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Title/Style of Cause:	Francisco Fairen Garbi and Yolanda Solis Corrales v. Honduras
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 McColm
Dated:	04 October 1984
Citation:	Fairen Garbi v. Hond., Case 7951, Inter-Am. C.H.R., Report No. 16/84, OEA/Ser.L/V/II.66, doc. 10 rev. 1 (1984-1985)
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BACKGROUND:

1. The Inter-American Commission on Human Rights received the following denunciation in a communication dated January 14, 1982:

Francisco Fairen Garbi, passport 9-048-377, student, 28 years of age, and Yolanda Solis Corrales, passport 1-419-1217, educator, 28 years of age, disappeared in Honduras on December 11, 1981, while passing through that country on their way to Mexico.

The Honduran authorities deny that they entered Honduras, whereas reports from the Government of Nicaragua attest to their departure from that country into Honduras through the "Las Manos" border post at 4:00 p.m. on December 11, 1981.

We ask the Honduran Government to respect their lives and personal safety, for there is concern that they may be suffering ill-treatment, and to inform the Government of Costa Rica as to their whereabouts and circumstances, expediting their return to Costa Rica.

2. In a note dated January 19, 1982, the Commission transmitted the relevant parts of this denunciation to the Government of Honduras, requesting information on the events reported, as well as any facts that would enable the Commission to determine whether or not domestic legal remedies has been exhausted in this case.

3. In a note dated January 21, 1982, the Commission received additional information on this case, which was transmitted to the Government of Honduras on February 22, 1982, in the following terms:

We denounce human rights violations by the Honduran Government to the detriment of the following persons: Francisco Fairen Garbi, bearer of Costa Rican passport No. 9048377, 28 years of age, single, a student of Economics at the University of Costa Rica and employee of the National Bank of Costa Rica since 1974, whose address in Costa Rica is Calle 1, Avenidas 8 y 10, Escazu Centro, telephone 28-05-26.

and Miss Yolanda Solis Corrales, bearer of Costa Rican passport No.; 14191217, 28 years of age, single, professor of Social Science, whose address in Costa Rica is Calle 5, Avenidas 12 y 14, Escazu, Telephone: 28-21-23. Our denunciation is based on the following facts:

On December 8, 1981, the persons described above left San Jose in a 1971 Opel-Record automobile, Costa Rican license plates No. 39992, on their way to Mexico via Nicaragua, Honduras and Guatemala, their final destination being the city of Cordova, State of Veracruz, Mexico. They were to return to Costa Rica on December 21st, as Francisco had to go back to work on December 22nd. Furthermore, both parties had promised their families that they would be home for the Christmas celebrations.

When they had not returned by December 24, enquiries were made among their friends and acquaintances, but none of whom had any news to give. At the home of the relatives they had gone to visit in Mexico the report was that they had never arrived. In view of this, notes were dispatched on January 5, 1982 to the Embassies of Nicaragua, Honduras and Guatemala, requesting information on the whereabouts of these two persons.

On January 8, 1982, a reply was received from the Embassy of Nicaragua in Costa Rica, certifying that both Francisco and Yolanda had left Nicaraguan territory on December 11, 1981, through the "Las Manos" frontier post which borders with Honduras. On January 24, 1982, the Embassy of Guatemala reported that neither Francisco nor Yolanda had entered Guatemala between December 8 and 12, 1981. In view of the fact that no reply was received from the Embassy of Honduras, a visit was made to Mrs. Argentina de Sanchez, Third Secretary in charge of the Embassy during the Ambassador's absence on vacation; this lady explained that she was not authorized to communicate with her own country's Foreign Office while the Ambassador was away. The sole reply received came in the form of a telegram dated January 20, 1982, which read as follows: SIRS: AWARE OF YOUR DEEP CONCERN WE AWAIT REPLY FROM HONDURAN AUTHORITIES IN ORDER TO TRANSMIT SAME TO YOU. Starting on January 4, 1982, negotiations were initiated with the Second Vice-President of the Republic and Minister of Economy, Industry and Trade, Lic. Jose Miguel Alfaro; the Minister of the Presidency, Lic. Jose Rafael Cordero Croceri; the Vice-Minister of Foreign Affairs and Worship, Lic. Mario Fernandez Silva, and the following Foreign Office officials: Director General of the Foreign Service, Mrs. Francis Viquez de Solorzono. Director General for Protocol, Lic. Jose Luis Cordero Cooper; Head of the Department of Immunity and Privileges, Lic. Jose Andres Carrillo Chavez; Head of the Consular Department, Mr. Victor Monge. A letter was also sent to Lic. Bernd Nihaus, Minister of Foreign Affairs and Worship of Costa Rica. Mr. Victor Monge, Head of the Consular Department, reported that this was the fifth case of disappearance of Costa Ricans in Honduras that the Foreign Office was aware of. Upon contacting the Costa Rican Consulate in Honduras and after that Consulate had requested information from the DNI (National Investigation Department), he reported that migration records at the border posts did not show Francisco and Yolanda as having entered and that they were, therefore, not in Honduras; however, the official report for the month of December had not been examined.

The Costa Rican Consul in Honduras subsequently received copies of the computer print-outs of entries through the three border posts between Honduras and Nicaragua from December 8 to 15, none of which recorded the entry of Francisco and Yolanda. This report was received three days after it was requested and not on the same day, as is customary. At no point did Mr. Victor Monge or the Costa Rican Consulate in Honduras receive an official reply.

Vice-President Alfaro, who was in Honduras between January 11 and 13, asked his counterpart in Honduras for information. The latter agreed that he would request the Director of the G-2 for information, but no reply has been received to date.

The Minister of the Presidency, Lic. Cordero Croceri, reported that the case had been taken up at a meeting of the Cabinet on Thursday, January 7, at which all the Ministers expressed their concern about the situation, and that he personally would approach the Honduran Government. The Minister of Justice, Lic. Elizabeth Odio, asked for information and received a verbal reply to the effect that they had not entered Honduras; such verbal reply does not constitute an official communication.

Vice-President Lic. Fernandez Silva contacted the Costa Rican Ambassador in Honduras, Lic. Federico Alvarez, who promised to make enquiries into the case but was unable to obtain any positive results. He

also promised help and official protection to one of the relatives of the victims should he eventually travel to Honduras.

In light of the Government of Honduras' reluctance to issue immediate official reports, the report of the Government of Nicaragua indicating that the subjects had left that country, and the testimony of Tegucigalpa residents who assert that between 18:00 and 18:30 hours on December 11 they observed an Opel vehicle with Costa Rican plates in the vicinity of the Alameda Hotel, with a young couple inside it (and there are repeated reports of these sightings), we hold the Honduran Government and the G-2 responsible for the disappearance of the victims.

As is well known, there have been other cases of physical abuse and we fear that this might be repeated. We therefore ask that their lives and physical and moral safety be respected.

4. In a note dated January 17, 1982, the Government of Honduras answered the Commission's requests for information by indicating that "we are awaiting a reply from the Honduran authorities, which we shall transmit to you."

5. On March 8, 1982, the Government of Honduras sent the following reply to the Commission's request for information:

As a result of investigations carried out by the competent authorities in connection with the supposed disappearance of Costa Rican nationals Francisco Fairen Garbi and Yolanda Solis Corrales, I wish to report the following:

1. Due to the great interest expressed by the High Command of our Armed Forces and the Ministry of Foreign Affairs in locating or throwing light on the whereabouts or transit route through our country of the subjects, it has been possible to establish the following: That FRANCISCO FAIREN GARBI, of Costa Rican nationality, passport No. 904837781, and YOLANDA SOLIS CORRALES, of Costa Rican nationality, passport No., 1419-1217, entered Honduran territory through the "Las Manos" customs, Department of El Paraiso, on December 11, 1981, driving on Opel vehicle with Costa Rican plates No. 39991.

1.2 They left the country at 15:00 hours on December 12, 1981, through the "El Florido" Customs Post, Department of Copan (Western border), supposedly en route to the Republic of Guatemala.

2. The above information was obtained from the "Las Manos" and "El Florido" Customs Posts, respectively.

I would, furthermore, transcribe below the report drawn up by the Head of Migration Inspector, Mr. Alejandro Perez Molina, which literally states the following:

"February 24, 1982 - Director General of Population and P.M. Infantry Colonel DAGOBERTO GOMEZ SUAZO. Sir: I wish to report on the investigation conducted on the entry and exit of Messrs. FRANCISCO FAIREN GARBI AND YOLANDA SOLIS CORRALES, both of Costa Rican nationality, who entered the country through the Migration Post of Las Manos, El Paraiso, where they presented themselves on December 11, 1981, at approximately 4:30 p.m., at which hour our Post is already closed for the day in view of the fact that our counterpart in Nicaragua closes its borders to the public at 4:00 p.m. The abovementioned subjects were therefore allowed to pass on December 12, 1981. On that same day they exited through the Migration Post of El Florido, Copan, on their way to Guatemala. To this effect, I attach the migration vouchers issued, showing completed cycles. Hoping this report is received in good order, respectfully, Seal and Signature ALEJANDRO PEREZ MOLINA, Head of Migration Inspection Office.

In a note dated May 12, 1982, the Commission transmitted to the Government of Honduras the observations of the claimant contained in letters dated March 15 and April 6, 1982, requesting a reply.

The observations were as follows:

The sudden appearance of my son, Francisco Fairen Garbi, and his travel companion on Honduran territory and their meteoric passage to the Republic of Guatemala on December 12, 1981, is not easily believed, unless one is possessed of an unbelievable degree of naivete. The erratic declarations of the Plenipotentiary Ambassador of Honduras to this country, Mrs. Albertine Bernhard de Zelaya, regarding the presence or non-presence of my son and his companion in her country and the overdue, conflicting statements and certifications of the Honduran authorities on the subject constitute, in our opinion, an abuse of truth. An abuse that can be proved.

On January 8, 1982, the Consulate of Nicaragua in San Jose issued, at our request, a certificate attesting to the fact that Francisco and Yolanda had left that country in route for Honduras on December 11, 1982, through the "Las Manos" border post. On February 5, 1982, the Nicaraguan authorities completed the foregoing information by sending us photostatic copies of the "embarkation-debarkation" cards filled out by our relatives, now missing, in their own handwriting. The cards indicate 4:00 p.m. to be the hour of their departure towards Honduran territory.

On January 14, 1982, the Consul of Guatemala in San Jose issued a certificate based on a report from the Guatemala authorities, to the effect that: "between December 8 and 12, 1981, the persons in question DID NOT ENTER OR LEAVE GUATEMALA."

Under pressure from our demands to the Government of Honduras, made public through various communications media, the Ambassador of that country in Costa Rica took out an ad in the La Nacion newspaper to make the following statement: "in connection with the denunciations made regarding the disappearance of Francisco Fairen Garbi and Yolanda Solis Corrales"... "the Honduran officials of the National Investigations Department have been consulted and have confirmed, after conducting an exhaustive investigation at the a) Las Manos, b) El Espino and c) Guasaule border posts on the frontier with the Republic of Nicaragua, that the abovementioned Costa Rican citizens AT NO TIME ENTERED the territory of the Republic of Honduras." Please note that the Plenipotentiary Ambassador of Honduras to Costa Rica uses the word EXHAUSTIVE to transmit to the readers the description that the investigative authorities themselves give of the search conducted in their files. This certification is dated January 24, 1982.

On February 11, 1982, however, the Secretary General for Population and Migration Policies of Honduras issues a certificate reading as follows: "The Department of Statistics reports that the following migratory entry appears in the files kept for this purpose in the name of Yolanda Solis Corrales, of Costa Rican nationality, who entered the country on December 12, 1981, through the customs post of Las Manos in a private vehicle from the direction of Nicaragua. We certify that OUR FILES DO NOT SHOW MR. FRANCISCO FAIREN AND HAVING ENTERED OUR COUNTRY, NOR IS THERE A RECORD OF THE DEPARTURE OF BOTH COSTA RICAN CITIZENS."

This certificate aroused our special interest, due to the fact that the only passengers in the "private vehicle" referred to were my son and Yolanda, and we knew from her relatives and friends that Yolanda did not know how to drive. This fact was confirmed by the Motor Vehicle Office in a certification given in San Jose at 14 hours on February 22, 1982. Nevertheless, on February 19, 1982, the Plenipotentiary Minister of the Republic of Honduras, Mrs. Albertina Bernhard de Zelaya, asserts as a result of a new denunciation on my part stating that "they had been seen in the center of the city of Tegucigalpa..." that "the Minister of Foreign Affairs of my country has intensified the investigations into this case...after the COMPETENT AUTHORITIES of my country reported, through me, that THERE IS NO EVIDENCE OF THE YOUNGSTERS IN QUESTION HAVING ENTERED HONDURAS..." Surprisingly, this letter which, as has been stated, was sent to me on February 19, 1982, completely ignores the amazing averment dated February 4 which was issued by one of those COMPETENT AUTHORITIES mentioned by the Plenipotentiary Ambassador.

On February 26, 1982, I received from Mr. Carlos Lopez Santuzo, in the Guatemalan Consulate in San Jose, copy of a certificate dated February 3, 1982, to the effect that both my son Francisco and his companion Yolanda had entered Guatemala from Honduras on December 12, 1981, through the "El

Florida" border post, subsequently passing to El Salvador on December 14, 1981, through the post at Valle Nuevo.

On March 10, 1982, our Foreign Office received a hurried note from Mr. Edgardo Paz Barnica, evidently based on the second certification issued by the Government of Guatemala, which, perhaps in the interests of keeping up appearances, was prudently predated. Mr. Paz Barnica says something that is very much in keeping with the surprising context surrounding our case. Ninety days after the disappearance of our children and after numerous EXHAUSTIVE INVESTIGATIONS BY THE COMPETENT AUTHORITIES, it is now asserted that Francisco and Yolanda entered and left Honduras on December 11, a circumstance that in Mr. Paz Barnica's opinion closes the case for the greater glory and benefit of Honduras.

But is it logical and prudent to accept the facts as they try to present them to us, without analyzing them in any way? Which of all the certificates, reports and statements listed actually states the truth? The Nicaraguan certificates are beyond suspicion. Those from Guatemala smack of a fabrication. As for the Honduran reports, we believe that not one of them is in line with the others, rather, they all contradict each other, although the last one curiously coincides with the second report of the Guatemalans. This leads me to the conviction that the Government of Honduras is in fact in no position to throw light on the facts as requested. And this is true not only of the case involving Francisco and Yolanda, but also of the numerous disappearances of Costa Rican and other nationals that have occurred in Honduras. The Government of Honduras must, therefore, step aside and allow the Inter-American Commission on Human Rights and Amnesty International to be the ones to carry out the investigation it has proved unable to perform.

Another aspect that is a source of concern to us is the Honduran Government's unwillingness to allow a second autopsy to be performed on the body of a young man found in an area known as "La Montacita", some 20 Kms. away from the City of Tegucigalpa, and buried in the General Cemetery of that city. The body of that young man was found, barefoot and beltless--you will understand the significance normally attached to these circumstances--on December 28, 1981, with three bullets in the neck. The physical traits visible in the forensic photograph indicate that it could be the body of my son Francisco. Our Foreign Office transmitted to its counterpart in Honduras our petition for a new autopsy, emphasizing our interest in receiving the dental data obtained from the corpse, since we have in our possession the necessary information to enable us to verify his identity in that way. To date, the Honduran Government has not broken its silence. Does that attitude reflect forgetfulness or an innocent confusion on the part of the Honduran authorities? Would that those authorities were as ingenuous as they wish to appear. Maybe then our relatives would appear.

7. In a communication dated June 9, 1982, the Government of Honduras replied as follows:

I reaffirm the contents of Communication No. 153 DSM, dated May 8 this year, through which we informed that Honorable Commission of the results of the investigations into the supposed disappearance of Costa Rican citizens Francisco Fairen Garbi and Yolanda Solis Corrales, which report was accompanied by the corresponding migration vouchers and the car's entry permit.

A transcript was also provided of the communique issued by the Department of Population and Migration Policy, clarifying all the particulars of the migratory cycle made by the persons in question.

The position adopted by the claimant is, therefore, incongruous. He refuses to accept the evidence presented not only by us, but also by the Government of Guatemala, which issued a certificate attesting that the subjects entered Guatemalan territory and left it through the border post of Valle Nuevo on December 14, 1981, bound for the Republic of El Salvador (see page 3 of the document titled "Observations of the claimant" which is attached to your communication.) The only proof offered by the claimant is that the abovementioned certifications--specifically the one issued by Guatemala,--"smack of fabrication".

We do not wish to go into greater detail on this aspect, since my Government cannot assume the role of

defense counsel of its Guatemalan counterpart. Nevertheless, we do wish to draw attention to the type of proof he offers. Furthermore, we would point out that the claimant is only ready to accept the certifications given by the Government of Nicaragua, which he finds are "beyond suspicion".

We cannot but ask ourselves: Why does he accept only these proofs? Why does he find that only these are beyond suspicion? It is not for my Government to respond to those questions; indeed, we respect the certification in question, as we also respect the one issued by the Consulate of Guatemala, since both States are sovereign entities with all that that condition implies. On the other hand, as regards the exhumation of the corpse that he requests, I must inform you that in my country everybody has the right to come before the courts of law in order to demand his rights. Since the claimant is not a Honduran national, he must comply with the provisions of the international treaties governing such matters. We cannot interfere with the workings of the law for by so doing we would be violating the rule of law and, consequently, judicial authority. All the steps of the corresponding legal procedure must be followed in this case in order to guarantee the validity of his rights.

Lastly, I wish to call your attention to the disrespectful comments made by the claimant, which are an affront to the dignity of my State and my Government. I am extremely surprised that the Executive Secretariat should have accepted such comments in the manner presented, since under Article 39 paragraph a) the Commission shall not accept any communication deemed inadmissible because it is written in disrespectful or offensive language, and what could be more offensive than the language used by the claimant when he asserts that "the Government of Honduras is in fact in no position to throw light on the facts as requested", "the Government of Honduras must, therefore, step aside..." and the bragging tone of his statement about Mr. Paz Barnica's closing of the case, for the greater glory and benefit of Honduras; the above simply to give but a few examples.

8. In a note dated November 30, 1982, the claimant responded to the new communication from the Honduran Government in the following terms:

I confess that, to date, I am unaware of the findings of the investigations conducted by the Honduran authorities into the "disappearance" of the abovementioned persons. However, I believe that the information gathered by the authorities is already in the hands of that Honorable Commission. This cannot but please me, particularly considering that it includes the corresponding "migration vouchers" as well as the entry permit for the car which the travellers were driving. This is precisely the type of documentation that we, in vain, awaited in Costa Rica from the Honduran authorities. Nevertheless, having learned our lesson from the type of statements and documents that the Honduran Government has been want to provide, it would be prudent for the Commission to find a way to let us see and examine them in order to establish whether they are of any value whatsoever, lest they turn out to be like the previous documents which, as we know, were fabricated by those same "competent" authorities, confusedly rushing to hide facts that threaten the Honduran regime.

My position vis-a-vis the Honduran Government in this case is based on my past and present interpretation of the incongruities of its authorities. If they have contradicted themselves in each and every one of the statements made and each and every one of the "certifications" issued, the fault has not been ours.

I have invented nothing. And although it has been stated before, there is no harm in repeating the following:

a) The youngsters Francisco Fairen Harbi and Yolanda Solis Corrales left San Jose, Costa Rica, on December 8, 1981, as I have already stated, on a journey to Mexico. They should have returned to their homes on December 22. However, since they had still not returned by the first days of the new year, we started making enquiries to learn their whereabouts on January 5, approaching the diplomatic representations of the countries through which the route chosen by the travellers would take them, in order to seek information about them.

b) Three hours after our visit to the Embassy of Nicaragua we received our first report by telephone:

the travellers had crossed the Nicaraguan frontier into Honduras in the afternoon of December 11, 1981, through the border post at Las Manos. The Consul General of Nicaragua issued a certificate ratifying this first report on January 8, 1982. A few days later, we were handed copies of the "embarkation-debarkation" cards that had been filled out by the travellers upon crossing the borders. That was the total participation of the Nicaraguan authorities in this case.

c) On the 14th day of January, 1982, the First Secretary and Consul, at that time acting Charge d'Affairs of the Government of Guatemala to the Government of the Republic of Costa Rica, handed us a statement certifying that the authorities of the Department of Migration of Guatemala had no record of passage by the youngsters on Guatemalan soil between December 8 and 12.

d) On January 21, 1982, the Embassy of the Republic of Honduras in Costa Rica declared in a paid ad that appeared in the newspapers that, according to the National Investigations Department (DNI), "after conducting an exhaustive investigation..." "they have CONFIRMED that the abovementioned Costa Rican citizens AT NO TIME entered the territory of the Republic of Honduras."

e) On February 11, 1982, the Secretary General for Population and Migration Policies of the Republic of Honduras issued a new certification, of which we have a copy and which we continue to find a very surprising document. It was asserted there that Yolanda Solis Corrales had entered Honduras from Nicaragua in a private car on December 12, 1981, through the Customs Post of Las Manos. It was also stated that the files did not show that Francisco Fairen Garbi had ever entered the country nor that either traveller had left Honduras.

f) On February 19, 1982, a letter was received from Mrs. Albertina Bernhard de Zelaya, in her capacity as Plenipotentiary Ambassador of Honduras to Costa Rica, indicating that the Honduran authorities were still continuing to investigate this case, so far with no results.

g) On February 26, 1982, shortly after the new Ambassador of Guatemala to Costa Rica took up his position, the Consulate of that country received a certification dated February 3, 1982, attesting to the fact that Francisco and his companion had both entered Guatemala from Honduras on December 12, 1981, through the border post of El Florido, leaving that country for El Salvador on December 14, 1981, through the Valle Nuevo crossing.

h) As was to be expected, on March 10, 1982, the Costa Rican Foreign Office received a note which we have described consistently as "hurried" and "in keeping with the surprising context surrounding our case." In a letter addressed to our Foreign Minister, I made the following observation: "...ninety days after the disappearance of both and after numerous exhaustive investigations by the competent authorities, it is now asserted that Francisco and Yolanda entered and left Honduras..."

i) On March 23, 1982, at the request of our Government, the Director General of Migration of El Salvador certified that "a search of the records of entries into the country was conducted at the crossing of Chinamas and La Hachadura for the period from December 10 to December 20, 1981, without any migratory movements having been found for Messrs. Francisco Fairen Garbi and Yolanda Solis Corrales, of Costa Rican nationality." This statement served to reopen a process that evil forces had tried to close. If the foregoing leads to conclusions unfavorable to the Honduras authorities, I repeat that that is not our fault either.

The investigation of the facts that led to the victims' "disappearance" in Honduras was not the result of a whim. We did not point to Honduras from the very beginning. We have already stated that we went first to the Nicaraguan authorities, for the logical reason that it is the closest country to us in a northerly direction. And the authorities of that country gave us a prompt and satisfactory reply. The trust we placed in the documents delivered to us by the Nicaraguan authorities was later amply justified when the Honduran authorities reluctantly admitted that Francisco and Yolanda had entered Honduras. As can be seen, the inconsistencies have not been ours nor the Nicaraguan Government's, which had nothing to do with this sad affair. As for the Government of Guatemala, which also issued a couple of contradictory retractions, it is not our fault if their actions give the impression of being "fabrications", a term that has so irritated the Honduran Government, perhaps precisely because of the truth it contains.

Consequently, the position adopted by the claimant is not incongruous, as the Honduran authorities assert

when they state that I refuse to accept the proofs presented by them to that Commission. That makes no sense. I am, in fact, totally unaware of those proofs. It would be something else to say that I refuse to accept the documentation that is already in my hands, for that certainly forces me to maintain my position, that is, to point in the direction of the Government and authorities of Honduras without any desire to point in any other direction simply to satisfy those who do not wish to be disturbed. If the Government of Honduras is able to supply evidence that will convince us that neither Francisco nor Yolanda is on Honduran territory, let me assure that Government that I will leave it in peace and quiet, with my sincere apologies.

As has already been stated, and I repeat, the Honduran Government responded to our first requests for information with a firm negative. It was not until well into the month of March that we received a reply to the effect that neither Francisco nor Yolanda had come into the country from Nicaragua. The Plenipotentiary Ambassador of Honduras to the Government of Costa Rica, Mrs. Zelaya, wrote me a letter stating that the Foreign Minister had ratified this information during a meeting she had with him in Tegucigalpa shortly before returning to her post in San Jose. She went on to say that despite this, and because of our assertion that both Francisco and Yolanda had been seen by well-known persons in downtown Tegucigalpa, the authorities had resumed the search, the results of which would be communicated to the Ministry of Foreign Affairs of Costa Rica, with a copy to me. I must confess that, to date, the Ministry and I are still awaiting the promised originals and copies. This goes to show the lack of responsibility in the Honduran Government's handling of this case.

I shall now transcribe for you a paragraph that strengthens the poor impression I have formed of the Honduran investigations. It is taken from statements made by Dr. Bernd Neihaus, Foreign Minister of Costa Rica at the time of the "disappearances", to the Special Commission appointed by our country's Congress to investigate the disappearances and abuses to Costa Rican citizens in Honduras, at its meeting of June 26, 1982. Dr. Neihaus declared the following:

"...Apart from this, there are two or three letters demanding the exhumation of the body. And lastly a note, almost a protest, delivered personally by me to the Ambassador of Honduras, who said to me: 'Minister, how is it possible that two countries should fight over a case like this?' And I replied: 'Madame Ambassador, the life of any Costa Rican is to me more than sufficient motive to take a case to any extreme and although it is obviously not my intention to go as far as a political confrontation between the two countries, certainly I would demand the most thorough investigation.' It really upset me very much that the Ambassador of Honduras should look on it as a matter of scarce importance..."

As can be deduced from the words of the Ambassador of Honduras to our Foreign Minister, the investigation of the facts that we demand, which could well have been carried out by the Government of Honduras as a routine police enquiry, rapidly acquired political characteristics in the hands of the Government and its officials. Once again, it was not our fault. In any event, please take note of the levels of good faith and civility attained by Honduran diplomacy in this case and in what a deplorable setting they have chosen to play with reasons of state.

Although I have already referred to this subject, I shall repeat myself. The note from the Honduran Government affirms that I am only willing to accept the certifications provided by the Nicaraguan Government which are, for me, beyond suspicion. And it goes on to ask: why does he accept only these proofs? Because only these are beyond suspicion? Well, I shall tell them. The copies of the migration, transit or "embarkation-debarkation" cards sent to us without comment by the Nicaraguan authorities constituted a genuine, absolutely true and believable proof, for they had been filled out by the travellers in their own hand, which we are able to identify as such. The corresponding certification reporting the youngsters' passage into Honduras which was issued by the Nicaraguan authorities had to be accepted as correct, since we had already found the preceding documents to be authentic. The Honduran Government's admission that Francisco and Yolanda had, indeed, entered its territory, proves us to be right. Whether or not it befits the Honduran Government to respond to questions that nobody has posed is not relevant to the case in point.

In concluding, the Honduran Government refers to the exhumation of a body buried in the Tegucigalpa Cemetery which could well be Francisco's. Our Foreign Office has repeatedly asked the Honduran Government for permission to conduct an autopsy. If the Honduran authorities truly felt that they were innocent, as they claim, we believe that they would long ago have expedited the exhumation and autopsy requested, secure in the knowledge that the findings would not harm the prestige of their country. However, it being the manifest intention of these authorities to oppose our petition, there is room for suspicion that their refusal masks a fear that a compromising reality might be uncovered.

I am not very knowledgeable in matters of law. This is why I have my doubts as to whether my interest in identifying the abovementioned corpse should be shared by the Honduran Government: legal action should be at the initiative of both parties; the law must work in both directions if it is truly inspired by justice. If the Government of Honduras decided to investigate, I have not the least doubt that it would find no obstacles in its way.

9. In a note dated January 24, 1983, the Government of Honduras responded to the claimant's last letter, which had been sent on December 20, 1982 to the Government of that country, as follows:

...

a. Although domestic legal remedies have not been exhausted, as a result of my Government's profound interest in contributing to the discovery of the whereabouts of Messrs. Francisco Fairen Garbi and Yoland Solis Corrales, both of Costa Rican nationality, the Constitutional President of the Republic, Dr. Roberto Suazo Cordova, has opportunely issued precise instructions to the various competent organs of the State, asking them to perform an exhaustive investigation that will convincingly throw light on the whereabouts or transit route of the abovementioned persons.

b. This profound interest was reflected in Note 065-DSM, sent to the Executive Secretariat on February 15, 1982.

c. From the objective investigations conducted, it has been determined that the persons in question entered Honduras territory from Nicaragua through the "Las Manos" border post in the Department of El Paraiso, at 17:36 hours on December 11, 1981, leaving the country at 15:00 hours on December 12 that same year through the "El Florido" customs post in the Department of Copan, supposedly on their way to the Republic of Guatemala, thus completing their migratory cycle in my country.

d. The foregoing was transmitted to that Executive Secretariat through Communication No. 142 DGPE dated March 8, 1982, to which was attached a photostatic copy of Migratory Control Vouchers No. 470859 and 470860, as well as a photostatic copy of the Border Pass issued in the name of Francisco Fairen Garbi to allow him to cross Honduran territory on his way to Guatemala, driving an Opel vehicle with Costa Rican license plates No. 39991, the full description of which is contained in said border pass.

e. I take it that the foregoing was communicated by the Executive Secretariat to the claimant, for he made a series of observations which were attached to his communication dated May 12, 1982, to which this Ministry replied by means of Document No. 544 dated June 9, 1982.

f. The findings of these investigations were also transmitted to the Honorable Ministry of Foreign Affairs and Worship of Costa Rica, through Note No. 49-DGPE dated March 9, 1982, which was ratified and amended at the request of the Special Committee appointed by the Plenary of the Honorable Legislative Assembly of that country in Note No. 316-DGPE dated September 10 of that same year, the originals of which are in the hands of the Honorable Ministry of Foreign Affairs and Worship of Costa Rica, together with the attached copies of the Migratory Control Vouchers and Border Pass referred to in previous paragraphs.

In view of the above and considering the full cooperation provided by my Government for the solution of this case, as well as the fact that Honduras is a State governed by the rule of law, I very cordially urge the claimant to initiate legal proceedings through the channels established by law as he sees fit, since he has not exhausted the remedies and resources contemplated by the domestic laws of Honduras and such action would be beneficial to the good name and prestige of the Republic of Honduras and its institutions.

10. On February 4, 1983, the Commission sent the claimant the Honduran Government's reply, in order to elicit whatever observations he wished to make. The claimant replied as follows in a note dated February 28:

I would first of all like to state that I consider it admirable that, as the Honduran Government's reply puts it, the President of Honduras, Dr. Roberto Suazo Cordova, should have "opportunistically issued precise instructions to the various competent organs of the State, asking them to perform an exhaustive investigation that will convincingly throw light on the whereabouts or transit of the abovementioned persons". (He is referring to Francisco and Yolanda). I appreciate this gesture and await the results, for I refuse to believe and accept that these will be reduced to a mere repetition of the exhibition of the third certification issued by the Honduran Government, according to which the young travellers entered Honduras only to leave that same day for Guatemalan territory. We denounced that document at that time and we are not going to accept it now. We are still convinced that the missing persons entered Honduras and that there, for reasons we ignore, they became the victims of the procedures habitually employed by the repressive forces of the State.

I think it would be useful to make some comments regarding the "migratory control vouchers" to which the Honduran communication makes reference. These certify, on the one hand, that the travellers entered that country, a fact about which we have not the least doubt. Those same vouchers also certify the departure of the young couple to Guatemala, something we are not ready to believe.

This is nothing new. One thing worth noting, however, is that these vouchers were strangely enough filled out by typewriter, which to my knowledge is not the usual procedure; it is customary for these forms to be handwritten by the interested parties, as you yourself must have done in the course of your travels. The very "migratory control vouchers" of which copies were sent to our Foreign Office clearly show a line of print at the heading of the form that reads "filled out by the traveller". And I sincerely do not believe that the document was filled out on that occasion by either of the travellers. Apart from the fact that the document in question was not filled out by hand, nor offers any sample of the missing persons' handwriting, there is another point that should be mentioned, namely, why is it that these vouchers were not produced until March 10, 1982, exactly three months after the disappearance of our youngsters? Had they been mislaid? It is worth setting forth a theory that holds no risks, based on the sequence of events, and cordially invite the Government of Honduras to refute it.

There are sufficient reasons to believe that although they did not consider it advisable, the Honduran authorities feigned ignorance of the disappearances, in keeping with the canons governing such matters in countries of a repressive nature. Any document evidencing the entry of the young couple into Honduras would logically contradict this intention. It was thought that silence alone would suffice to persuade us to abandon any type of search, for it is certainly true that it makes matters very difficult and totally disheartening. Nevertheless, we did not become dispirited and insisted on the path known to all of you. In an attempt to lead us astray and bring us up against absurd situations, the Honduran authorities then proceeded to issue the most insane document of the whole series: a certification bringing Yolanda into Honduras territory but leaving my son outside. This was undoubtedly a clever way of complicating matters even more by creating confusion and discouragement among the seekers. Finally, a third certification was produced, partly as a result of our constancy and the efforts of our Government of the time to obtain something definite from the Government of Honduras. And given that some governments seem to be allowed everything, it was easy for the Honduran Government to transfer the travellers in a truly meteoric race from its frontier with Nicaragua to the Guatemala border, as if on winged feet they had barely grazed Honduran soil. This was the equivalent of the closed silence encountered at the beginning.

In view of its current interests and purposes, the Government of Honduras is in no position to provide facts that will throw light on what occurred. For it to yield now would be to show its true, arbitrary face. It is therefore our opinion that the Inter-American Commission on Human Rights must now follow the procedures established in its Regulations, at the discretion of its members.

I wish, in closing, to again thank the Government of Honduras, this time for its cordial invitation to make

use of the entire majestic machinery of justice of that exemplary State, governed by the rule of law, which would enable me to "initiate legal proceedings through the channels established by law as I see fit." I consider that this offer provides me with a magnificent opportunity, which I shall not pass by, to ask the Honduran authorities whether they have already solved the cases of the 54 persons who disappeared in their country in 1981, disappearances which were denounced by the "Christian Commission on Human Rights" of the "Christian Movement for Justice." I would like to add that I wish to know the status of the investigations into the whereabouts of the Costa Rican national Eduardo Blanco, presumed to have been arrested, tortured and killed by members of the DNI during the month of November of that same year. I would also like to be informed of the progress made in investigations into the discovery of clandestine cemeteries attributed to the repressive forces of the Honduran police and army: whether those responsible have been identified, tried, condemned and jailed or whether, on the contrary, what the "El Heraldo" newspaper in Tegucigalpa feared would happen has occurred. As that paper put it in its edition for February 25, 1982, "THE PEOPLE EXPECT THE GOVERNMENT'S PROMISE TO BE KEPT AND THAT THERE WILL NOT BE A REPETITION OF WHAT HAS OCCURRED IN THE PAST WHEN IT WAS SAID THAT THESE SITUATIONS WOULD BE CORRECTED, FOR THOSE PROMISES ONLY SERVED TO DRAW A VEIL OF OBLIVION OVER THE ISSUES THAT WERE SUPPOSEDLY UNDER INVESTIGATION."

In the meantime, forgive me if I say that I refuse the generous offer made to me, in the profound conviction that the means to which I have had recourse in order to investigate and solve the unfortunate case of the disappearance of my son Francisco Fairen Garbi and his companion, Yolanda Solis Corrales, are the correct ones. I place all my trust in the competence, rectitude and authority of the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights of the OAS.

11. The IACHR has also received communications dated September 13, 1983 and March 22, 1984, in which the claimant supplies information bearing on this case. Such information has been included in the pertinent dossier.

WHEREAS:

1. The fact that Francisco Fairen Garbi and Yolanda Solis Corrales, bearers of Costa Rican passports, left San Jose, Costa Rica by road on December 8, 1981, in a private car, bound for Codova, State of Veracruz, Mexico, can be considered to be incontrovertible.

Not only is the above asserted by the claimant, but it is also confirmed by the Government of Nicaragua in a note reporting the entry of the two persons in question into its territory and their departure for Honduras.

2. In like manner, the fact that Francisco Fairen Garbi and Yolanda Solis Corrales entered Nicaraguan territory during their trip can also be deemed proven. That fact implicit in the reports of the Embassy of that country in Costa Rica, for the Nicaraguan authorities from the very first (January 8, 1982) certified that the two persons now missing departed Nicaragua on December 11, 1981 through the "Las Manos" border post, crossing into Honduran territory.

3. The communications presented subsequently by the Governments of Honduras and Guatemala do not have the same coherence that the reports from the Nicaraguan Government shown Specifically:

a) On January 14, 1982, a note signed by the First Secretary and Consul of the Embassy of Guatemala in San Jose de Costa Rica categorically declares that the missing persons "neither entered nor left Guatemala" between December 8 and 12, 1981, "a fact that is recorded in the Department of Migration of Guatemala."

Considering that the subjects had entered Honduras (according to the certification of the Nicaraguan

Government) and had not left that country (according to the report of the Government of Guatemala) the logical conclusion would be that said persons remained on Honduran territory.

b) The Government of Honduras, in turn, issued an initial statement to the effect that the missing persons did not appear on a computer print-out of entries into Honduras between December 8 and 15, 1981, according to the clarifications made to the Consul of Costa Rica in Honduras.

This would lead to the unacceptable conclusion that the two young people were in none of the countries covered by their travel itinerary.

c) There was, at least initially, a flagrant contradiction between the reports of the Governments of Nicaragua and Guatemala and the reports of the Government of Honduras which, at the time, made it impossible to determine which information was correct, since the three abovementioned States all denied the presence of Francisco Fairen Garbi and Yolanda Solis Corrales on their territories.

4. On February 11, 1982, the Government of Honduras admitted something new in a document signed by the Secretary General for Population and Migration Policies, namely, that contrary to what had previously been asserted, Yolanda Solis Corrales did enter Honduras on December 12, 1981. And, at the same time, the document went on to certify that the same could not be said of Francisco Fairen Garbi, with the additional significant information that no record existed of the departure of either of the Costa Rican citizens from Honduran territory.

5. The initial contradiction becomes even more involved when the Ambassador of Honduras in Costa Rica, through a note dated February 19, 1982 signed by Mrs. Albertina Bernhard de Zelaya, Ambassador of Honduras, communicates her Government's intention to resume the investigations, because up to that time there was no "evidence of entry into Honduras by the persons in question", whereas Yolanda Solis Corrales, at least, had verifiably entered Honduras, as confirmed in the abovementioned certificate issued on February 11 by the Secretary General for Population and Migration Policies.

6. The Government of Guatemala, in turn, initially denied the existence of records substantiating the entry of the two missing persons into its territory between December 8 and 12, 1981. The corresponding certificate, signed by Mr. Carlos Augusto Lopez Santizo, First Secretary and Consul of the Embassy of Guatemala in San Jose, Costa Rica, is dated January 14, 1982.

Nevertheless, on February 3, 1982, the Department of Migration of the Republic of Guatemala contradicts the above diplomatic document of January 14 in a document signed by the Chief Inspector of Migration, Mr. Ismael Morales Chinchilla, and by Inspector No. 4 Jorge Solares Zavala, indicating that Francisco Fairen Garbi and Yolanda Solis Corrales entered Guatemala through the "El Florido" migration post on December 12, 1981. The document adds that both persons left Guatemala the following December 14, through the "Valle Nuevo" migration post, crossing into El Salvador.

7. In a certificate of Migratory Movements dated March 23, 1982 and signed by the Director General of Migration, which is in the hands of the Commission, the Government of El Salvador certified that "records of the entry into the country of Messrs. Francisco Fairen Garbi and Yolanda Solis Corrales, of Costa Rican nationality, were sought by the Delegations of Chinamas and La Hachadura for the period from December 10 to 20, 1981, without any migratory movements being found in those names..."

8. The documentation produced by the Guatemalan authorities contradicts the information given by the Honduran authorities, according to whom only Yolanda entered Honduran territory. The inaccuracy of that information was expressly acknowledged by the Government of Honduras in an urgent telex sent to the Minister of Foreign Affairs of Costa Rica on March 10, 1982, transcribing a letter addressed to the Ambassador in Tegucigalpa by Minister Edgardo Paz Barnica.

That document asserts that, following more exhaustive investigations, it was finally possible to prove that the two missing persons did, indeed, enter Honduran territory through the border crossing of "las Manos" on the afternoon of December 11, 1981, the start of their migratory cycle being dated the 12th.

9. What stands out, then, is what Nicaragua reported (and was finally accepted by the Government of Honduras), namely, that the two missing persons had, indeed, entered Honduran territory.

The Government of Honduras admits that the missing persons entered the country and declares that they crossed into Guatemala; the latter country, in turn, reports that the two young people immediately continued their trip into El Salvador. This last Government, as stated in point 7 of this section, denied that these persons had entered its territory.

10. The claimant did not bring any action before the Judiciary of Honduras and thus did not have recourse to the remedies contemplated by that State. In the Commission's opinion, the exhaustion of domestic legal remedies is not deemed necessary, in view of the fact that the claimant's inquiries before the various governments were such that this requirement can be deemed to have been satisfied, especially considering the time elapsed since the events occurred.

11. There can be no doubt that Francisco Fairen Garbi and Yolanda Solis Corrales entered Honduran territory, as that State has finally admitted despite its initial denials, it is doubtful that they ever left Honduras, given the peculiar features of the emigration cards which bear no signature, are typewritten (contrary to what is customary), and were delivered three months after the events occurred; the Government of Honduras did not attempt, through its Judiciary, to fully establish the identity of the body of the young man found with three bullet wounds in the place known as "La Montacita", 20 Kms. away from Tegucigalpa, for a second exhumation was not performed as had been requested through the Costa Rican Foreign Office; and no investigation have been carried out by the Honduran Judiciary to throw light on the facts denounced, despite the Commission's efforts. On the contrary, the many contradictions in which that Government incurred make it impossible to accept the version that the Costa Rican nationals had left Honduras.

The foregoing conclusive, concordant and irrefutable presumptions lead the Commission to the conclusion that the State of Honduras is responsible for the disappearance of Messrs. Francisco Fairen Garbi and Yolanda Solis Corrales.

THEREFORE:

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To declare that the facts reported in the denunciation constitute grave violations of the right to life (Article 4) and the right to personal liberty (Article 7) of the American Convention on Human Rights, and that the Government of Honduras is responsible for the disappearance of Francisco Fairen Garbi and Yolanda Solis Corrales, of Costa Rican nationality.

2. To recommend that the Government of Honduras:

- a. Order the most thorough investigation of the events denounced, in order to establish the circumstances surrounding the disappearance of Francisco Fairen Garbi and Yolanda Solis Corrales;
- b. Punish those responsible for the events denounced, in accordance with Honduran Law;
- c. Inform the Commission, within 90 days, of the measures taken to implement the above recommendations.

3. To transmit this Resolution to the Government of Honduras.

4. If the Government of Honduras presents no observations within the term stipulated in item 2 of this Resolution, the Commission shall include this Resolution in its Annual Report to the General Assembly, pursuant to Article 59 (g) of the Regulations of the Commission, and shall transmit this Resolution to the claimant in this case.