

Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 16/82; Case no. 7778
Session:	Fifty-Fifth Session (1 – 9 March 1982)
Title/Style of Cause:	Juan Gerardi 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:	Gerardi v. Guat., Case 7778, Inter-Am. C.H.R., Report No. 16/82, 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 denunciation in a communication dated November 24, 1980:

Bishop Juan Gerardi, President of the Conference of Bishops of Guatemala, and a native-born Guatemalan, was denied entry to his country on November 22.

Bishop Gerardi was returning from Rome, where he had participated in the Synod of the Roman Catholic Church, where, at the request of the Conference of Bishops of Guatemala, he had presented a personal report to Pope John Paul II on the situation of the Church in Guatemala.

Bishop Gerardi escaped an attempt on his life on July 19, 1980. In the company of priests and nuns from the Dioceses of El Quiché, Bishop Gerardi left the dioceses to save their lives.

2. In a note dated April 3, 1981, the Commission transmitted the pertinent parts of this denunciation to the Government of Guatemala, asking it to provide the corresponding information.

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

WHEREAS:

1. To date, the Government of Guatemala 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 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.

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

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RESOLVES:

1. On the basis of Article 39 of the Regulations, to presume to be true the acts denounced in the communication of November 24, 1980 reporting the fact that Catholic Bishop Juan Gerardi had been denied entry to his own country - a de facto expulsion - when he returned from his trip to Rome where, at the request of the Conference of Bishops of Guatemala, he had presented a personal report to Pope John Paul II on the situation of the Church in Guatemala.

2. To declare that the Government of Guatemala violated Articles 22 (freedom of movement and residence), 12 (freedom of conscience and religion), and 13 (freedom of thought and expression) of the American Convention on Human Rights.

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

4. To recommend to the Government of Guatemala:

- a) that Catholic Bishop Juan Gerardi be permitted to return to Guatemalan territory, his country of birth, and to live there again, if he so wishes;
- b) that it investigate the events denounced and that it punish those responsible for them, and
- c) that it inform the Commission within 60 days as to the measures taken to put the recommendations in this paragraph into practice.

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

6. 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.