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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 5/84; Case No. 8027
Session:	Sixty-Second Session (11 – 18 May 1984)
Title/Style of Cause:	Augusto Roa Bastos 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:	Roa Bastos v. Para., Case 8027, Inter-Am. C.H.R., Report No. 5/84, OEA/Ser.L/V/II.63, doc. 10 (1983-1984)
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BACKGROUND:

1. In a note dated May 2, 1982, received on July 30, of that same year, the Inter-American Commission on Human Rights received the following petition:

The Paraguayan writer, Augusto Roa Bastos, was deported to the Argentine city of Clorinda on April 30, 1982, without any judicial order providing for it.

In the afternoon of that day, four men dressed in civilian clothing (policemen) arrived at the house of Roa Bastos to tell him to go with them. When questioned by the press about the expulsion of the famous author of *Yo El Supremo*, the police stated that they had absolutely no knowledge of the matter and recently, on May 2, the Minister of Interior stated that, 'Roa Bastos was an ultra-Moscovite Bolshevik.'

The courts did not participate in these events and Roa Bastos was deprived of the right to defense since, to this time, the legal grounds for his exile have not been explained 'in a responsible way.'

2. In a note dated August 11, 1982, the Commission transmitted to the Government the pertinent parts of the petition and requested information that it considered opportune and expressed that, in accordance with Article 31 of the Regulations of the Commission, the request for information did not constitute any prejudgment regarding the admissibility of the charge.

3. On August 24, 1982, the Government of Paraguay replied to the request for information from the Commission as follows:

August Roa Bastos. Under the authority conferred to the Executive Branch by the National Constitution (state of siege, Article 79), he was detained on the grounds of his proselytizing activity among youth and university groups and intellectual groups (Marxist-Leninist proselytizing activity banned by law in Paraguay; the Communist Party in Paraguay is proscribed by the National Constitution which prohibits liberty from being used to suppress liberty). Augusto Roa Bastos chose to go abroad. He is currently in

Toulouse, France.

4. In a note dated September 3, 1982, the pertinent parts of the Government's reply were transmitted to the petitioner.

5. In a note dated October 8, 1982, the petitioner denied emphatically that Mr. Roa Bastos had left the country voluntarily and stated that, to the contrary, he (Mr. Roa Bastos) had been led forcibly by the police to the border and then obligated to leave the country without any choice.

6. In a note dated February 22, 1983, the Paraguayan Government replied to the observations of the petitioner by stating that the Government of Paraguay has already released its information on the Roa Bastos case. Along with this note, the Commission received another of the same date, signed by the Deputy Secretary of Foreign Affairs, Ambassador Francisco Barreiro Maffiodo. That note remitted to the Commission a clipping from the newspaper, Hoy, of that same date, February 22, 1983, which contains the text of an interview granted to the UPI news agency by the Minister of the Interior, Dr. Sabino Montanaro. The pertinent parts of the aforementioned interview are 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....

He stated that the other person expelled, the writer Augusto Roa Bastos, has ties with Soviet and Cuban elements. His friends and his allies were Communists of Argentine, Uruguay, Peru, Colombia, Venezuela and even Spain and France.

He stated that Roa Bastos 'came here and tried to give a lecture at a high school and a university. So, before he could indoctrinate youth to organize guerrilla wars or to rise up against the government, we expelled him from the country'.

Montanaro stated that the other exiles may return to the country, even those of the official Colorado Party, but they must do so 'one by one, not in a group, to prevent a tumult and to allow us to control their activities....'

7. The Commission, noting an obvious contradiction between the statements of the Government in its note dated August 24, 1982, and the statements made by the Minister of the Interior, Sabino Montanaro, in the interview granted to the UPI news agency to which aforementioned paragraph refers, addressed the Paraguayan Government in a note dated June 16, 1983, in the following terms:

Ref.: Cases Nos. 4563, 7848 and 8027

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 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 to 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 request the Government of Paraguay for 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.

8. To date, the Government of Paraguay has not replied to the aforementioned letter and Mr. Augusto Roa Bastos according to information in the possession of the Commission, remains in exile from the country.

WHEREAS:

1. The right of every person to live in his own country, to leave it, and to return when he considers it advisable, is being recognized by all international instruments that safeguard human rights, among them, the American Declaration of the Rights and Duties of Man, Article 8, 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. The Inter-American Commission on Human Rights, in taking up the problem of expulsion of nationals, 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 undertermined 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 for 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. August Roa Bastos did not voluntarily leave the country but was forced to leave his home 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. Augusto Roa Bastos from the country was decreed administratively without any type of legal proceedings and without allowing 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 under 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. Augusto Roa Bastos 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 reports 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.