

Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 3/84; Case No. 4563
Session:	Sixty-Second Session (11 – 18 May 1984)
Title/Style of Cause:	Domingo Laino v. Paraguay
Doc. Type:	Resolution
Decided by:	Chairman: Mr. Cesar Sepúlveda First Vice Chairman: Mr. Luis Demetrio Tinoco Castro; Members: Mr. Andrés Aguilar; Mr. Marco Gerardo Monroy Cabra; Mrs. Gilda Maciel Russomano; Mr. Luis Adolfo Siles Salinas; Mr. Bruce McColm.
Dated:	17 May 1984
Citation:	Laino v. Para., Case 4563, Inter-Am. C.H.R., Report No. 3/84, OEA/Ser.L/V/II.63, doc. 10 (1983-1984)
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BACKGROUND

1. Several notes that reached the Commission on December 10, 1982, charged that Mr. Domingo Laino had been arbitrarily detained by the police in Asuncion, Paraguay. Prior to this, Mr. Laino had been arrested on several occasions and on one of them, he had been held in confinement in the city of Mbuyapey, Department of Paraguari, by order of the Executive Branch, under the authority of Article 79 of the Constitution.

2. In a cable dated December 10, 1982, the Commission transmitted to the Government of Paraguay the pertinent parts of the charge. It requested information about the reason, place and conditions of detention of Mr. Laino, as well as the charges made against him.

3. On December 13, 1982, the Government of Paraguay replied to the request for information from the Commission in the following terms:

Domingo Laino is being held at the disposal of the Executive Branch of the Nation, in accordance with Article 79 of the National Constitution (state of siege).

4. Having been informed that Mr. Laino had been expelled from the country, the Commission sent a cable to the Paraguayan Government on December 16, 1982 in which it acknowledged receipt of the letter of December 13 and stated the following:

Additional information reaching this Commission asserts that Domingo Laino has been expelled from the country. If this assertion is true, I would appreciate it if Your Excellency would inform us of the reason for it and the procedure followed. We wish to inform Your Excellency that under the terms of Article 31 of the Regulations of this Commission, this request for information does not constitute any prejudgment of the admissibility of the petition.

5. On January 4, 1983, the Office of the Executive Secretary of the Commission received a letter from the Paraguayan Government dated December 15, 1982. That letter informed the IACHR that Mr. Domingo Laino, who was being held under the authority of Article 79 of the National Constitution, "had been advised that the Executive Branch would transfer him from one side of national territory to the other, as the aforementioned constitutional provision allows. Mr. Laino chose to go abroad. Since yesterday, December 14, 1982, he has been located in the city of Clorinda, the Argentine Republic, and is a free man."

6. The pertinent parts of the reply of the government were sent to the petitioner who, in a letter dated January 25, 1983, denied emphatically that Mr. Laino had voluntarily left the country. The petitioner added that at the time Mr. Laino was arrested in his own house, the police took with them 2,000 copies of the book, *El General Comerciante*, authored by Mr. Laino, which deals with the late General Anastasio Somoza, the former President of Nicaragua. The book was scheduled to go on sale December 10, 1982.

7. On February 25, 1983, two letters were received from the Government of Paraguay. Both were signed by the Deputy Secretary of Foreign Affairs, Ambassador Francisco Barreiro Maffiodo. In one of the letters, the government insisted that Mr. Laino left the country of his own free will and in the other it remitted to the Commission a clipping taken from the newspaper, *Hoy*, dated February 22. That article includes statements made by the Minister of the Interior, Dr. Sabino Montanaro, to the UPI news agency. The pertinent parts of the statements read as follows:

Asuncion, 21 (UPI): The Paraguayan Minister of the Interior, Sabino Montanaro, said that political exiles, except one whom he called "mentally unbalanced" and another whom he linked to communism, may return to Paraguay individually, but not in a group.

According to Montanaro, the "mentally unbalanced person" is the founder of the Christian Democratic Party, Luis Resck, and the person associated with Marxism is the well-known writer, Augusto Roa Bastos....

Montanaro, who has held the interior portfolio for 15 years, said that the reason for the lengthy state of siege was the fear that "subversive acts will occur and after that we will have to decree again" the measure which has been in effect since Stroessner took power in 1954.

Concerning Domingo Laino, a leader of the Authentic Liberal Radical Party, in exile for having published a book against the late Nicaraguan dictator, Anastasio Somoza, Montanaro said that he was "dangerous because of his connections with left-wing elements of other countries."

He confirmed that Laino, whose book was confiscated by the government, was linked in Argentina to the Marxist People's Revolutionary Army, and the left-wing peronist guerrillas known as the Montoneros.

The reason for his deportation, he stated, was that Laino was responsible for having painted political slogans on walls in the streets, an act he considered "the beginning of a destabilization campaign against the government."

8. Later on, the Commission learned that Mr. Laino had attempted to return to Paraguay on March 23, 1983, but was prevented from getting off the Aerolineas Argentinas airplane that carried him and forced to return to exile in the same aircraft. Mr. Laino again attempted to return to Paraguay on April 29, 1984, with the same results.

9. The Commission, noting an obvious contradiction between the statements of the government in its letter dated December 15, 1982, and the statements made by the Minister of the Interior, Sabino Montanaro, in the interview with the UPI news agency to which paragraph 7 of this resolution refers, addressed the Paraguayan Government in a letter dated June 16, 1983, in the following terms:

In its last session the IACHR took up the aforementioned cases and found that there exists a contradiction between statements made by Your Distinguished Government in its letters of December 15, 1982, June 31, 1981 and August 24, 1982, pertaining to these cases, and the statements made by the Minister of the Interior, Mr. Sabino Augusto Montanaro, in his declarations to the press which appeared in an article in the newspaper *Hoy* of February 22, 1983, a clipping of which was sent to the IACHR attached to a note from the Minister of Foreign Affairs signed by the Deputy Secretary of that portfolio, Ambassador Francisco Barreiro Maffiodo.

In effect, on one hand, in the notes referred to above, the government maintains that Messrs. Laino, Resck and Roa Bastos chose to leave the country after being detained for a period under the authority of Article 79 of the National Constitution, thus giving the impression that they did so voluntarily, and on the other, the Minister of the Interior states to the press that Mr. Laino was deported "for having painted political slogans on walls in the streets, an act he considered the beginning of a destabilization campaign against the government," that Luis Alfonso Resck was deported because "he is a mentally unbalanced person and an inciter to rebellion" and that the other expelled person, the writer Roa Bastos, "has ties with Soviet and Cuban elements and wanted to give a lecture at a high school and a university" and that "before he could begin to indoctrinate our youth to organize guerrilla warfare or to rise up against the government, we expelled him from the country."

In another part of his statement, the Minister adds, "the other exiles may return to the country, including the dissidents of the Colorado Party."

The petitioners have denied that the aforementioned persons left the country voluntarily. Actually, in agreement with the statements made by the Minister of the Interior, they confirmed that the aforementioned persons were forced to leave the country and have been denied permission to return. They gave as an example the case of Mr. Laino who, according to a letter whose pertinent parts were sent to the Paraguayan Government in a note dated April 5, 1983, attempted to return to the country on March 25, 1983, in a scheduled Aerolineas Argentinas flight but was forced to return to the place of embarkation in the same airplane that took him to Asuncion.

In view of the foregoing, the Commission has given me specific instructions to write to the Government of Paraguay to request information about the exact situation of Messrs. Domingo Laino, Luis Alfonso Resck and Augusto Roa Bastos. Specifically, the IACHR would like to know: If, as the Minister of the Interior states, Messrs. Laino, Resck and Roa Bastos were expelled from the country. If this is the case, the Commission would like to have a copy of the verdict handed down by the court that ordered the expulsion of the aforementioned persons. If, to the contrary, this is not the case, the Commission would like to know on the basis of what legal provision the Paraguayan Government does not allow the aforementioned persons to enter the country.

10. The Government of Paraguay has not, to date, replied to the aforementioned letter and Mr. Domingo Laino still remains in exile, according to letters received by the Commission.

WHEREAS:

1. The right of every person to live in his own country, to leave it, and to return to it when he considers it advisable, is recognized by all international instruments that safeguard human rights, among them, the American Declaration of the Rights and Duties of Man, Article 8 of which reads:

Every person has the right to fix his residence within the territory of the state of which he is a national, to move about freely within such territory, and not to leave it except by his own will.

2. In taking up the problem of expulsion of nationals, the Inter-American Commission on Human Rights has pointed out:

It is cause for alarm and concern the frequency with which the measure of expulsion of nationals is resorted to not as the exercise of an option, as some legislations provide, but as an act imposed upon the person by force and against which the person has no recourse, in violation of the right of residence and free movement established in Article 8 of the American Declaration. (Annual Report of the IACHR, 1976, p. 18).

These expulsions, administratively decreed without any type of legal proceedings, generally have been for an undetermined length of time, thus increasing even more their cruelty and irrationality, and making this sanction even more onerous than one attached to the commission of a crime which always has a sentence of a set period of time. (Annual Report of the IACHR, 1980-1981, p. 120).

3. The declarations of the Minister of the Interior, Dr. Sabino Montanaro, given to the UPI news agency and printed in the edition of the newspaper Hoy of February 22, 1983, the text of which was sent officially to the Commission by the Paraguayan Government in a note dated February 22, signed by the Deputy Secretary of Foreign Affairs, led to the unmistakable conclusion that Mr. Domingo Laino did not voluntarily leave the country but was forced to leave his native country and remain on foreign soil against his will.

4. From the same declarations made by Minister Montanaro and the lack of a reply to the note from the Commission dated June 23, 1983, it follows that the expulsion of Mr. Domingo Laino from the country was decreed administratively, without any type of legal proceedings, and without recourse to any appeal, as a means of eliminating a political dissident whom the government considers a threat to its internal security.

5. The liberty of persons includes the liberty of remaining in the country of which the person is a citizen and which constitutes the center of his professional, family and social life. The expulsion of a citizen by his government, under normal circumstances, is totally excluded by current human rights norms.

Therefore, in view of the information related and the considerations made, on the ground of Articles 48, 49 and 50 of its Regulations.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To declare that the Government of Paraguay has violated Articles VIII (right to residence and movement), XVIII (right to a fair trial), XXV (right of protection from arbitrary arrest) and XXVI (right to due process of law) of the American Declaration of the Rights and Duties of Man.

2. To recommend to the Government of Paraguay:

(a) That it take the measures necessary so that Mr. Domingo Laino may return to his home country, Paraguay, and enjoy all the rights and guarantees that the Paraguayan Constitution and its laws and international instruments relating to human rights confer to him.

(b) That it provide for a full and impartial investigation to determine the persons responsible for the alleged acts and impose on them the corresponding penalty in accordance with Paraguayan law.

(c) That it report to the Commission within the term of sixty days on the measures taken to put this recommendation into practice.

3. To communicate this resolution to the Government of Paraguay.

4. To publish this resolution in the Annual Report of the Commission to the General Assembly of

the Organization of American States if the Government of Paraguay does not accept, within the aforementioned term, the recommendations made.