrand Galindo; Members: Andres Aguilar; Carlos A. Dunshee de Abranches; Luis Demetrio Tinoco Castro; César Sepúlveda.
Dated:	08 March 1982
Citation:	Calvar Rivero v. Cuba, Case 7602, Inter-Am. C.H.R., Report No. 6/82, OEA/Ser.L/V/II.57, doc. 6 rev. 1 (1981-1982)
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BACKGROUND:

1. In a communication dated December 15, 1980, the Commission received the following denunciation:

“He arrived in the United States on May 4, and his wife María Eugenia Calvar Rivero and his two-year old daughter Maudie Valero Calvar have visas and money to leave for San José; the Cuban Government is refusing to let her leave because she has a university degree, thus violating the most elemental human rights for family reunion.

He asks you to proceed with their case through legal and official channels, since his wife and child have been away from him a long time. She was fired from her job because of having asked to leave the country and she and her daughter live off the charity of relatives and friends.”

2. In a note of December 22, 1980, the Commission transmitted the relevant parts of the denunciation to the Cuban Government, so that it might furnish the information that it deemed appropriate.

3. In a letter dated January 16, 1981, the claimant forwarded several documents concerning his case. He included a letter dated September 20, 1980 from María Calvar do Mr. Ramiro Valdes, the Minister of the Interior of Cuba explaining her circumstances. The part relevant to this case is the following:

“I presented my request for departure from the country, together with my husband and child, on December 16, 1979, at the immigration office of Matanzas. This we were denied provisionally, since we were not among the cases listed as priority for family reunion.

In April of this year, during the events in the Peruvian Embassy, my husband got into the embassy and left the country on May 4 for the United States, via Mariel. During that time (when I was on leave), I received a letter firing me from my job (in the municipality of Jaguey Grande, Matanzas Province) on

April 1980; it said that I was being dismissed from the agency (MINSAP) for having presented my request to leave the country and trying to enter the Peruvian Embassy, and that I was not considered suitable as a professional of the Revolution. Within a few days, on May 8, I received through the same channels the dismissal form FT-32 for leaving the country.

Believing in the position taken by Granma, the official organ of the Party of the Revolution, to the effect that anyone who had a visa to enter a country could leave voluntarily, I communicated with my husband to ask him to take the necessary steps through any country to obtain visas for me and for our daughter. The visas were delivered to me on August 22. With these and the rest of the required documents, I reported to the immigration office at Matanzas to request a passport to leave the country. Three days after having delivered my documents, I received a letter (returning my documents) saying that it cannot be authorized because it is not within the parameters established by the immigration laws. In going to determine the parameters, it was explained to me that professionals (I am a stomatologist, graduated from the University of Havana in July 1979) could not leave the country. I turned to National Immigration, and the reply was the same, for which reason I find it necessary to turn to you.”

4. Additional information supplied by the claimant on July 17, 1981 explained that María Calvar and her daughter Maudie had had visas to leave for Costa Rica since September 1980, but the Cuban Government had denied their departure. The claimant furnished a copy of a letter dated April 17, 1981 from Dr. Eladio Sánchez Cartas, Director of INTERCONSULT, to Mrs. María Calvar, giving her the following reason for having denied the exist permit:

“We hereby inform you that when your case was discussed with the DIE, we were informed that because of your status as a professional you were not included in the categories of persons allowed to emigrate. The foregoing notwithstanding, your file is pending in these offices, and if the migration regulations should change, we shall inform you immediately, with a view to reinitiating the steps that we have taken to date.”

5. In a note dated September 8, 1981, the Commission reiterated its request for information from the Cuban Government, advising it that if the information was not received within a reasonable time, the IACHR would consider possible application of Article 39 of the Regulations.

WHEREAS:

1. To date, the Government of Cuba has not replied to the Commission's requests of December 22, 1980 and September 8, 1981; and

2. Article 39 of the Regulations of the Commission 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. In application of Article 39 of the Regulations, to presume to be true the acts denounced in the communications of December 15, 1980, regarding the denial of the right of María Eugenia Calvar Rivero and her daughter Maudie Valero Calvar to leave the country.

2. To declare that the Government of Cuba violated the right to protection of the family (Article VI of the American Declaration of the Rights and Duties of Man), the right to work (Article XIV), and the right of asylum (Article XXVII).
3. To communicate this decision to the Government of Cuba and to the claimants.
4. To include this resolution in the Annual Report of the Commission to the General Assembly of the Organization of American States in accordance with Article 18, paragraph (f) of the Statute and Article 59, paragraph (g) of the Regulations of the Commission.