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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 19/86; Case No. 9367
Session: Sixty-Seventh Session (8 – 18 April 1986)
Title/Style of Cause: Jose Esteban Lazo Morales v. Nicaragua
Doc. Type: Resolution
Decided by: Chairman: Luis Adolfo Siles Salinas;
First Vice Chairman: Gilda Russomano;
Second Vice Chairman: Marco Tulio Bruni Celli;
Members: Dr. Marco Gerardo Monroy Cabra; Dr. Bruce McColm; Ms. Elsa Kelly; Messrs. Oliver Jackman
Dated: 16 April 1986
Citation: Lazo Morales v. Nicar., Case 9367, Inter-Am. C.H.R., Report No. 19/86, OEA/Ser.L/V/II.68, doc. 8 rev. 1 (1985-1986)

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HAVING SEEN:

1. The petition received by the Inter-American Commission on Human Rights on June 8, 1984, according to which:

JOSE ESTEBAN LAZO MORALES, 39 years of age, married, a stock-raiser and resident of San Pedro de Lyvago, in the Department of Chontales, was arrested at home by members of the State Security on November 13, 1983 at approximately 11:30 p.m. and taken to the base of operations of that agency, which operates in the city of Juigalpa, the chief town of the Department of Chontales, and that on November 18 of that same year he was returned to his home as a corpse.

The corpse of Lazo Morales was brought to his home by four members of the State Security in a coffin that was screwed shut and they ordered that it should not be opened and then buried it in the early hours of the morning. Despite that warning, the family opened the coffin and found that the corpse had the following injuries: fracture of the nose, bruises on the eyebrows, blood on the head and in the ears, the lower part of the abdomen was purple, there were fractures of the ribs and two rather deep, crescent-shaped wounds, four inches long on the back.

The family was also handed a medical-legal certificate issued by Dr. Luis N. Gadea A., the medical examiner of the Department of Chontales, which stated that the prisoner Lazo Morales had died of a heart attack. That certificate shows some peculiar features including the fact that that physician states that when Lazo Morales arrived as a prisoner he was extremely nervous and that the fractures and wounds were the result of falls, due to fainting fits he had suffered while he was imprisoned, i.e., that that medical examiner gave opinions that normally a pathologist who only examines the corpse could not give, unless he is giving the version of the authorities responsible for the arrest.

On February 27 of this year (1984) the case was brought to the attention of the Peoples Complaint Department of the Ministry of the Interior and a request was made for an immediate investigation so as to determine the responsibilities in the case, but so far we have received no news that the investigation being requested is being made.

2. The transmission of the pertinent parts of that petition to the Government of Nicaragua, in the note of June 28, 1984, requesting it to provide such information as it deems pertinent, as well as any information that would make it possible to ascertain whether, in the case that is the subject matter of this request, the remedies of domestic law had been exhausted.

3. The communication of January 23, 1985, which repeated the request for information of June 28, 1984.

4. The repetition of the request for information made in the note of February 27, 1986, which informed the Government of Nicaragua that, should such information not be provided within a period of thirty days pursuant to Article 42 of the Regulations, the facts reported would be considered to be true.

5. The observations of the Nicaraguan Government to Resolution 19/86, according to which:

Mr. Jose Esteban Lazo was detained for counterrevolutionary activities linked to the Nicaraguan Democratic Front in San Pedro de Lovago, Chontales. The trial against him could not continue due to his death, brought on by cardiac arrest.

According to Doctor Luis N. Gadea, the then forensic physician of the Department of Chontales Mr. Jose Esteban Lazo Morales did in fact die of cardiac arrest, and stated that according to his professional undertaking, after having concluded the legal medical exam, he did not find any signs of torture.

For his part, the Minister of Interior also roundly denied the claimant's allegations of torture.

CONSIDERING:

1. That so far the Government of Nicaragua has not replied to the request for information made by the Commission concerning this case and that, in addition, the requirements of domestic law have been exhausted.

2. That, by reason of their nature, the facts that are the subject matter of the petition, do not permit the application in this case of the friendly solution procedure.

3. That Article 42 of the Regulations of the Commission stipulates the following:

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 34, paragraph 5, the Government has not provided the pertinent information, as long as other evidence does not lead to a different conclusion.

4. That, in addition to not replying to the repeated requests for information, the Government of Nicaragua has so far not allowed a member of the Commission and an official of the Secretariat to go to that country to clarify certain aspects relating to this case, pursuant to the provisions of Article 48.1 d of the American Convention on Human Rights to which Nicaragua is a State Party.

5. That the observations of the Government to Resolution 19/86 adopted by the Commission with respect to this case do not provide information which would permit the Commission to modify the conclusions to which it has arrived, said Government merely transmits a fact which was already known to the claimant.

In view whereof:

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To consider to be true the facts reported in the communication of June 8, 1984 concerning the arrest and subsequent death of Mr. Jose Esteban Lazo Morales.
2. To declare that the Government of Nicaragua has violated the right to personal liberty (Article 7) and the right to life (Article 4) set forth in the American Convention on Human Rights to which Nicaragua is a State Party.
3. To recommend to the Government of Nicaragua that it order a thorough investigation of the facts reported in order to identify the persons responsible, and prosecute and punish them in accordance with the law and that it adopt the necessary measures to prevent the repetition of such serious events.
4. To confirm Resolution 19/86, to include it in the Annual Report in conformity with Article 63, g of the Commission's Regulations and to communicate it to the claimant.