

Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 15/84; Cases Nos. 8094, 9038 and 9080
Session: Sixty-Third Session (24 September – 5 October 1984)
Title/Style of Cause: Marcelino Marroquín, Julio Hernández Perdomo, Jaime de la Rosa Rodríguez, Julio César Vásquez Juárez, Walter Vinicio Marroquín González, Sergio Roberto Marroquín González, Héctor Haroldo Morales Lopez, Marco Antonio González, Carlos Subuyug Cuc, Pedro Raxon Tepet, Mario Ramiro Martínez González, Rony Alfredo Martínez González, Otto Virula Ayala, Jesús Enrique Velásquez Gutierrez and Julio César Herrera Cardona v. Guatemala
Doc. Type: Resolution
Decided by: Chairman: Mr. César Sepúlveda;
First Vice Chairman: Dr. Luis Demetrio Tinoco Castro;
Second Vice Chairman: Dr. Luis Adolfo Siles Salinas;
Members: Dr. Andrés Aguilar; Dr. Marco Gerardo Monroy Cabra; Dr. Gilda Maciel Russomano; Mr. Bruce McCollm
Dated: 03 October 1984
Citation: Marroquín v. Guat, Cases 8094, 9038 and 9080, Inter-Am. C.H.R., Report No. 15/84, OEA/Ser.L/V/II.66, doc. 10 rev. 1 (1984-1985)
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BACKGROUND:

1. On September 17, 1982, the following persons were executed by firing squad in Guatemala, in compliance with a sentence passed by the Courts of Special Jurisdiction: Marcelino Marroquín, Julio Hernández Perdomo, Jaime de la Rosa Rodríguez and Julio César Vásquez Juárez.
2. A second execution by firing squad was carried out on March 3, 1983 at the orders of the abovementioned Courts of Special Jurisdiction, as a result of which the following persons were killed: Walter Vinicio Marroquín González, Sergio Roberto Marroquín González, Héctor Haroldo Morales Lopez, Marco Antonio González, Carlos Subuyug Cuc and Pedro Raxon Tepet.
3. On the 22nd day of that same month of March, 1983, the third execution ordered by said Courts of Special Jurisdiction took place, killing the following persons: Mario Ramiro Martínez González, Rony Alfredo Martínez González, Otto Virula Ayala, Jesús Enrique Velásquez Gutierrez and Julio César Herrera Cardona.

WHEREAS:

1. The abovementioned executions took place despite repeated requests for the suspension and commutation of the death sentence duly presented by the Inter-American Commission on Human Rights to the Government of Guatemala well in advance of same, invoking, besides humanitarian concerns, the

following reasons:

- a. The lack of guarantees to which the accused were subjected, a fact that the members of the Commission were personally able to verify through examination of dossiers of said Courts of Special Jurisdiction and interviews conducted with some of the detainees subjected to such proceedings, during the visit in loco they made to Guatemala;
- b. The innumerable procedural nullities incurred in by the courts entrusted with such trials, which ranged from a lack of the necessary independence and impartiality essential to an organ in charge of administering justice, to the refusal to grant the defendants, in the course of their trials, adequate means to prepare their defense, denying them the right to be duly assisted by a defense counsel of their choice, the right to communicate freely and privately with same, to interrogate witnesses or experts and, in many proven cases, compelling them to declare themselves guilty and incriminate themselves; they were also denied the right to appeal, at least in the first trials. They were likewise refused the right to a public trial and, on the contrary, were subjected to inquisitorial trials of a secret nature.
- c. The inapplicability of the death sentence in Guatemala to persons being tried for crimes that at the time of Guatemala's ratification of the American Convention on Human Rights were not punishable by death.

2. The thesis of the Government of Guatemala, under the administration of General Efraín Ríos Montt, that it has the power to enact laws on the death penalty subsequent to the entry into force of the American Convention, to which Guatemala is a Party, and, thus, to apply the death penalty on the grounds that it made a reservation to Article 4 paragraph 4 of said Convention, which refers to political offenses or related common crimes, already contested by the Commission at the time, was conclusively rejected by the Inter-American Court of Human Rights, the judicial organ which has been asked to render an opinion. The unanimous opinion of the Court, dated September 8, 1983, was as follows:

That the Convention imposes an absolute prohibition on the extension of the death penalty and that, consequently, the Government of a State Party cannot apply the death penalty to crimes for which such a penalty was not previously provided for under its domestic law, and
That a reservation restricted by its own wording to Article 4 (4) of the Convention does not allow the Government of a State Party to extend by subsequent legislation the application of the death penalty to crimes for which this penalty was not previously provided.

3. Although it is true that such Courts were abolished when General Ríos Montt was overthrown and a full pardon was granted to all those persons who had been condemned by them and had received appealable sentences that they were in the process of serving--which is indeed an important step towards the improvement of the administration of justice in Guatemala--this in no way makes up for the grave and irreparable harm caused to those who were executed.

4. The deplorable circumstances of these acts justify consideration of ways of compensating and making reparation for the irreparable damages caused to the victims and their families.

5. None of these cases present any of the conditions of inadmissibility established by the American Convention on Human Rights.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To declare that the establishment of Courts of Special Jurisdiction in Guatemala and all manner of secret tribunals lacking independence, autonomy and discretion are contrary to the universally accepted rules of due process and violate the provisions established to this end by the American Convention on

Human Rights.

2. To declare that the actions brought before the Courts of Special Jurisdiction are arbitrary and lack the minimal legal guarantees.
3. To observe that the sentences passed by such Courts are invalid and lacking in juridical content and legal effect because they are not duly based on a verification of the facts, because they impose penalties that are inapplicable and because they come from judges who are incapable of conducting a fair trial.
4. To condemn the executions carried out in compliance with the sentences passed by such Courts of Special Jurisdiction as being acts contrary to justice and law which violate the right to life.
5. To recommend just reparation for the relatives of the victims of such executions.
6. To recommend that those persons who have been tried but not sentenced by such Courts and are still being held, be immediately set free or else be brought before a competent court to face trial.
7. To urge the Government of Guatemala to comply with the repeated recommendation that it inform the relatives of the victims of executions ordered by the Courts of Special Tribunals of the exact place where the bodies of those persons were buried.
8. To transmit this Resolution to the Government of the Republic of Guatemala.
9. To include this Resolution in the Annual Report to the General Assembly of the Organization of American States if the Government of Guatemala does not implement the above recommendations.