



RESOLUTION Nº 22/86

CASE 7920
HONDURAS
April 18, 1986

HAVING SEEN the background information on this case, viz:

1. The Inter-American Commission on Human Rights received the following petition in a communication dated October 7, 1981:

We condemn the arbitrary arrest, in Tegucigalpa, of ANGEL MANFREDO VELAZQUEZ RODRIGUEZ, since September 12 of this year, for unknown reasons. We assign responsibility for that action to Colonels Leonidas Torres Arias (G-2), Gustavo Alvarez (FUSEP), Juan López Grijalba (National Investigation Department) and Hubbert Bodden (Commander, First Battalion of Infantry, Tegucigalpa). We have exhausted legal remedies without success. We know that he is in the First Battalion of Infantry in Tegucigalpa, together with many other "Missing" political prisoners from Honduras and El Salvador but the authorities deny his arrest. This situation is a matter of concern to the community of Languaña and to the country in general. We are hoping that he will be released soon.

2. In a cablegram dated October 14, 1981, the Commission transmitted the pertinent parts of the petition to the Government of Honduras requesting it to provide the pertinent information.

3. In a note dated November 24, 1981, the Commission transmitted to the Government of Honduras additional information provided by the petitioner in this case, requesting it to take such steps to enable the Commission to have full information on the case as soon as possible. That information was the following:

ANGEL MANFREDO VELASQUEZ RODRIGUEZ, a UNAH student, was violently apprehended, without an arrest warrant, by members of the National Investigation Directorate and of G-2 (INTELLIGENCE) of the Armed Forces of Honduras and taken to an unknown destination.

His arrest was carried out in Tegucigalpa on the afternoon of September 12, 1981 by the above-mentioned persons, in the presence of several eyewitnesses who saw that he was put into a vehicle that took him to the police cells where he has been subjected to violent interrogations and cruel tortures

and accused of alleged political crimes.

Initially he was taken together with other prisoners to the cells of the II station of the State Security Force located in the El Manchén neighborhood of that city, where agents specializing in torture did everything possible to make him confess to crimes they attributed to him without giving him any opportunity to defend himself.

On September 17, 1981 he was transferred to the First Battalion of Infantry where they continued the above-mentioned cross examinations and all the police and security forces systematically denied his arrest.

Accordingly we are appealing to the Inter-American Commission on Human Rights to intercede with the pertinent authorities so that justice may prevail and guarantee the life and safety of Angel Manfredo Velasquez Rodríguez.

4. Since the Commission did not receive a reply, it repeated to the Government of Honduras, in the note of May 14, 1982, the request for information, pointing out that, should it not receive it within a reasonable period, it would begin to consider the application of Article 42 (formerly Article 39) of the Regulations of the Commission whereby the facts reported will be considered to be true.

5. In a note dated June 4, 1982 the Government of Honduras acknowledged receipt of the communication of May 14, 1982, mentioned above, and stated that "the competent authorities are carrying out all possible investigations on this matter and that as soon as we obtain a reply on your request we shall immediately send it to you so that the respective processing may continue".

6. In the notes of October 6, 1982, March 23, 1983 and August 9, 1983, the IACHR repeated to the Government of Honduras the request for information on this case and again pointed out that, should such information not be received, the Commission would apply the provisions of Article 42 (formerly Article 39) of its Regulations.

7. At its 61st Regular Session (October 1983), the Commission, taking into account the fact that the Government of Honduras had not provided the information repeatedly requested, decided to presume that the facts that are the subject matter of the petition were true, pursuant to the provisions of Article 42 (formerly Article 39) of its Regulations, and to that end approved a Resolution (Nº 30/83) the operative part of which reads as follows (OEA/Ser.L/V/II.61, doc.44):

1. By application of Art. 39 of the Regulations to presume the facts of the communication of October 7, 1981, concerning the detention and subsequent disappearance of Mr. Angel Manfredo Velasquez Rodríguez in Honduras, to be true.

2. To observe to the Government of Honduras that such acts constitute very serious violations of the right to life (Art. 4) and the right to personal liberty (Art. 7) of the American Convention on Human Rights.

3. To recommend to the Government of Honduras: a) that it undertake a complete and impartial investigation to determine the persons responsible for the acts denounced; b) that pursuant to Honduran law that the persons responsible be punished; and c) that it inform the Commission within a maximum period of 60 days about the measures taken to put into practice the

recommendations set forth in the present Resolution.

4. Once the period of time set forth in paragraph three of this Resolution has expired, and if the Government of Honduras has not presented observations, the Commission will include this Resolution in the Annual Report to the General Assembly pursuant to Art. 59 (g) of the Commission's Regulations.

8. That resolution was transmitted to the Government of Honduras in the note of October 11, 1983, informing it that the period set in paragraph 3 thereof for the submission of observations on Resolution 30/83, would run from the date of the respective note.

9. The Government of Honduras, in a note dated November 18, 1983 (Official Letter N° 1504) and within the period set, submitted observations on Resolution 30/83 which may be summarized as follows:

a. That the domestic law of Honduras had not been exhausted in the case, pursuant to Official Letter N° 2586 of the Supreme Court of Justice of that country, which states that a writ of habeas corpus in favor of Angel Manfredo Velásquez and others was pending before that court and a copy thereof was attached to the note of November 18.

b. That, in addition, the above-mentioned Official Letter from the Court stated that "It is false that the Director of that Directorate has said that additional persons are under arrest or that they were being investigated for offenses against the security of the state and with the exception of MARIA ODILIA MEDRANO or INES CONSUELO MURILLO CHAWEDER who were earlier brought before the courts. Therefore the DNI authorities are unaware of the whereabouts of the other persons that are the subject matter of petitions, although every effort is being made to discover their whereabouts, even though it is difficult for the police authorities to obtain this information from the communist countries of Nicaragua, Cuba, Russia and other Marxist-oriented countries".

c. That, furthermore, the Government of Honduras wished to point out that "it has not ceased nor will it cease to make every effort that will make it possible to reliably establish the whereabouts of Mr. Angel Manfredo Velásquez Rodríguez, proof of which is that the competent authorities are following up the information provided by the Mayor of the Municipality of Langué, Department of Valle, who states that Mr. Velásquez Rodríguez, according to rumors "has been prowling around this locality, rumors of people, he says, who have seen him and that he avoids being identified since he is going around with groups of guerrillas from El Salvador and that when they are pursued by the Salvadorian military he comes to take refuge in this sector, because he is familiar with it. In addition, some rumors of the people of Nacaome state the same thing, that they saw him in March of this year; that he has contacts with other communists in this community and that he travels between Nicaragua and El Salvador through "underground routes...".

d. That, in the light of the above, the Government requested the Commission to reconsider the resolution adopted.

10. In its communication of January 17, 1984, the Commission transmitted to the petitioner the pertinent parts of the observations of the Government of Honduras, requesting it to send any new or additional information on the case.

11. In its communication of 17 February 1984, the petitioner made the following comments on the observations of the Government:

The Director General of the National Investigation Directorate (DNI) says that he does not know the whereabouts of the person sought, "although every effort is being made to ascertain their whereabouts". Nevertheless, no attention has been given to the particular case of Angel Manfredo Velásquez and one of the men who arrested him was José Isaias Vilorio, which was reported to the then Director of the DNI and the present Head of Military Intelligence (G-2), General Juan López Grijalba.

The Government does not mention by name the Mayor of Langué, Valle, who has echoed the rumor that the missing person is a Salvadorian guerrilla, that mayor could be:

- Fidel Díaz, 1981 and
- Antonio Yañez, 1982 until December 1983.

12. At its 62nd session (May 1984) the Commission studied the request of the Government of Honduras for reconsideration and decided to continue to study the case.

13. Pursuant to that decision, the Commission sent the Government of Honduras a note on May 30, 1984, requesting the following information on the status of the case before the competent authorities of the country:

- a. Whether the remedies of domestic law had already been exhausted;
- b. Whether the proceedings on the writ of habeas corpus lodged on behalf of Mr. Angel Manfredo Velásquez and others had been concluded and what had been the results;
- c. Whether the Report of the Municipal Mayor of Langué, a copy of which the Government of Honduras had transmitted together with its note of November 18, 1983, mentioned above, had appeared as a party in a judicial proceeding for determining the whereabouts of Mr. Velásquez;
- d. Whether an investigation has been made of the complaint against Mr. José Isaias Vilorio, allegedly involved in the disappearance of Mr. Velásquez, which had been reported earlier to the then National Director of Investigations, General Juan José López Grijalba, as stated in the file of the IACHR and,
- e. If the depositions of the persons who had allegedly stated that they had seen Mr. Velásquez had been given in due legal form to the competent authorities.

14. In the above-mentioned note the Commission also informed the Government of Honduras that it was hoping to receive a reply before the beginning of its next session (63rd), scheduled for October 1984 so it could complete its study of this case; this request was repeated on January 29, 1985 and it was pointed out that the Commission would adopt a final decision during its session scheduled to begin on March 4 of that year.

15. At its 64th Session (October 1984) the Commission decided to postpone its final examination of the case and to grant the Government of Honduras a period of thirty days

in which to send the findings of above-mentioned investigation and the data requested in the note of May 30, 1984.

16. In its cablegram of March 1, 1985, the Government of Honduras requested postponement of consideration of this case until the next session since, in accordance with Decision N° 232 of June 14, 1986, it had set up an Investigating Commission composed of senior officials with authority "to exhaustively examine the complaints concerning alleged violations of human rights, to clarify those facts and establish the identity of the persons who were responsible so that the corresponding legal penalties may be imposed upon them" and that that Commission had requested the government to allow it a period of ninety days in which to render a report on the results of its activities, which period had not yet expired.

17. That time limit was communicated to the Government of Honduras by cablegram on March 11, 1985.

18. In its note of April 8, 1985, the Government of Honduras acknowledged receipt of the cablegram of March 11, mentioned above, but did not send the data and information requested by the Commission in its note of May 30, 1984 nor the findings of any investigation that may have been carried out by the Special Commission established by Decree 232 of June 14, 1984.

19. In its cablegram of April 4, 1986 (N° 717) the Government of Honduras informed the Commission of the following: "In the wake of new items on the radio and in the press, this Court of First Instance proceeded to conduct the pertinent proceedings and consequently the corresponding investigations on the disappearance of persons in the national territory, and specifically as a result of the complaint of Mrs. Gertrudiz Lanza González, Juana Paula Valladares Lanza, Vertilia Cerrato Alena. Proceedings were instituted against Gustavo Alvarez Martínez, Daniel Bali Castillo, Juan López Grijalba, Juan Blas Salazar, Alexander Fernández, Marcos Hernández and another person named Gradiz, for the crimes of murder, torture, abuse of authority and disobedience, in re prejudice of José Eduardo Lanza, Reinaldo Díaz, Manfredo Velasquez, Rafael Antonio Pacheco, Marco Antonio Fino, Jorge Eureque, Rolando Vindel Zavala, Gustavo Morales and others, which proceedings were dismissed by this Court whose judgement has already confirmed by the First Court of Appeals, except in the case of General Gustavo Alvarez Martínez, whose testimony was not taken, because he was outside the country".

CONSIDERING:

1. That the new information provided in the cablegram of April 4, 1986, by the Government of Honduras on the investigations carried out in this case, transmitted to the Commission almost two years after it had been requested is not sufficient, in the opinion of the Commission, for carrying out a further examination of the case nor does it warrant reconsideration of Resolution 30/83 adopted at the 61st Session of the Commission;

2. That, on the contrary, from all the information available on the case, it is inferred that Mr. Angel Manfredo Velasquez Rodríguez is still disappeared and that the Government of Honduras--despite the many requests of the IACHR and, in particular, the detailed request for information of May 30, 1984--has failed to show that the facts reported are not true;

3. That the information provided by the Government of Honduras in its telegram of April 4, 1986 does not address the points requested by the Commission, nor is the willingness of the Government of Honduras to pursue the investigation in order to clarify the facts to be inferred from that telegram, which only reports that the Court which conducted the proceedings on the facts reported in Case 7920 had dismissed the proceedings and that its

judgment had also been confirmed by the First Court of Appeals;

4. That in this case there has also been an unjustified delay in the administration of justice.

5. That, in view of what is stated in paragraphs 2 and 3 above, it may be concluded that the Government of Honduras has not implemented the recommendations of the Commission;

6. That, in the case that is the subject matter of this resolution, the Commission has not been able, by reason of the nature of the petition, to apply the friendly settlement procedure provided for in Article 48, paragraph 1, f of the American Convention on Human Rights and in Article 45 of its Regulations;

7. That, since the friendly settlement procedure is not applicable, the Commission pursuant to the provisions of Article 51, paragraph I, of the Convention and give its opinions and conclusions on the issue submitted to it for its consideration;

8. That, in addition, the information provided by the Government of Honduras has been insufficient since the results of the investigation of the Special Commission on disappeared persons is unknown and sufficient time has elapsed since the facts which gave rise to this complaint were reported.

9. That, in addition, since the friendly settlement procedure is not applicable, the Commission may, pursuant to Article 50 of its Regulations, submit the case to the Inter-American Court of Human Rights if the Government has not complied with the recommendations made, and

10. That, on September 9, 1981, the Government of Honduras declared its recognition of the jurisdiction of the Inter-American Court of Human Rights, in accordance with Article 62 of the Convention.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To confirm in all its parts Resolution 30/83 of October 1983, and consequently to deny the request for reconsideration submitted by the Government of Honduras.

2. To refer the case to the Inter-American Court on Human Rights for the purposes provided for in Article 63, paragraph 1 of the Convention, and therefore that the Court may decide that there has been a violation of the rights to life (Article 1), to humane treatment (Article 5) and to personal liberty (Article 7) of the American Convention on Human Rights; that the consequences of the situation caused by the violation of those rights should be remedied and that the party or parties injured should be granted just compensation.

3. To transmit this resolution to the Inter-American Court of Human Rights, to the petitioner, and to the Government of Honduras, in accordance with Article 50, paragraph I, of the Regulations of the Commission.