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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 14/82; Case no. 7776
Session:	Fifty-Fifth Session (1 – 9 March 1982)
Title/Style of Cause:	Kai Yutah Clouds (also known as Veit Nikolaus Stoscheck) v. Guatemala
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:	09 March 1982
Citation:	Kai Yutah Clouds v. Guat., Case 7776, Inter-Am. C.H.R., Report No. 14/82, OEA/Ser.L/V/II.57, doc. 6 rev. 1 (1981-1982)
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BACKGROUND:

1. The Inter-American Commission on Human Rights received the following denunciations in a communication dated September 9, 1981:

“We report that on October 10, 1980, Kai Yutah Clouds (also known as Veit Nikolaus Stoscheck), a US citizen, who worked with the Mayas in Guatemala on an educational and cultural project, at the invitation of the Indians themselves, was kidnapped at gunpoint by five men in the Department of Chimaltenango. These men were recognized by more than 100 witnesses as being security officers. The victim's body showed signs of torture when it was found the following day in the city of Antigua, many miles away. We are profoundly saddened by this situation, because we knew of his fine work with the Indians and knew him to be a man of wisdom and compassion. The information provided by the Guatemalan authorities, the media and eyewitness accounts are very different, and we want a full and detailed investigation of this case.”

2. In a note of April 1, 1981, the Commission transmitted the pertinent parts of this denunciation to the Government of Guatemala, and asked it to provide the corresponding information.

3. In a note of August 10, 1981, the Commission again wrote to the Guatemalan Government reiterating its request for information, and reminding it that unless such information were forthcoming within the corresponding legal deadline, in application of Article 39 of the Regulations, the events recounted in the petition, the pertinent parts of which had been transmitted to it, would be presumed to be true.

WHEREAS:

1. To date, the Guatemalan Government has not replied to the commission's requests for

information in relation to the present case;

2. It appears from the Government of Guatemala's failure to reply to the Commission's request for information that the hearing for friendly settlement called for in the Commission's Regulations is not in order;

3. Article 39 of the Regulations of the Commission provides:

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.

4. The Commission has in its possession some additional points of information that corroborate the events addressed by the denunciation,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RESOLVES:

1. In application of Article 39 of the Regulations, to presume the acts denounced in the communication of September 9, 1981, concerning the kidnapping, torture and murder of Kai Yutah Clouds (also known as Veit Nikolaus Stoscheck) to be true.

2. To declare that the Government of Guatemala violated Articles 4 (right to life) and 5 (right to humane treatment) of the American Convention on Human Rights.

3. To recommend to the Guatemalan Government that it investigate the events denounced, and that if pertinent, it punish those responsible, and that it kindly communicate its decision to the Commission within a maximum of 60 days.

4. To communicate this resolution to the Government of Guatemala and to the claimants.

5. If the Government of Guatemala does not present its observations within the time period set in paragraph 3 of this resolution, the Commission shall include this resolution in its Annual Report to the General Assembly, in accordance with Article 59, paragraph g of the Regulations of the Commission.