

Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 41/83; Case No. 3405
Session:	Sixty-First Session (26 September – 7 October 1983)
Title/Style of Cause:	Leon Thebaud v. Haiti
Doc. Type:	Resolution
Decided by:	Chairman: Mr. César Sepúlveda First Vice Chairman: Dr. Luis Demetrio Tinoco Castro; Members: Andrés Aguilar, Tom J. Farer, Marco Gerardo Monroy Cabra; Mrs. Gilda Maciel Russomano. Mrs. Russomano joined the Commission after having been elected by the Permanent Council of the Organization to complete the term of the former member of the IACHR, Professor Carlos Alberto Dunshee de Abranches, now deceased.
Dated:	26 September 1983
Citation:	Thebaud v. Haiti, Case 3405, Inter-Am. C.H.R., Report No. 41/83, OEA/Ser.L/V/II.63, doc. 10 (1983-1984)
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## BACKGROUND:

1. On August 20, 1978, the Commission received the following complaint:

Leon Thebaud was arrested in Port-au-Prince, at his residence located at Avenue Pouplard No. 91, on May 4, 1976, at 3:30 p.m. He had arranged to leave Haiti on May 6, for which purpose he had obtained his passport, an exit visa, a United States visa, and a Spanish visa, in order to go to Spain for an operation on his eyes, for which he had an appointment at the Clinica Baraquer, which he had visited in March 1975. Approximately 30 minutes later, his residence was ransacked, his library looted, and the records of his clients destroyed by the police, who carried off his typewriter and many other objects, all in front of his family, who watched in fright. His wife lost consciousness.

He was taken to Dessalines Barracks, where all his personal effects (eyeglasses, watch, etc.) were taken away from him and he was pushed to the floor in a cell. On May 5, the police appeared at his law office at No. 134 Center Street and, in violation of the law, took the records from his files and his collection of the official gazette, *Le Moniteur*. After those illegal seizures and the theft of the related objects and documents, he appeared assisted by two civilians, before Colonels Albert Pierre, Jean Valme, and Angel Orce to be interrogated. He was savagely beaten for the purpose of obtaining confessions and accusations, and nothing having been obtained, he was led to a solitary cell. On May 6, he was brought again before the same persons to force him to invent confessions. He was again savagely beaten; marks of those tortures can be seen on his body.

On June 16, 1976, he was transferred to Fort Dimanche and thrown into cell No. 9, which measures 2 by 4 meters, in which there were 27 persons lacking everything, including toilet paper.

Mr. Thebaud always insisted that he be given medicines for his eyes, to which they answered that those who are destined to die had no reason to be concerned about their sight. His suffering increased and

around the middle of July he lost his sight.

On February 17, 1977, at 10 p.m., along with other prisoners, he was transferred to the National Penitentiary, where he took his first bath in 10 months and received medicines for his eyes, unfortunately too late. On February 21, 1977, after the visit by Ambassador Young, he was set free. Blind.

Mr. Thebaud left in Haiti two sons and his mother-in-law, aged 88, and he did not wish that they might be the object of vengeance by the Duvalier Government.

With his professional records stolen and Mr. Thebaud ruined, blind, without funds, in a foreign land, it is demanded that the authors of the crimes against his person, his family, and his property be tried and punished and ordered to make fair reparation.

2. By a note dated February 9, 1979, the Commission sent the pertinent parts of the complaint to the Government of Haiti, requesting the corresponding information.

3. Not having received any reply from the Government, the Committee, through a note dated September 24, 1981, repeated its request for information, pointing out the possible application of Article 39 of the Regulations of the IACHR, in the event that it did not receive a reply to the request made.

4. By a note dated November 10, 1981, the Government of Haiti replied to the Commission in the following terms:

I have the pleasure to acknowledge receipt of the communication referring to Case 3405, dated September 24, 1981, regarding the request for protection of two sons and the mother-in-law of Mr. Leon Thebaud, who was arrested on May 4, 1976, and freed on September 21, 1977.

The Foreign Ministry has the pleasure to inform you that this letter was transmitted to the corresponding office for the corresponding processing.

5. In view of the fact that the reply from the Government limited itself to confirming that Mr. Thebaud had been arrested on May 4, 1976, and set free on September 21, 1977, without making any reference to the reasons for his arrest, his physical mistreatment, or the damage suffered by his house and his law office, the Commission decided to address the Government of Haiti again, once more requesting that it provide information with respect to the acts reported, which was done on February 20, 1982.

6. The Government of Haiti has to this date not replied to the request for information repeatedly made to it.

#### CONSIDERING:

1. That the Government of Haiti, in its note dated November 10, 1981, limited itself to confirming that Mr. Leon Thebaud had in fact been arrested on May 4, 1976, and set free on September 21, 1977, without referring specifically to the acts reported;

2. That the periods stipulated in Article 31 of the Regulations of the Commission having passed, without the Government of Haiti, to this date, having replied to the repeated requests for information made by the IACHR, which allows it to presume that there are no remedies under domestic law to be exhausted (Article 46 of the American Convention on Human Rights).

3. That Article 39 of the Regulations of the Commission reads 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. That, Article 1 paragraph 1 of the American Convention on Human Rights reads as follows:

Article 1. Obligation to Respect Rights

1. The States Parties to this Convention undertake to respect the rights and freedoms recognized herein and to ensure to all persons subject to their jurisdiction free and full exercise of those rights and freedoms, without any discrimination for reasons of race, color, sex, language, religion, political or other opinion national or social origin, economic status, birth, or any other social condition.

5. That the Republic of Haiti is a State Party to the American Convention on Human Rights.

Now therefore, in view of the background information and the considerations stated, and the fact that the Commission has no other evidence that would lead it to a different conclusion, on the basis of Article 39 of its Regulations,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To presume the fact reported in the communication dated August 20, 1978, regarding the arbitrary arrest, torture, and lack of due process in the case of Mr. Leon Thebaud, as well as the ransacking and pillage of his law office and his house of residence, to be true.

2. To declare that those facts constitute a serious violation of the right to humane treatment, the right to personal liberty, the right to a fair trial, and the right to property, Article 5, 7, 8, and 21, respectively, of the American Convention on Human Rights.

3. To recommend to the Government of Haiti:

(a) that it order a complete and impartial investigation to determine the persons responsible for the acts reported;

(b) that in accordance with Haitian law it punish the persons responsible for the acts reported;

(c) that it inform the Commission within 90 days about the measures taken to put the preceding recommendations into effect.

4. To transmit this resolution to the Government of Haiti and to the complainant.

5. To include this resolution in its Annual Report to the General Assembly of the Organization of American States, in accordance with Article 59 (g) of the Regulations of the Commission, if the Government of Haiti does not carry out the recommendations made or make observations on this resolution within the period indicated above.