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Institution: Inter-American Commission on Human Rights
File Number(s): Report No. 3/86; Case No. 9170
Session: Sixty-Seventh Session (8 – 18 April 1986)
Title/Style of Cause: Mauricio Muñoz Blandino, Francisco Martínez Orosco, Alberto Tijerino Luna and Rosalío García Cantillano 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: Muñoz Blandino v. Nicar., Case 9170, Inter-Am. C.H.R., Report No. 3/86, 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 6, 1983, according to which:

MAURICIO MUÑOZ BLANDINO, married, aged 44 years, by trade a carpenter, was arrested on September 7, 1983 by State Security, and isolated for a period of more than one month in a room with red stains and with continuous noises during a certain time of the day. Place of residence Esquipulas, Municipality of Matagalpa, father of 7 young children.

At present he is in the Carlos Fonseca prison, in Matagalpa, accused of being counterrevolutionary, has not been tried since he was arrested more than 9 months ago and his state of health is delicate, he suffers from ulcers and kidney problems in addition to mental problems, because of the isolation to which he has been subjected.

FRANCISCO MARTINEZ OROSCO, married, aged 43 years, by trade a carpenter, father of 5 young children, two of them wasted the school year looking for their father and food for their mother who is also detained.

He was arrested on June 5, 1982 by members of the State Security; in isolation for a longer period and his family took 6 months to discover his whereabouts.

Place of residence, Solingalpa Project in Matagalpa. He is in the Carlos Fonseca prison in Matagalpa. Accused of being a counterrevolutionary. His state of health is similar to that of the foregoing.

ALBERTO TIJERINO LUNA, married, aged 43, by trade a mechanic and father of two young children.

He was arrested by members of the State Security on November 2, 1982 and kept for more than six days in a cell that only accomodates a person standing up. At the beginning of the year he had been arrested by the State Security and physically tortured for two months, leaving him with an injured spine as a result of which he limps on his left leg. Place of residence, Matagalpa, El Totalate neighborhood. He is in the Carlos Fonseca prison. He is suffering from ulcers, arthritis, nervous problems and a spinal injury. The

legal medical examiner has ordered the appropriate treatment for him but his order has so far not been carried out.

ROSALIO GARCIA CANTILLANO, bachelor, age 15 years, a farmer living with his parents.

He was arrested in June 1982 and accused of being a counterrevolutionary. He was tortured in Rio Blanco, Municipality of Matagalpa, and coerced into admitting his participation in counterrevolutionary bands. He lived two days distance by road from Rio Blanco where he was arrested. He is in the Carlos Fonseca prison in Matagalpa. His state of health is delicate, he is suffering from ulcers, diarrhea and nervous problems.

2. The transmission of the pertinent parts of this petition to the Government of Nicaragua through the note of August 18, 1983, requesting it to provide information it deemed pertinent as well as any information regarding whether, in the case of the subject matter of this petition, the remedies of domestic law had been exhausted.

3. The communication of January 17, 1985 which repeated the request for information of August 18, 1983.

4. The repetition of the request for information of February 20, 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 presumed to be true.

CONSIDERING:

1. That so far the Government of Nicaragua has not replied to the request for information made by the Commission concerning this case.

2. 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.

3. That the Government of Nicaragua, in addition to not responding to the repeated requests for information, has so far not permitted 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.

4. That the Nicaraguan Government did not present observations to Resolution No. 3/86 which was transmitted to it.

In view whereof:

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To consider true the facts reported in the communication of June 6, 1983 concerning the arrest of Mauricio Muñoz Blandino, Francisco Martínez Orosco, Alberto Tijerino Luna and Rosalío García Cantillano.

2. To declare that the Government of Nicaragua has violated the right to personal liberty (Article 7)

the right to humane treatment (Article 5), and the right to due process (Article 8) 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 conduct a thorough investigation of the facts reported in order to identify the persons responsible and prosecute and punish them in accordance with the law.

4. To recommend to the Government of Nicaragua that, should it not have already done so, it bring the persons affected before a competent tribunal to clarify their legal status.

5. To include this resolution in its Annual Report to the General Assembly of the Organization of American States, in accordance with Article 63, g of the Regulations of the Commission, and to communicate it to the claimant.