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UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMMIGRATION COURT
MIAMI, FLORIDA

In the Matter of:)
)
Jose Guillermo GARCIA-MERINO)
)
In removal proceedings)
)
_____)

File No. (b) (6)

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IMMIGRATION COURT
2011 APR 22 (pm 10:01)
FEDERAL BUREAU OF INVESTIGATION
IMMIGRATION REVIEW
IMMIGRATION COURT
MIAMI, FLORIDA

Immigration Judge Michael C. Horn

Next hearing: TBD

DEPARTMENT OF HOMELAND SECURITY'S SIXTH NOTICE OF FILING

EXHIBIT # 9
Marked For Identification
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12-15-11

The United States Department of Homeland Security, Immigration and Customs Enforcement ("DHS"), hereby files the following exhibits in the above-styled cause of action before the Honorable Michael C. Horn:

TABLE OF CONTENTS

TAB

PAGES

Documents Pertaining to the Geneva Convention

IIII. *Geneva Convention Relative to the Treatment of Prisoners of War*1
of August 12, 1949 (Geneva Convention III), Conference for the Establishment of International Conventions for the Protection of Victims of War, Geneva, Switzerland, entry into force October 21, 1950.

Excerpts: In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

- (1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular, humiliating and degrading treatment...

- (2) The wounded and sick shall be collected and cared for...

JJJJJ. *Geneva Convention (IV) Relative to the Protection of Civilian*.....26
Persons in Time of War (Geneva Convention IV), Diplomatic Conference for the

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Establishment of International Conventions for the Protection of Victims of War,
Geneva, Switzerland, August 12, 1949, Articles 1 - 34.

Excerpts: The protection to which civilian hospitals are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming, in all appropriate cases, a reasonable time limit and after such warning has remained unheeded. The fact that sick or wounded members of the armed forces are nursed in these hospitals, or the presence of small arms and ammunition taken from such combatants which have not yet been handed to the proper service, shall not be considered to be acts harmful to the enemy.

KKKKK. *Geneva Convention for the Amelioration of the Condition.....34
of the Wounded and Sick in Armed Forces in the Field*, Diplomatic Conference
for the Establishment of International Conventions for the Protection of Victims of
War, Geneva, Switzerland, August 12, 1949.

Excerpts: Wounded and Sick...They shall be treated humanely and cared for by the Party to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments...

LLLLL. *Multilateral Protocol Additional to the Geneva Conventions.....41
of 12 August 1949*, No. 17513, Geneva, Switzerland, June 8, 1977.

Excerpts: Humane Treatment...Without prejudice to the generality of the foregoing, the following acts against the persons referred to in paragraph 1 are and shall remain prohibited at any time and in any place whatsoever:

- (a) Violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment, such as torture, mutilation or any form of corporal punishment....

DHS hereby advises the Immigration Court that it may supplement the record of proceeding with additional evidence. Any amendments to this list will be submitted in accordance with the local EOIR filing guidelines.

Respectfully submitted,



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(b)(6) & (b)(7)(C)

Date

4/21/11

Jose Guillermo GARCIA-MERINO

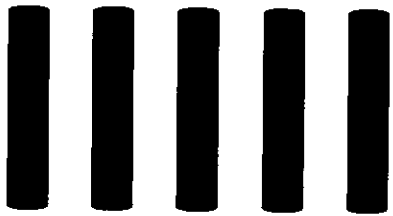
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PROOF OF SERVICE

On April 21, 2011 I, Brian McGloin, Associate Chief Counsel, sent a copy of this Notice of Filing of Department of Homeland Security and any attached pages to Alina Cruz, Esquire, attorney for the respondent at the following address: 6303 Blue Lagoon Drive, Suite 400 Miami, Florida, 33126 via first class mail, United States Postal Service.

A. Cruz

4/21/11
Date



GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR OF AUGUST 12, 1949 (GENEVA CONVENTION III)

Entry into Force: 21 October 1950

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from April 21 to August 12, 1949, for the purpose of revising the Convention concluded at Geneva on July 27, 1929 relative to the Treatment of Prisoners of War, have agreed as follows:

PART I GENERAL PROVISIONS

Article 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2

In addition to the provisions which shall be implemented in peace time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

Article 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular, humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4

A. Prisoners of war, in the sense of the present Convention, are persons belonging to one of the following categories, who have fallen into the power of the enemy:

(1) Members of the armed forces of a Party to the conflict, as well as members of militias or volunteer corps forming part of such armed forces.

(2) Members of other militias and members of other volunteer corps, including those of organized resistance movements, belonging to a Party to the conflict and operating in or outside their own territory, even if this territory is occupied, provided that such militias or volunteer corps, including such organized resistance movements, fulfil the following conditions:

(a) that of being commanded by a person responsible for his subordinates;

(b) that of having a fixed distinctive sign recognizable at a distance;

(c) that of carrying arms openly;

(d) that of conducting their operations in accordance with the laws and customs of war.

(3) Members of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power.

(4) Persons who accompany the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of labour units or of services responsible for the welfare of the armed forces, provided that they have received authorization, from the armed forces which they accompany, who shall

provide them for that purpose with an identity card similar to the annexed model.

(5) Members of crews, including masters, pilots and apprentices, of the merchant marine and the crews of civil aircraft of the Parties to the conflict, who do not benefit by more favourable treatment under any other provisions of international law.

(6) Inhabitants of a non-occupied territory, who on the approach of the enemy spontaneously take up arms to resist the invading forces, without having had time to form themselves into regular armed units, provided they carry arms openly and respect the laws and customs of war.

B. The following shall likewise be treated as prisoners of war under the present Convention:

(1) Persons belonging, or having belonged, to the armed forces of the occupied country, if the occupying Power considers it necessary by reason of such allegiance to intern them, even though it has originally liberated them while hostilities were going on outside the territory it occupies, in particular where such persons have made an unsuccessful attempt to rejoin the armed forces to which they belong and which are engaged in combat, or where they fail to comply with a summons made to them with a view to internment.

(2) The persons belonging to one of the categories enumerated in the present Article, who have been received by neutral or non-belligerent Powers on their territory and whom these Powers are required to intern under international law, without prejudice to any more favourable treatment which these Powers may choose to give and with the exception of Articles 8, 10, 15, 30, fifth paragraph, 58-67, 92, 126 and, where diplomatic relations exist between the Parties to the conflict and the neutral or non-belligerent Power concerned, those Articles concerning the Protecting Power. Where such diplomatic relations exist, the Parties to a conflict on whom these persons depend shall be allowed to perform towards them the functions of a Protecting Power as provided in the present Convention, without prejudice to the functions which these Parties normally exercise in conformity with diplomatic and consular usage and treaties.

C. This Article shall in no way affect the status of medical personnel and chaplains as provided for in Article 33 of the present Convention.

Article 5

The present Convention shall apply to the persons referred to in Article 4 from the time they fall into the power of the enemy and until their final release and repatriation.

Should any doubt arise as to whether persons, having committed a belligerent act and having fallen into the hands of the enemy, belong to any of the categories enumerated in Article 4, such persons shall enjoy the protection of the present Convention until such time as their status has been determined by a competent tribunal.

Article 7

Prisoners of war may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

PART II

GENERAL PROTECTION OF PRISONERS OF WAR

Article 12

Prisoners of war are in the hands of the enemy Power, but not of the individuals or military units who have captured them. Irrespective of the individual responsibilities that may exist, the Detaining Power is responsible for the treatment given them.

Prisoners of war may only be transferred by the Detaining Power to a Power which is a party to the Convention and after the Detaining Power has satisfied itself of the willingness and ability of such transferee Power to apply the Convention. When prisoners of war are transferred under such

circumstances, responsibility for the application of the Convention rests on the Power accepting them while they are in its custody.

Nevertheless, if that Power fails to carry out the provisions of the Convention in any important respect, the Power by whom the prisoners of war were transferred shall, upon being notified by the Protecting Power, take effective measures to correct the situation or shall request the return of the prisoners of war. Such requests must be complied with.

Article 13

Prisoners of war must at all times be humanely treated. Any unlawful act or omission by the Detaining Power causing death or seriously endangering the health of a prisoner of war in its custody is prohibited, and will be regarded as a serious breach of the present Convention. In particular, no prisoner of war may be subjected to physical mutilation or to medical or scientific experiments of any kind which are not justified by the medical, dental or hospital treatment of the prisoner concerned and carried out in his interest.

Likewise, prisoners of war must at all times be protected, particularly against acts of violence or intimidation and against insults and public curiosity.

Measures of reprisal against prisoners of war are prohibited.

Article 14

Prisoners of war are entitled in all circumstances to respect for their persons and their honour.

Women shall be treated with all the regard due to their sex and shall in all cases benefit by treatment as favourable as that granted to men.

Prisoners of war shall retain the full civil capacity which they enjoyed at the time of their capture. The Detaining Power may not restrict the exercise, either within or without its own territory, of the rights such capacity confers except in so far as the captivity requires.

Article 15

The Power detaining prisoners of war shall be bound to provide free of charge for their maintenance and for the medical attention required by their state of health.

Article 16

Taking into consideration the provisions of the present Convention relating to rank and sex, and subject to any privileged treatment which may be accorded to them by reason of their state of health, age or professional qualifications, all prisoners of war shall be treated alike by the Detaining Power, without any adverse distinction based on race, nationality, religious belief or political opinions, or any other distinction founded on similar criteria.

PART III

CAPTIVITY

SECTION I

BEGINNING OF CAPTIVITY

Article 17

Every prisoner of war, when questioned on the subject, is bound to give only his surname, first names and rank, date of birth, and army, regimental, personal or serial number, or failing this, equivalent information.

If he wilfully infringes this rule, he may render himself liable to a restriction of the privileges accorded to his rank or status.

Each Party to a conflict is required to furnish the persons under its jurisdiction who are liable to become prisoners of war, with an identity card showing the owner's surname, first names, rank, army, regimental, personal or serial number or equivalent information, and date of birth. The identity card may, furthermore, bear the signature or the fingerprints, or both, of the owner, and may bear, as well, any other information the Party to the conflict may

wish to add concerning persons belonging to its armed forces. As far as possible the card shall measure 6.5 x 10 cm. and shall be issued in duplicate. The identity card shall be shown by the prisoner of war upon demand, but may in no case be taken away from him.

No physical or mental torture, nor any other form of coercion, may be inflicted on prisoners of war to secure from them information of any kind whatever. Prisoners of war who refuse to answer may not be threatened, insulted, or exposed to unpleasant or disadvantageous treatment of any kind.

Prisoners of war who, owing to their physical or mental condition, are unable to state their identity, shall be handed over to the medical service. The identity of such prisoners shall be established by all possible means, subject to the provisions of the preceding paragraph.

The questioning of prisoners of war shall be carried out in a language which they understand.

Article 18

All effects and articles of personal use, except arms, horses, military equipment and military documents, shall remain in the possession of prisoners of war, likewise their metal helmets and gas masks and like articles issued for personal protection. Effects and articles used for their clothing or feeding shall likewise remain in their possession, even if such effects and articles belong to their regulation military equipment.

At no time should prisoners of war be without identity documents. The Detaining Power shall supply such documents to prisoners of war who possess none.

Badges of rank and nationality, decorations and articles having above all a personal or sentimental value may not be taken from prisoners of war.

Sums of money carried by prisoners of war may not be taken away from them except by order of an officer, and after the amount and particulars of the owner have been recorded in a special register and an itemized receipt has been given, legibly inscribed with the

name, rank and unit of the person issuing the said receipt. Sums in the currency of the Detaining Power, or which are changed into such currency at the prisoner's request, shall be placed to the credit of the prisoner's account as provided in Article 64.

The Detaining Power may withdraw articles of value from prisoners of war only for reasons of security; when such articles are withdrawn, the procedure laid down for sums of money impounded shall apply.

Such objects, likewise sums taken away in any currency other than that of the Detaining Power and the conversion of which has not been asked for by the owners, shall be kept in the custody of the Detaining Power and shall be returned in their initial shape to prisoners of war at the end of their captivity.

Article 19

Prisoners of war shall be evacuated, as soon as possible after their capture, to camps situated in an area far enough from the combat zone for them to be out of danger.

Only those prisoners of war who, owing to wounds or sickness, would run greater risks by being evacuated than by remaining where they are, may be temporarily kept back in a danger zone.

Prisoners of war shall not be unnecessarily exposed to danger while awaiting evacuation from a fighting zone.

Article 20

The evacuation of prisoners of war shall always be effected humanely and in conditions similar to those for the forces of the Detaining Power in their changes of station.

The Detaining Power shall supply prisoners of war who are being evacuated with sufficient food and potable water, and with the necessary clothing and medical attention. The Detaining Power shall take all suitable precautions to ensure their safety during evacuation, and shall establish as soon as possible a list of the prisoners of war who are evacuated.

If prisoners of war must, during evacuation, pass through transit camps, their stay in such camps shall be as brief as possible.

SECTION II

INTERNMENT OF PRISONERS OF WAR

CHAPTER I

GENERAL OBSERVATIONS

Article 21

The Detaining Power may subject prisoners of war to internment. It may impose on them the obligation of not leaving, beyond certain limits, the camp where they are interned, or if the said camp is fenced in, of not going outside its perimeter. Subject to the provisions of the present Convention relative to penal and disciplinary sanctions, prisoners of war may not be held in close confinement except where necessary to safeguard their health and then only during the continuation of the circumstances which make such confinement necessary.

Prisoners of war may be partially or wholly released on parole or promise, in so far as is allowed by the laws of the Power on which they depend. Such measures shall be taken particularly in cases where this may contribute to the improvement of their state of health. No prisoner of war shall be compelled to accept liberty on parole or promise.

Upon the outbreak of hostilities, each Party to the conflict shall notify the adverse Party of the laws and regulations allowing or forbidding its own nationals to accept liberty on parole or promise. Prisoners of war who are paroled or who have given their promise in conformity with the laws and regulations so notified, are bound on their personal honour scrupulously to fulfil, both towards the Power on which they depend and towards the Power which has captured them, the engagements of their paroles or promises. In such cases, the Power on which they depend is bound

neither to require nor to accept from them any service incompatible with the parole or promise given.

Article 22

Prisoners of war may be interned only in premises located on land and affording every guarantee of hygiene and healthfulness. Except in particular cases which are justified by the interest of the prisoners themselves, they shall not be interned in penitentiaries.

Prisoners of war interned in unhealthy areas, or where the climate is injurious for them, shall be removed as soon as possible to a more favourable climate.

The Detaining Power shall assemble prisoners of war in camps or camp compounds according to their nationality, language and customs, provided that such prisoners shall not be separated from prisoners of war belonging to the armed forces with which they were serving at the time of their capture, except with their consent.

Article 23

No prisoner of war may at any time be sent to, or detained in areas where he may be exposed to the fire of the combat zone, nor may his presence be used to render certain points or areas immune from military operations.

Prisoners of war shall have shelters against air bombardment and other hazards of war, to the same extent as the local civilian population. With the exception of those engaged in the protection of their quarters against the aforesaid hazards, they may enter such shelters as soon as possible after the giving of the alarm. Any other protective measure taken in favour of the population shall also apply to them.

Detaining Powers shall give the Powers concerned, through the intermediary of the Protecting Powers, all useful information regarding the geographical location of prisoner of war camps.

Whenever military considerations permit, prisoner of war camps shall be indicated in the day-time by the letters PW or PG,

placed so as to be clearly visible from the air. The Powers concerned may, however, agree upon any other system of marking. Only prisoner of war camps shall be marked as such.

Article 24

Transit or screening camps of a permanent kind shall be fitted out under conditions similar to those described in the present Section, and the prisoners therein shall have the same treatment as in other camps.

CHAPTER II

QUARTERS, FOOD AND CLOTHING OF PRISONERS OF WAR

Article 25

Prisoners of war shall be quartered under conditions as favourable as those for the forces of the Detaining Power who are billeted in the same area. The said conditions shall make allowance for the habits and customs of the prisoners and shall in no case be prejudicial to their health.

The foregoing provisions shall apply in particular to the dormitories of prisoners of war as regards both total surface and minimum cubic space, and the general installations, bedding and blankets.

The premises provided for the use of prisoners of war individually or collectively, shall be entirely protected from dampness and adequately heated and lighted, in particular between dusk and lights out. All precautions must be taken against the danger of fire.

In any camps in which women prisoners of war, as well as men, are accommodated, separate dormitories shall be provided for them.

Article 26

The basic daily food rations shall be sufficient in quantity, quality and variety to

keep prisoners of war in good health and to prevent loss of weight or the development of nutritional deficiencies. Account shall also be taken of the habitual diet of the prisoners.

The Detaining Power shall supply prisoners of war who work with such additional rations as are necessary for the labour on which they are employed.

Sufficient drinking water shall be supplied to prisoners of war. The use of tobacco shall be permitted.

Prisoners of war shall, as far as possible, be associated with the preparation of their meals; they may be employed for that purpose in the kitchens. Furthermore, they shall be given the means of preparing, themselves, the additional food in their possession.

Adequate premises shall be provided for messing.

Collective disciplinary measures affecting food are prohibited.

Article 27

Clothing, underwear and footwear shall be supplied to prisoners of war in sufficient quantities by the Detaining Power, which shall make allowance for the climate of the region where the prisoners are detained. Uniforms of enemy armed forces captured by the Detaining Power should, if suitable for the climate, be made available to clothe prisoners of war.

The regular replacement and repair of the above articles shall be assured by the Detaining Power. In addition, prisoners of war who work shall receive appropriate clothing, wherever the nature of the work demands.

Article 28

Canteens shall be installed in all camps, where prisoners of war may procure foodstuffs, soap and tobacco and ordinary articles in daily use. The tariff shall never be in excess of local market prices.

The profits made by camp canteens shall be used for the benefit of the prisoners; a special fund shall be created for this purpose. The prisoners' representative shall

have the right to collaborate in the management of the canteen and of this fund.

When a camp is closed down, the credit balance of the special fund shall be handed to an international welfare organization, to be employed for the benefit of prisoners of war of the same nationality as those who have contributed to the fund. In case of a general repatriation, such profits shall be kept by the Detaining Power, subject to any agreement to the contrary between the Powers concerned.

CHAPTER III

HYGIENE AND MEDICAL ATTENTION

Article 29

The Detaining Power shall be bound to take all sanitary measures necessary to ensure the cleanliness and healthfulness of camps and to prevent epidemics.

Prisoners of war shall have for their use, day and night, conveniences which conform to the rules of hygiene and are maintained in a constant state of cleanliness. In any camps in which women prisoners of war are accommodated, separate conveniences shall be provided for them.

Also, apart from the baths and showers with which the camps shall be furnished prisoners of war shall be provided with sufficient water and soap for their personal toilet and for washing their personal laundry; the necessary installations, facilities and time shall be granted them for that purpose.

Article 30

Every camp shall have an adequate infirmary where prisoners of war may have the attention they require, as well as appropriate diet. Isolation wards shall, if necessary, be set aside for cases of contagious or mental disease.

Prisoners of war suffering from serious disease, or whose condition necessitates special treatment, a surgical operation or hospital care, must be admitted to any

military or civilian medical unit where such treatment can be given, even if their repatriation is contemplated in the near future. Special facilities shall be afforded for the care to be given to the disabled, in particular to the blind, and for their rehabilitation, pending repatriation.

Prisoners of war shall have the attention, preferably, of medical personnel of the Power on which they depend and, if possible, of their nationality.

Prisoners of war may not be prevented from presenting themselves to the medical authorities for examination. The detaining authorities shall, upon request, issue to every prisoner who has undergone treatment, an official certificate indicating the nature of his illness or injury, and the duration and kind of treatment received. A duplicate of this certificate shall be forwarded to the Central Prisoners of War Agency.

The costs of treatment, including those of any apparatus necessary for the maintenance of prisoners of war in good health, particularly dentures and other artificial appliances, and spectacles, shall be borne by the Detaining Power.

Article 31

Medical inspections of prisoners of war shall be held at least once a month. They shall include the checking and the recording of the weight of each prisoner of war.

Their purpose shall be, in particular, to supervise the general state of health, nutrition and cleanliness of prisoners and to detect contagious diseases, especially tuberculosis, malaria and venereal disease. For this purpose the most efficient methods available shall be employed, e.g. periodic mass miniature radiography for the early detection of tuberculosis.

Article 32

Prisoners of war who, though not attached to the medical service of their armed forces, are physicians, surgeons, dentists, nurses or medical orderlies, may be required by the Detaining Power to exercise their medical functions in the interests of prisoners of war dependent on the same Power. In that case

they shall continue to be prisoners of war, but shall receive the same treatment as corresponding medical personnel retained by the Detaining Power. They shall be exempted from any other work under Article 49.

* * *

CHAPTER V

RELIGIOUS, INTELLECTUAL AND PHYSICAL ACTIVITIES

Article 34

Prisoners of war shall enjoy complete latitude in the exercise of their religious duties, including attendance at the service of their faith, on condition that they comply with the disciplinary routine prescribed by the military authorities.

Adequate premises shall be provided where religious services may be held.

* * *

Article 38

While respecting the individual preferences of every prisoner, the Detaining Power shall encourage the practice of intellectual, educational, and recreational pursuits, sports and games amongst prisoners, and shall take the measures necessary to ensure the exercise thereof by providing them with adequate premises and necessary equipment.

Prisoners shall have opportunities for taking physical exercise, including sports and games, and for being out of doors. Sufficient open spaces shall be provided for this purpose in all camps.

CHAPTER VI

DISCIPLINE

Article 39

Every prisoner of war camp shall be put under the immediate authority of a

responsible commissioned officer belonging to the regular armed forces of the Detaining Power. Such officer shall have in his possession a copy of the present Convention; he shall ensure that its provisions are known to the camp staff and the guard and shall be responsible, under the direction of his government, for its application.

Prisoners of war, with the exception of officers, must salute and show to all officers of the Detaining Power the external marks of respect provided for by the regulations applying in their own forces.

Officer prisoners of war are bound to salute only officers of a higher rank of the Detaining Power; they must, however, salute the camp commander regardless of his rank.

Article 40

The wearing of badges of rank and nationality, as well as of decorations, shall be permitted.

Article 41

In every camp the text of the present Convention and its Annexes and the contents of any special agreement provided for in Article 6, shall be posted, in the prisoners' own language, in places where all may read them. Copies shall be supplied, on request, to the prisoners who cannot have access to the copy which has been posted.

Regulations, orders, notices and publications of every kind relating to the conduct of prisoners of war shall be issued to them in a language which they understand. Such regulations, orders and publications shall be posted in the manner described above and copies shall be handed to the prisoners' representative. Every order and command addressed to prisoners of war individually must likewise be given in a language which they understand.

Article 42

The use of weapons against prisoners of war, especially against those who are escaping or attempting to escape, shall constitute an extreme measure, which shall

always be preceded by warnings appropriate to the circumstances.

CHAPTER VII

RANK OF PRISONERS OF WAR

Article 43

Upon the outbreak of hostilities, the Parties to the conflict shall communicate to one another the titles and ranks of all the persons mentioned in Article 4 of the present Convention, in order to ensure equality of treatment between prisoners of equivalent rank. Titles and ranks which are subsequently created shall form the subject of similar communications.

The Detaining Power shall recognize promotions in rank which have been accorded to prisoners of war and which have been duly notified by the Power on which these prisoners depend.

Article 44

Officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

In order to ensure service in officers' camps, other ranks of the same armed forces who, as far as possible, speak the same language, shall be assigned in sufficient numbers, account being taken of the rank of officers and prisoners of equivalent status. Such orderlies shall not be required to perform any other work.

Supervision of the mess by the officers themselves shall be facilitated in every way.

Article 45

Prisoners of war other than officers and prisoners of equivalent status shall be treated with the regard due to their rank and age.

Supervision of the mess by the prisoners themselves shall be facilitated in every way.

* * *

SECTION III

LABOUR OF PRISONERS OF WAR

Article 49

The Detaining Power may utilize the labour of prisoners of war who are physically fit, taking into account their age, sex, rank and physical aptitude, and with a view particularly to maintaining them in a good state of physical and mental health.

Non-commissioned officers who are prisoners of war shall only be required to do supervisory work. Those not so required may ask for other suitable work which shall, so far as possible, be found for them.

If officers or persons of equivalent status ask for suitable work, it shall be found for them, so far as possible, but they may in no circumstances be compelled to work.

Article 50

Besides work connected with camp administration, installation or maintenance, prisoners of war may be compelled to do only such work as is included in the following classes:

- (a) agriculture;
- (b) industries connected with the production or the extraction of raw materials, and manufacturing industries, with the exception of metallurgical, machinery and chemical industries; public works and building operations which have no military character or purpose;
- (c) transport and handling of stores which are not military in character or purpose;
- (d) commercial business, and arts and crafts;
- (e) domestic service;
- (f) public utility services having no military character or purpose.

Should the above provisions be infringed, prisoners of war shall be allowed to exercise their right of complaint, in conformity with Article 78.

Article 51

Prisoners of war must be granted suitable working conditions, especially as regards accommodation, food, clothing and equipment; such conditions shall not be inferior to those enjoyed by nationals of the Detaining Power employed in similar work; account shall also be taken of climatic conditions.

The Detaining Power, in utilizing the labour of prisoners of war, shall ensure that in areas in which such prisoners are employed, the national legislation concerning the protection of labour, and, more particularly, the regulations for the safety of workers, are duly applied.

Prisoners of war shall receive training and be provided with the means of protection suitable to the work they will have to do and similar to those accorded to the nationals of the Detaining Power. Subject to the provisions of Article 52, prisoners may be submitted to the normal risks run by these civilian workers.

Conditions of labour shall in no case be rendered more arduous by disciplinary measures.

Article 52

Unless he be a volunteer, no prisoner of war may be employed on labour which is of an unhealthy or dangerous nature.

No prisoner of war shall be assigned to labour which would be looked upon as humiliating for a member of the Detaining Power's own forces.

The removal of mines or similar devices shall be considered as dangerous labour.

Article 53

The duration of the daily labour of prisoners of war, including the time of the journey to and from, shall not be excessive, and must in no case exceed that permitted for civilian workers in the district, who are nationals of the Detaining Power and employed on the same work.

Prisoners of war must be allowed, in the middle of the day's work, a rest of not less than one hour. This rest will be the same as

that to which workers of the Detaining Power are entitled, if the latter is of longer duration. They shall be allowed in addition a rest of twenty-four consecutive hours every week, preferably on Sunday or the day of rest in their country of origin. Furthermore, every prisoner who has worked for one year shall be granted a rest of eight consecutive days, during which his working pay shall be paid him.

If methods of labour such as piece work are employed, the length of the working period shall not be rendered excessive thereby.

Article 54

The working pay due to prisoners of war shall be fixed in accordance with the provisions of Article 62 of the present Convention.

Prisoners of war who sustain accidents in connection with work, or who contract a disease in the course, or in consequence of their work, shall receive all the care their condition may require. The Detaining Power shall furthermore deliver to such prisoners of war a medical certificate enabling them to submit their claims to the Power on which they depend, and shall send a duplicate to the Central Prisoners of War Agency provided for in Article 123.

Article 55

The fitness of prisoners of war for work shall be periodically verified by medical examinations at least once a month. The examinations shall have particular regard to the nature of the work which prisoners of war are required to do.

If any prisoner of war considers himself incapable of working, he shall be permitted to appear before the medical authorities of his camp. Physicians or surgeons may recommend that the prisoners who are, in their opinion, unfit for work, be exempted therefrom.

Article 56

The organization and administration of labour detachments shall be similar to those of prisoner of war camps.

Every labour detachment shall remain under the control of and administratively part of a prisoner of war camp. The military authorities and the commander of the said camp shall be responsible, under the direction of their government, for the observance of the provisions of the present Convention in labour detachments.

The camp commander shall keep an up-to-date record of the labour detachments dependent on his camp, and shall communicate it to the delegates of the Protecting Power, of the International Committee of the Red Cross, or of other agencies giving relief to prisoners of war, who may visit the camp.

Article 57

The treatment of prisoners of war who work for private persons, even if the latter are responsible for guarding and protecting them, shall not be inferior to that which is provided for by the present Convention. The Detaining Power, the military authorities and the commander of the camp to which such prisoners belong shall be entirely responsible for the maintenance, care, treatment, and payment of the working pay of such prisoners of war.

Such prisoners of war shall have the right to remain in communication with the prisoners' representatives in the camps on which they depend.

SECTION IV

FINANCIAL RESOURCES OF PRISONERS OF WAR

Article 58

Upon the outbreak of hostilities, and pending an arrangement on this matter with the Protecting Power, the Detaining Power may determine the maximum amount of money in cash or in any similar form, that prisoners may have in their possession. Any amount in excess, which was properly in their possession and which has been taken or withheld from them, shall be placed to their account, together with any monies deposited by them, and shall not be

converted into any other currency without their consent.

If prisoners of war are permitted to purchase services or commodities outside the camp against payment in cash, such payments shall be made by the prisoner himself or by the camp administration who will charge them to the accounts of the prisoners concerned. The Detaining Power will establish the necessary rules in this respect.

Article 59

Cash which was taken from prisoners of war, in accordance with Article 18, at the time of their capture, and which is in the currency of the Detaining Power, shall be placed to their separate accounts, in accordance with the provisions of Article 64 of the present Section.

The amounts, in the currency of the Detaining Power, due to the conversion of sums in other currencies that are taken from the prisoners of war at the same time, shall also be credited to their separate accounts.

Article 60

The Detaining Power shall grant all prisoners of war a monthly advance of pay, the amount of which shall be fixed by conversion, into the currency of the said Power, of the following amounts:

Category I : Prisoners ranking below sergeants: eight Swiss francs.

Category II : Sergeants and other non-commissioned officers, or prisoners of equivalent rank: twelve Swiss francs.

Category III: Warrant officers and commissioned officers below the rank of major or prisoners of equivalent rank: fifty Swiss francs.

Category IV : Majors, lieutenant-colonels, colonels or prisoners of equivalent rank: sixty Swiss francs.

Category V : General officers or prisoners of war of equivalent rank: seventy-five Swiss francs.

However, the Parties to the conflict concerned may by special agreement modify the amount of advances of pay due to prisoners of the preceding categories.

Furthermore, if the amounts indicated in the first paragraph above would be unduly high compared with the pay of the Detaining Power's armed forces or would, for any reason, seriously embarrass the Detaining Power, then, pending the conclusion of a special agreement with the Power on which the prisoners depend to vary the amounts indicated above, the Detaining Power:

(a) shall continue to credit the accounts of the prisoners with the amounts indicated in the first paragraph above;

(b) may temporarily limit the amount made available from these advances of pay to prisoners of war for their own use, to sums which are reasonable, but which, for Category I, shall never be inferior to the amount that the Detaining Power gives to the members of its own armed forces.

The reasons for any limitations will be given without delay to the Protecting Power.

Article 61

The Detaining Power shall accept for distribution as supplementary pay to prisoners of war sums which the Power on which the prisoners depend may forward to them, on condition that the sums to be paid shall be the same for each prisoner of the same category, shall be payable to all prisoners of that category depending on that Power, and shall be placed in their separate accounts, at the earliest opportunity, in accordance with the provisions of Article 64. Such supplementary pay shall not relieve the Detaining Power of any obligation under this Convention.

Article 62

Prisoners of war shall be paid a fair working rate of pay by the detaining authorities direct. The rate shall be fixed by the said authorities, but shall at no time be less than one-fourth of one Swiss franc for a full working day. The Detaining Power shall inform prisoners of war, as well as the Power on which they depend, through the intermediary of the Protecting Power, of the rate of daily working pay that it has fixed.

Working pay shall likewise be paid by the detaining authorities to prisoners of war permanently detailed to duties or to a skilled

or semi-skilled occupation in connection with the administration, installation or maintenance of camps, and to the prisoners who are required to carry out spiritual or medical duties on behalf of their comrades.

The working pay of the prisoners' representative, of his advisers, if any, and of his assistants, shall be paid out of the fund maintained by canteen profits. The scale of this working pay shall be fixed by the prisoners' representative and approved by the camp commander. If there is no such fund, the detaining authorities shall pay these prisoners a fair working rate of pay.

Article 63

Prisoners of war shall be permitted to receive remittances of money addressed to them individually or collectively.

Every prisoner of war shall have at his disposal the credit balance of his account as provided for in the following Article, within the limits fixed by the Detaining Power, which shall make such payments as are requested. Subject to financial or monetary restrictions which the Detaining Power regards as essential, prisoners of war may also have payments made abroad. In this case payments addressed by prisoners of war to dependents shall be given priority.

In any event, and subject to the consent of the Power on which they depend, prisoners may have payments made in their own country, as follows: the Detaining Power shall send to the aforesaid Power through the Protecting Power, a notification giving all the necessary particulars concerning the prisoners of war, the beneficiaries of the payments, and the amount of the sums to be paid, expressed in the Detaining Power's currency. The said notification shall be signed by the prisoners and countersigned by the camp commander. The Detaining Power shall debit the prisoners' account by a corresponding amount; the sums thus debited shall be placed by it to the credit of the Power on which the prisoners depend.

To apply the foregoing provisions, the Detaining Power may usefully consult the Model Regulations in Annex V of the present Convention.

Article 64

The Detaining Power shall hold an account for each prisoner of war, showing at least the following:

(1) The amounts due to the prisoner or received by him as advances of pay, as working pay or derived from any other source; the sums in the currency of the Detaining Power which were taken from him; the sums taken from him and converted at his request into the currency of the said Power.

(2) The payments made to the prisoner in cash, or in any other similar form; the payments made on his behalf and at his request; the sums transferred under Article 63, third paragraph.

Article 65

Every item entered in the account of a prisoner of war shall be countersigned or initialled by him, or by the prisoners' representative acting on his behalf.

Prisoners of war shall at all times be afforded reasonable facilities for consulting and obtaining copies of their accounts, which may likewise be inspected by the representatives of the Protecting Powers at the time of visits to the camp.

When prisoners of war are transferred from one camp to another, their personal accounts will follow them. In case of transfer from one Detaining Power to another, the monies which are their property and are not in the currency of the Detaining Power will follow them. They shall be given certificates for any other monies standing to the credit of their accounts.

The Parties to the conflict concerned may agree to notify to each other at specific intervals through the Protecting Power, the amount of the accounts of the prisoners of war.

Article 66

On the termination of captivity, through the release of a prisoner of war or his repatriation, the Detaining Power shall give him a statement, signed by an authorized officer of that Power, showing the credit

balance then due to him. The Detaining Power shall also send through the Protecting Power to the government upon which the prisoner of war depends, lists giving all appropriate particulars of all prisoners of war whose captivity has been terminated by repatriation, release, escape, death or any other means, and showing the amount of their credit balances. Such lists shall be certified on each sheet by an authorized representative of the Detaining Power.

Any of the above provisions of this Article may be varied by mutual agreement between any two Parties to the conflict.

The Power on which the prisoner of war depends shall be responsible for settling with him any credit balance due to him from the Detaining Power on the termination of his captivity.

Article 67

Advances of pay, issued to prisoners of war in conformity with Article 60, shall be considered as made on behalf of the Power on which they depend. Such advances of pay, as well as all payments made by the said Power under Article 63, third paragraph, and Article 68, shall form the subject of arrangements between the Powers concerned, at the close of hostilities.

Article 68

Any claim by a prisoner of war for compensation in respect of any injury or other disability arising out of work shall be referred to the Power on which he depends, through the Protecting Power. In accordance with Article 54, the Detaining Power will, in all cases, provide the prisoner of war concerned with a statement showing the nature of the injury or disability, the circumstances in which it arose and particulars of medical or hospital treatment given for it. This statement will be signed by a responsible officer of the Detaining Power and the medical particulars certified by a medical officer.

Any claim by a prisoner of war for compensation in respect of personal effects monies or valuables impounded by the Detaining Power under Article 18 and not forthcoming on his repatriation, or in

respect of loss alleged to be due to the fault of the Detaining Power or any of its servants, shall likewise be referred to the Power on which he depends. Nevertheless, any such personal effects required for use by the prisoners of war whilst in captivity shall be replaced at the expense of the Detaining Power. The Detaining Power will, in all cases, provide the prisoner of war with a statement, signed by a responsible officer, showing all available information regarding the reasons why such effects, monies or valuables have not been restored to him. A copy of this statement will be forwarded to the Power on which he depends through the Central Prisoners of War Agency provided for in Article 123.

SECTION V

RELATIONS OF PRISONERS OF WAR WITH THE EXTERIOR

Article 69

Immediately upon prisoners of war falling into its power, the Detaining Power shall inform them and the Powers on which they depend, through the Protecting Power, of the measures taken to carry out the provisions of the present Section. They shall likewise inform the parties concerned of any subsequent modifications of such measures.

Article 70

Immediately upon capture, or not more than one week after arrival at a camp, even if it is a transit camp, likewise in case of sickness or transfer to hospital or to another camp, every prisoner of war shall be enabled to write direct to his family, on the one hand, and to the Central Prisoners of War Agency provided for in Article 123, on the other hand, a card similar, if possible, to the model annexed to the present Convention, informing his relatives of his capture, address and state of health. The said cards shall be forwarded as rapidly as possible and may not be delayed in any manner.

Article 71

Prisoners of war shall be allowed to send and receive letters and cards. If the Detaining Power deems it necessary to limit the number of letters and cards sent by each prisoner of war, the said number shall not be less than two letters and four cards monthly, exclusive of the capture cards provided for in Article 70, and conforming as closely as possible to the models annexed to the present Convention. Further limitations may be imposed only if the Protecting Power is satisfied that it would be in the interests of the prisoners of war concerned to do so owing to difficulties of translation caused by the Detaining Power's inability to find sufficient qualified linguists to carry out the necessary censorship. If limitations must be placed on the correspondence addressed to prisoners of war, they may be ordered only by the Power on which the prisoners depend, possibly at the request of the Detaining Power. Such letters and cards must be conveyed by the most rapid method at the disposal of the Detaining Power; they may not be delayed or retained for disciplinary reasons.

Prisoners of war who have been without news for a long period, or who are unable to receive news from their next of kin or to give them news by the ordinary postal route, as well as those who are at a great distance from their homes, shall be permitted to send telegrams, the fees being charged against the prisoners of war's accounts with the Detaining Power or paid in the currency at their disposal. They shall likewise benefit by this measure in cases of urgency.

As a general rule, the correspondence of prisoners of war shall be written in their native language. The Parties to the conflict may allow correspondence in other languages.

Sacks containing prisoner of war mail must be securely sealed and labelled so as clearly to indicate their contents, and must be addressed to offices of destination.

Article 72

Prisoners of war shall be allowed to receive by post or by any other means individual parcels or collective shipments containing,

in particular, foodstuffs, clothing, medical supplies and articles of a religious, educational or recreational character which may meet their needs, including books, devotional articles, scientific equipment, examination papers, musical instruments, sports outfits and materials allowing prisoners of war to pursue their studies or their cultural activities.

Such shipments shall in no way free the Detaining Power from the obligations imposed upon it by virtue of the present Convention.

The only limits which may be placed on these shipments shall be those proposed by the Protecting Power in the interest of the prisoners themselves, or by the International Committee of the Red Cross or any other organization giving assistance to the prisoners, in respect of their own shipments only, on account of exceptional strain on transport or communications.

The conditions for the sending of individual parcels and collective relief shall, if necessary, be the subject of special agreements between the Powers concerned, which may in no case delay the receipt by the prisoners of relief supplies. Books may not be included in parcels of clothing and foodstuffs. Medical supplies shall, as a rule, be sent in collective parcels.

* * *

Article 76

The censoring of correspondence addressed to prisoners of war or despatched by them shall be done as quickly as possible. Mail shall be censored only by the despatching State and the receiving State, and once only by each.

The examination of consignments intended for prisoners of war shall not be carried out under conditions that will expose the goods contained in them to deterioration; except in the case of written or printed matter, it shall be done in the presence of the addressee, or of a fellow-prisoner duly delegated by him. The delivery to prisoners of individual or collective consignments shall not be delayed under the pretext of difficulties of censorship.

Any prohibition of correspondence ordered by Parties to the conflict, either for military or political reasons, shall be only temporary and its duration shall be as short as possible.

SECTION VI

RELATIONS BETWEEN PRISONERS OF WAR AND THE AUTHORITIES

CHAPTER I

COMPLAINTS OF PRISONERS OF WAR RESPECTING THE CONDITIONS OF CAPTIVITY

Article 78

Prisoners of war shall have the right to make known to the military authorities in whose power they are, their requests regarding the conditions of captivity to which they are subjected.

They shall also have the unrestricted right to apply to the representatives of the Protecting Powers either through their prisoners' representative or, if they consider it necessary, direct, in order to draw their attention to any points on which they may have complaints to make regarding their conditions of captivity.

These requests and complaints shall not be limited nor considered to be a part of the correspondence quota referred to in Article 71. They must be transmitted immediately. Even if they are recognized to be unfounded, they may not give rise to any punishment.

Prisoners' representatives may send periodic reports on the situation in the camps and the needs of the prisoners of war to the representatives of the Protecting Powers.

CHAPTER II

PRISONER OF WAR REPRESENTATIVES

Article 79

In all places where there are prisoners of war, except in those where there are officers, the prisoners shall freely elect by secret ballot, every six months, and also in case of vacancies, prisoners' representatives entrusted with representing them before the military authorities, the Protecting Powers, the International Committee of the Red Cross and any other organization which may assist them. These prisoners' representatives shall be eligible for re-election.

In camps for officers and persons of equivalent status or in mixed camps, the senior officer among the prisoners of war shall be recognized as the camp prisoners' representative. In camps for officers, he shall be assisted by one or more advisers chosen by the officers; in mixed camps, his assistants shall be chosen from among the prisoners of war who are not officers and shall be elected by them.

Officer prisoners of war of the same nationality shall be stationed in labour camps for prisoners of war, for the purpose of carrying out the camp administration duties for which the prisoners of war are responsible. These officers may be elected as prisoners' representatives under the first paragraph of this Article. In such a case the assistants to the prisoners' representatives shall be chosen from among those prisoners of war who are not officers.

Every representative elected must be approved by the Detaining Power before he has the right to commence his duties. Where the Detaining Power refuses to approve a prisoner of war elected by his fellow prisoners of war, it must inform the Protecting Power of the reason for such refusal.

In all cases the prisoners' representative must have the same nationality, language and customs as the prisoners of war whom he represents. Thus, prisoners of war distributed in different sections of a camp, according to their nationality, language or

customs, shall have for each section their own prisoners' representative, in accordance with the foregoing paragraphs.

Article 80

Prisoners' representatives shall further the physical, spiritual and intellectual well-being of prisoners of war.

In particular, where the prisoners decide to organize amongst themselves a system of mutual assistance, this organization will be within the province of the prisoners' representative, in addition to the special duties entrusted to him by other provisions of the present Convention.

Prisoners' representatives shall not be held responsible, simply by reason of their duties, for any offences committed by prisoners of war.

Article 81

Prisoners' representatives shall not be required to perform any other work, if the accomplishment of their duties is thereby made more difficult.

Prisoners' representatives may appoint from amongst the prisoners such assistants as they may require. All material facilities shall be granted them, particularly a certain freedom of movement necessary for the accomplishment of their duties (inspection of labour detachments, receipt of supplies, etc.).

Prisoners' representatives shall be permitted to visit premises where prisoners of war are detained, and every prisoner of war shall have the right to consult freely his prisoners' representative.

All facilities shall likewise be accorded to the prisoners' representatives for communication by post and telegraph with the detaining authorities, the Protecting Powers, the International Committee of the Red Cross and their delegates, the Mixed Medical Commissions and the bodies which give assistance to prisoners of war. Prisoners' representatives of labour detachments shall enjoy the same facilities for communication with the prisoners' representatives of the principal camp. Such communications shall not be restricted, nor

considered as forming a part of the quota mentioned in Article 71.

Prisoners' representatives who are transferred shall be allowed a reasonable time to acquaint their successors with current affairs.

In case of dismissal, the reasons therefor shall be communicated to the Protecting Power.

CHAPTER III

PENAL AND DISCIPLINARY SANCTIONS

I. General Provisions

Article 82

A prisoner of war shall be subject to the laws, regulations and orders in force in the armed forces of the Detaining Power; the Detaining Power shall be justified in taking judicial or disciplinary measures in respect of any offence committed by a prisoner of war against such laws, regulations or orders. However, no proceedings or punishments contrary to the provisions of this Chapter shall be allowed.

If any law, regulation or order of the Detaining Power shall declare acts committed by a prisoner of war to be punishable, whereas the same acts would not be punishable if committed by a member of the forces of the Detaining Power, such acts shall entail disciplinary punishments only.

Article 83

In deciding whether proceedings in respect of an offence alleged to have been committed by a prisoner of war shall be judicial or disciplinary, the Detaining Power shall ensure that the competent authorities exercise the greatest leniency and adopt, wherever possible, disciplinary rather than judicial measures.

Article 84

A prisoner of war shall be tried only by a military court, unless the existing laws of the Detaining Power expressly permit the civil courts to try a member of the armed forces of the Detaining Power in respect of the particular offence alleged to have been committed by the prisoner of war.

In no circumstances whatever shall a prisoner of war be tried by a court of any kind which does not offer the essential guarantees of independence and impartiality as generally recognized, and, in particular, the procedure of which does not afford the accused the rights and means of defence provided for in Article 105.

Article 85

Prisoners of war prosecuted under the laws of the Detaining Power for acts committed prior to capture shall retain, even if convicted, the benefits of the present Convention.

Article 86

No prisoner of war may be punished more than once for the same act or on the same charge.

Article 87

Prisoners of war may not be sentenced by the military authorities and courts of the Detaining Power to any penalties except those provided for in respect of members of the armed forces of the said Power who have committed the same acts.

When fixing the penalty, the courts or authorities of the Detaining Power shall take into consideration, to the widest extent possible, the fact that the accused, not being a national of the Detaining Power, is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will. The said courts or authorities shall be at liberty to reduce the penalty provided for the violation of which the prisoner of war is accused, and shall therefore not be bound to apply the minimum penalty prescribed.

Collective punishment for individual acts, corporal punishment, imprisonment in premises without daylight and, in general, any form of torture or cruelty, are forbidden.

No prisoner of war may be deprived of his rank by the Detaining Power, or prevented from wearing his badges.

Article 88

Officers, non-commissioned officers and men who are prisoners of war undergoing a disciplinary or judicial punishment, shall not be subjected to more severe treatment than that applied in respect of the same punishment to members of the armed forces of the Detaining Power of equivalent rank.

A woman prisoner of war shall not be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a woman member of the armed forces of the Detaining Power dealt with for a similar offence.

In no case may a woman prisoner of war be awarded or sentenced to a punishment more severe, or treated whilst undergoing punishment more severely, than a male member of the armed forces of the Detaining Power dealt with for a similar offence.

Prisoners of war who have served disciplinary or judicial sentences may not be treated differently from other prisoners of war.

II. Disciplinary Sanctions

Article 89

The disciplinary punishments applicable to prisoners of war are the following:

(1) A fine which shall not exceed 50 per cent of the advances of pay and working pay which the prisoner of war would otherwise receive under the provisions of Articles 60 and 62 during a period of not more than thirty days.

(2) Discontinuance of privileges granted over and above the treatment provided for by the present Convention.

(3) Fatigue duties not exceeding two hours daily.

(4) Confinement.

The punishment referred to under (3) shall not be applied to officers.

In no case shall disciplinary punishments be inhuman, brutal or dangerous to the health of prisoners of war.

Article 90

The duration of any single punishment shall in no case exceed thirty days. Any period of confinement awaiting the hearing of a disciplinary offence or the award of disciplinary punishment shall be deducted from an award pronounced against a prisoner of war.

The maximum of thirty days provided above may not be exceeded, even if the prisoner of war is answerable for several acts at the same time when he is awarded punishment, whether such acts are related or not.

The period between the pronouncing of an award of disciplinary punishment and its execution shall not exceed one month.

When a prisoner of war is awarded a further disciplinary punishment, a period of at least three days shall elapse between the execution of any two of the punishments, if the duration of one of these is ten days or more.

Article 91

The escape of a prisoner of war shall be deemed to have succeeded when:

(1) he has joined the armed forces of the Power on which he depends, or those of an allied Power;

(2) he has left the territory under the control of the Detaining Power, or of an ally of the said Power;

(3) he has joined a ship flying the flag of the Power on which he depends, or of an allied Power, in the territorial waters of the Detaining Power, the said ship not being under the control of the last named Power.

Prisoners of war who have made good their escape in the sense of this Article and who are recaptured, shall not be liable to any

punishment in respect of their previous escape.

Article 92

A prisoner of war who attempts to escape and is recaptured before having made good his escape in the sense of Article 91 shall be liable only to a disciplinary punishment in respect of this act, even if it is a repeated offence.

A prisoner of war who is recaptured shall be handed over without delay to the competent military authority.

Article 88, fourth paragraph, notwithstanding, prisoners of war punished as a result of an unsuccessful escape may be subjected to special surveillance. Such surveillance must not affect the state of their health, must be undergone in a prisoner of war camp, and must not entail the suppression of any of the safeguards granted them by the present Convention.

Article 93

Escape or attempt to escape, even if it is a repeated offence, shall not be deemed an aggravating circumstance if the prisoner of war is subjected to trial by judicial proceedings in respect of an offence committed during his escape or attempt to escape.

In conformity with the principle stated in Article 83, offences committed by prisoners of war with the sole intention of facilitating their escape and which do not entail any violence against life or limb, such as offences against public property, theft without intention of self-enrichment, the drawing up or use of false papers, or the wearing of civilian clothing, shall occasion disciplinary punishment only.

Prisoners of war who aid or abet an escape or an attempt to escape shall be liable on this count to disciplinary punishment only.

Article 94

If an escaped prisoner of war is recaptured, the Power on which he depends shall be notified thereof in the manner defined in

Article 122, provided notification of his escape has been made.

Article 95

A prisoner of war accused of an offence against discipline shall not be kept in confinement pending the hearing unless a member of the armed forces of the Detaining Power would be so kept if he were accused of a similar offence, or if it is essential in the interests of camp order and discipline.

Any period spent by a prisoner of war in confinement awaiting the disposal of an offence against discipline shall be reduced to an absolute minimum and shall not exceed fourteen days.

The provisions of Articles 97 and 98 of this Chapter shall apply to prisoners of war who are in confinement awaiting the disposal of offences against discipline.

Article 96

Acts which constitute offences against discipline shall be investigated immediately.

Without prejudice to the competence of courts and superior military authorities, disciplinary punishment may be ordered only by an officer having disciplinary powers in his capacity as camp commander, or by a responsible officer who replaces him or to whom he has delegated his disciplinary powers.

In no case may such powers be delegated to a prisoner of war or be exercised by a prisoner of war.

Before any disciplinary award is pronounced, the accused shall be given precise information regarding the offences of which he is accused, and given an opportunity of explaining his conduct and of defending himself. He shall be permitted, in particular, to call witnesses and to have recourse, if necessary, to the services of a qualified interpreter. The decision shall be announced to the accused prisoner of war and to the prisoners' representative.

A record of disciplinary punishments shall be maintained by the camp commander and shall be open to inspection by representatives of the Protecting Power.

Article 97

Prisoners of war shall not in any case be transferred to penitentiary establishments (prisons, penitentiaries, convict prisons, etc.) to undergo disciplinary punishment therein.

All premises in which disciplinary punishments are undergone shall conform to the sanitary requirements set forth in Article 25. A prisoner of war undergoing punishment shall be enabled to keep himself in a state of cleanliness, in conformity with Article 29.

Officers and persons of equivalent status shall not be lodged in the same quarters as non-commissioned officers or men.

Women prisoners of war undergoing disciplinary punishment shall be confined in separate quarters from male prisoners of war and shall be under the immediate supervision of women.

Article 98

A prisoner of war undergoing confinement as a disciplinary punishment, shall continue to enjoy the benefits of the provisions of this Convention except in so far as these are necessarily rendered inapplicable by the mere fact that he is confined. In no case may he be deprived of the benefits of the provisions of Articles 78 and 126.

A prisoner of war awarded disciplinary punishment may not be deprived of the prerogatives attached to his rank.

Prisoners of war awarded disciplinary punishment shall be allowed to exercise and to stay in the open air at least two hours daily.

They shall be allowed, on their request, to be present at the daily medical inspections. They shall receive the attention which their state of health requires and, if necessary, shall be removed to the camp infirmary or to a hospital.

They shall have permission to read and write, likewise to send and receive letters. Parcels and remittances of money however, may be withheld from them until the completion of the punishment; they shall meanwhile be entrusted to the prisoners' representative, who will hand over to the

infirmity the perishable goods contained in such parcels.

III. Judicial Proceedings

Article 99

No prisoner of war may be tried or sentenced for an act which is not forbidden by the law of the Detaining Power or by international law, in force at the time the said act was committed.

No moral or physical coercion may be exerted on a prisoner of war in order to induce him to admit himself guilty of the act of which he is accused.

No prisoner of war may be convicted without having had an opportunity to present his defence and the assistance of a qualified advocate or counsel.

Article 100

Prisoners of war and the Protecting Powers shall be informed as soon as possible of the offences which are punishable by the death sentence under the laws of the Detaining Power.

Other offences shall not thereafter be made punishable by the death penalty without the concurrence of the Power on which the prisoners of war depend.

The death sentence cannot be pronounced on a prisoner of war unless the attention of the court has, in accordance with Article 87, second paragraph, been particularly called to the fact that since the accused is not a national of the Detaining Power, he is not bound to it by any duty of allegiance, and that he is in its power as the result of circumstances independent of his own will.

Article 101

If the death penalty is pronounced on a prisoner of war, the sentence shall not be executed before the expiration of a period of at least six months from the date when the Protecting Power receives, at an indicated address, the detailed communication provided for in Article 107.

Article 102

A prisoner of war can be validly sentenced only if the sentence has been pronounced by the same courts according to the same procedure as in the case of members of the armed forces of the Detaining Power, and if, furthermore, the provisions of the present Chapter have been observed.

Article 103

Judicial investigations relating to a prisoner of war shall be conducted as rapidly as circumstances permit and so that his trial shall take place as soon as possible. A prisoner of war shall not be confined while awaiting trial unless a member of the armed forces of the Detaining Power would be so confined if he were accused of a similar offence, or if it is essential to do so in the interests of national security. In no circumstances shall this confinement exceed three months.

Any period spent by a prisoner of war in confinement awaiting trial shall be deducted from any sentence of imprisonment passed upon him and taken into account in fixing any penalty.

The provisions of Articles 97 and 98 of this Chapter shall apply to a prisoner of war whilst in confinement awaiting trial.

Article 104

In any case in which the Detaining Power has decided to institute judicial proceedings against a prisoner of war, it shall notify the Protecting Power as soon as possible and at least three weeks before the opening of the trial. This period of three weeks shall run as from the day on which such notification reaches the Protecting Power at the address previously indicated by the latter to the Detaining Power.

The said notification shall contain the following information:

(1) Surname and first names of the prisoner of war, his rank, his army, regimental, personal or serial number, his date of birth, and his profession or trade, if any;

(2) Place of internment or confinement;

(3) Specification of the charge or charges on which the prisoner of war is to be arraigned, giving the legal provisions applicable;

(4) Designation of the court which will try the case, likewise the date and place fixed for the opening of the trial.

The same communication shall be made by the Detaining Power to the prisoners' representative.

If no evidence is submitted, at the opening of a trial, that the notification referred to above was received by the Protecting Power, by the prisoner of war and by the prisoners' representative concerned, at least three weeks before the opening of the trial, then the latter cannot take place and must be adjourned.

Article 105

The prisoner of war shall be entitled to assistance by one of his prisoner comrades, to defence by a qualified advocate or counsel of his own choice, to the calling of witnesses and, if he deems necessary, to the services of a competent interpreter. He shall be advised of these rights by the Detaining Power in due time before the trial.

Failing a choice by the prisoner of war, the Protecting Power shall find him an advocate or counsel, and shall have at least one week at its disposal for the purpose. The Detaining Power shall deliver to the said Power, on request, a list of persons qualified to present the defence. Failing a choice of an advocate or counsel by the prisoner of war or the Protecting Power, the Detaining Power shall appoint a competent advocate or counsel to conduct the defence.

The advocate or counsel conducting the defence on behalf of the prisoner of war shall have at his disposal a period of two weeks at least before the opening of the trial, as well as the necessary facilities to prepare the defence of the accused. He may, in particular, freely visit the accused and interview him in private. He may also confer with any witnesses for the defence, including prisoners of war. He shall have

the benefit of these facilities until the term of appeal or petition has expired.

Particulars of the charge or charges on which the prisoner of war is to be arraigned, as well as the documents which are generally communicated to the accused by virtue of the laws in force in the armed forces of the Detaining Power, shall be communicated to the accused prisoner of war in a language which he understands, and in good time before the opening of the trial. The same communication in the same circumstances shall be made to the advocate or counsel conducting the defence on behalf of the prisoner of war.

The representatives of the Protecting Power shall be entitled to attend the trial of the case, unless, exceptionally, this is held in camera in the interest of State security. In such a case the Detaining Power shall advise the Protecting Power accordingly.

Article 106

Every prisoner of war shall have, in the same manner as the members of the armed forces of the Detaining Power, the right of appeal or petition from any sentence pronounced upon him, with a view to the quashing or revising of the sentence or the reopening of the trial. He shall be fully informed of his right to appeal or petition and of the time limit within which he may do so.

Article 107

Any judgment and sentence pronounced upon a prisoner of war shall be immediately reported to the Protecting Power in the form of a summary communication, which shall also indicate whether he has the right of appeal with a view to the quashing of the sentence or the reopening of the trial. This communication shall likewise be sent to the prisoners' representative concerned. It shall also be sent to the accused prisoner of war in a language he understands, if the sentence was not pronounced in his presence. The Detaining Power shall also immediately communicate to the Protecting Power the decision of the prisoner of war to use or to waive his right of appeal.

Furthermore, if a prisoner of war is finally convicted or if a sentence pronounced on a prisoner of war in the first instance is a death sentence, the Detaining Power shall as soon as possible address to the Protecting Power a detailed communication containing:

- (1) the precise wording of the finding and sentence;
- (2) a summarized report of any preliminary investigation and of the trial, emphasizing in particular the elements of the prosecution and the defence;
- (3) notification, where applicable, of the establishment where the sentence will be served.

The communications provided for in the foregoing sub-paragraphs shall be sent to the Protecting Power at the address previously made known to the Detaining Power.

Article 108

Sentences pronounced on prisoners of war after a conviction has become duly enforceable, shall be served in the same establishments and under the same conditions as in the case of members of the armed forces of the Detaining Power. These conditions shall in all cases conform to the requirements of health and humanity.

A woman prisoner of war on whom such a sentence has been pronounced shall be confined in separate quarters and shall be under the supervision of women.

In any case, prisoners of war sentenced to a penalty depriving them of their liberty shall retain the benefit of the provisions of Articles 78 and 126 of the present Convention. Furthermore, they shall be entitled to receive and despatch correspondence, to receive at least one relief parcel monthly, to take regular exercise in the open air, to have the medical care required by their state of health, and the spiritual assistance they may desire. Penalties to which they may be subjected shall be in accordance with the provisions of Article 87, third paragraph.

PART IV

TERMINATION OF CAPTIVITY

SECTION I

DIRECT REPATRIATION AND ACCOMMODATION IN NEUTRAL COUNTRIES

Article 109

Subject to the provisions of the third paragraph of this Article, Parties to the conflict are bound to send back to their own country, regardless of number or rank, seriously wounded and seriously sick prisoners of war, after having cared for them until they are fit to travel, in accordance with the first paragraph of the following Article.

Throughout the duration of hostilities, Parties to the conflict shall endeavour, with the cooperation of the neutral Powers concerned, to make arrangements for the accommodation in neutral countries of the sick and wounded prisoners of war referred to in the second paragraph of the following Article. They may, in addition, conclude agreements with a view to the direct repatriation or internment in a neutral country of able-bodied prisoners of war who have undergone a long period of captivity.

No sick or injured prisoner of war who is eligible for repatriation under the first paragraph of this Article, may be repatriated against his will during hostilities.

Article 110

The following shall be repatriated direct:

- (1) Incurably wounded and sick whose mental or physical fitness seems to have been gravely diminished.
- (2) Wounded and sick who, according to medical opinion, are not likely to recover within one year, whose condition requires treatment and whose mental or physical

fitness seems to have been gravely diminished.

(3) Wounded and sick who have recovered, but whose mental or physical fitness seems to have been gravely and permanently diminished.

The following may be accommodated in a neutral country:

(1) Wounded and sick whose recovery may be expected within one year of the date of the wound or the beginning of the illness, if treatment in a neutral country might increase the prospects of a more certain and speedy recovery.

(2) Prisoners of war whose mental or physical health, according to medical opinion, is seriously threatened by continued captivity, but whose accommodation in a neutral country might remove such a threat.

The conditions which prisoners of war accommodated in a neutral country must fulfil in order to permit their repatriation shall be fixed, as shall likewise their status, by agreement between the Powers concerned. In general, prisoners of war who have been accommodated in a neutral country, and who belong to the following categories, should be repatriated:

(1) Those whose state of health has deteriorated so as to fulfil the condition laid down for direct repatriation;

(2) Those whose mental or physical powers remain, even after treatment, considerably impaired.

If no special agreements are concluded between the Parties to the conflict concerned, to determine the cases of disablement or sickness entailing direct repatriation or accommodation in a neutral country, such cases shall be settled in accordance with the principles laid down in the Model Agreement concerning direct repatriation and accommodation in neutral countries of wounded and sick prisoners of war and in the Regulations concerning Mixed Medical Commissions annexed to the present Convention.

Article 115

No prisoner of war on whom a disciplinary punishment has been imposed and who is eligible for repatriation or for accommodation in a neutral country, may be kept back on the plea that he has not undergone his punishment.

Prisoners of war detained in connection with a judicial prosecution or conviction, and who are designated for repatriation or accommodation in a neutral country, may benefit by such measures before the end of the proceedings or the completion of the punishment, if the Detaining Power consents.

Parties to the conflict shall communicate to each other the names of those who will be detained until the end of the proceedings or the completion of the punishment.

Article 117

No repatriated person may be employed on active military service.

SECTION II

RELEASE AND REPATRIATION OF PRISONERS OF WAR AT THE CLOSE OF HOSTILITIES

Article 118

Prisoners of war shall be released and repatriated without delay after the cessation of active hostilities.

SECTION III

DEATH OF PRISONERS OF WAR

Article 120

Wills of prisoners of war shall be drawn up so as to satisfy the conditions of validity required by the legislation of their country

of origin, which will take steps to inform the Detaining Power of its requirements in this respect. At the request of the prisoner of war and, in all cases, after death, the will shall be transmitted without delay to the Protecting Power; a certified copy shall be sent to the Central Agency.

Death certificates, in the form annexed to the present Convention, or lists certified by a responsible officer, of all persons who die as prisoners of war shall be forwarded as rapidly as possible to the Prisoner of War Information Bureau established in accordance with Article 122. The death certificates or certified lists shall show particulars of identity as set out in the third paragraph of Article 17, and also the date and place of death, the cause of death, the date and place of burial and all particulars necessary to identify the graves.

The burial or cremation of a prisoner of war shall be preceded by a medical examination of the body with a view to confirming death and enabling a report to be made and, where necessary, establishing identity.

The detaining authorities shall ensure that prisoners of war who have died in captivity are honourably buried, if possible according to the rites of the religion to which they belonged, and that their graves are respected, suitably maintained and marked so as to be found at any time. Wherever possible, deceased prisoners of war who depended on the same Power shall be interred in the same place.

Deceased prisoners of war shall be buried in individual graves unless unavoidable circumstances require the use of collective graves. Bodies may be cremated only for imperative reasons of hygiene, on account of the religion of the deceased or in accordance with his express wish to this effect. In case of cremation, the fact shall be stated and the reasons given in the death certificate of the deceased.

In order that graves may always be found, all particulars of burials and graves shall be recorded with a Graves Registration Service established by the Detaining Power. Lists of graves and particulars of the prisoners of war interred in cemeteries and elsewhere shall be transmitted to the Power on which such prisoners of war depended. Responsibility for the care of these graves

and for records of any subsequent moves of the bodies shall rest on the Power controlling the territory, if a Party to the present Convention. These provisions shall also apply to the ashes, which shall be kept by the Graves Registration Service until proper disposal thereof in accordance with the wishes of the home country.

Article 121

Every death or serious injury of a prisoner of war caused or suspected to have been caused by a sentry, another prisoner of war, or any other person, as well as any death the cause of which is unknown, shall be immediately followed by an official enquiry by the Detaining Power.

A communication on this subject shall be sent immediately to the Protecting Power. Statements shall be taken from witnesses, especially from those who are prisoners of war, and a report including such statements shall be forwarded to the Protecting Power.

If the enquiry indicates the guilt of one or more persons, the Detaining Power shall take all measures for the prosecution of the person or persons responsible.

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GENEVA CONVENTION (IV) RELATIVE TO THE PROTECTION OF CIVILIAN PERSONS IN TIME OF WAR (GENEVA CONVENTION IV)

Signed at Geneva, 12 August 1949

The undersigned Plenipotentiaries of the Governments represented at the Diplomatic Conference held at Geneva from 21 April to 12 August 1949, for the purpose of establishing a Convention for the Protection of Civilians in Time of War, have agreed as follows:

PART I

GENERAL PROVISIONS

Article 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2

In addition to the provisions which shall be implemented in peace-time, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

Article 3

In the case of armed conflict not of an international character occurring in the territory of

one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) - Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) taking of hostages;

(c) outrages upon personal dignity, in particular humiliating and degrading treatment;

(d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

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(GENEVA CONVENTION IV)

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4

Persons protected by the Convention are those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals.

Nationals of a State which is not bound by the Convention are not protected by it. Nationals of a neutral State who find themselves in the territory of a belligerent State, and nationals of a co-belligerent State, shall not be regarded as protected persons while the State of which they are nationals has normal diplomatic representation in the State in whose hands they are.

The provisions of Part II are, however, wider in application, as defined in Article 13.

Persons protected by the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, or by the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of 12 August 1949, or by the Geneva Convention relative to the Treatment of Prisoners of War of 12 August 1949, shall not be considered as protected persons within the meaning of the present Convention.

Article 5

Where in the territory of a Party to the conflict, the latter is satisfied that an individual protected person is definitely suspected of or engaged in activities hostile to the security of the State, such individual person shall not be entitled to claim such rights and privileges under the present Convention as would, if exercised in the favour of such individual person, be prejudicial to the security of such State.

Where in occupied territory an individual protected person is detained as a spy or saboteur, or as a person under definite suspicion of activity hostile to the security of the Occupying Power, such person shall, in those cases where absolute military security so requires, be regarded as having forfeited rights of communication under the present Convention.

In each case, such persons shall nevertheless be treated with humanity and, in case of trial, shall not be deprived of the rights of fair and regular trial prescribed by the present Convention. They shall also be granted the full rights and privileges of a protected person under the present Convention at the earliest date consistent with the security of the State or Occupying Power, as the case may be.

Article 6

The present Convention shall apply from the outset of any conflict or occupation mentioned in Article 2.

In the territory of Parties to the conflict, the application of the present Convention shall cease on the general close of military operations.

In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of the present Convention: 1 to 12, 27, 29 to 34, 47, 49, 51, 52, 53, 59, 61 to 77, 143.

Protected persons whose release, repatriation or re-establishment may take place after such dates shall meanwhile continue to benefit by the present Convention.

Article 7

In addition to the agreements expressly provided for in Articles 11, 14, 15, 17, 36, 108, 109, 132, 133 and 149, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of protected persons, as defined by the present Convention, not restrict the rights which it confers upon them.

Protected persons shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Article 8

Protected persons may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Article 9

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate to the greatest extent possible the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention.

They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties.

Article 10

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of civilian persons and for their relief.

Article 11

The High Contracting Parties may at any time agree to entrust to an international organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When persons protected by the present Convention do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining

Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention applies to substitute organizations in the sense of the present Article.

The provisions of this Article shall extend and be adapted to cases of nationals of a neutral State who are in occupied territory or who find themselves in the territory of a belligerent State in which the State of which they are nationals has not normal diplomatic representation.

Article 12

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, and in

particular of the authorities responsible for protected persons, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power, or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

PART II

GENERAL PROTECTION OF POPULATIONS AGAINST CERTAIN CONSEQUENCES OF WAR

Article 13

The provisions of Part II cover the whole of the populations of the countries in conflict, without any adverse distinction based, in particular, on race, nationality, religion or political opinion, and are intended to alleviate the sufferings caused by war.

Article 14

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties thereto, may establish in their own territory and, if the need arises, in occupied areas, hospital and safety zones and localities so organized as to protect from the effects of war, wounded, sick and aged persons, children under fifteen, expectant mothers and mothers of children under seven.

Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital and safety zones and localities.

Article 15

Any Party to the conflict may, either direct or through a neutral State or some humanitarian organization, propose to the adverse Party to establish, in the regions where fighting is taking place, neutralized zones intended to shelter from the effects of war the following persons, without distinction:

(a) wounded and sick combatants or non-combatants;

(b) civilian persons who take no part in hostilities, and who, while they reside in the zones, perform no work of a military character.

When the Parties concerned have agreed upon the geographical position, administration, food supply and supervision of the proposed neutralized zone, a written agreement shall be concluded and signed by the representatives of the Parties to the conflict. The agreement shall fix the beginning and the duration of the neutralization of the zone.

Article 16

The wounded and sick, as well as the infirm, and expectant mothers, shall be the object of particular protection and respect.

As far as military considerations allow, each Party to the conflict shall facilitate the steps taken to search for the killed and wounded, to assist the shipwrecked and other persons exposed to grave danger, and to protect them against pillage and ill-treatment.

Article 17

The Parties to the conflict shall endeavour to conclude local agreements for the removal from besieged or encircled areas, of wounded, sick, infirm, and aged persons, children and maternity cases, and for the passage of ministers of all religions, medical personnel and medical equipment on their way to such areas.

Article 18

Civilian hospitals organized to give care to the wounded and sick, the infirm and maternity cases, may in no circumstances be the object of attack but shall at all times be respected and protected by the Parties to the conflict.

States which are Parties to a conflict shall provide all civilian hospitals with certificates showing that

they are civilian hospitals and that the buildings which they occupy are not used for any purpose which would deprive these hospitals of protection in accordance with Article 19.

Civilian hospitals shall be marked by means of the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949, but only if so authorized by the State.

The Parties to the conflict shall, in so far as military considerations permit, take the necessary steps to make the distinctive emblems indicating civilian hospitals clearly visible to the enemy land, air and naval forces in order to obviate the possibility of any hostile action.

In view of the dangers to which hospitals may be exposed by being close to military objectives, it is recommended that such hospitals be situated as far as possible from such objectives.

Article 19

The protection to which civilian hospitals are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after due warning has been given, naming, in all appropriate cases, a reasonable time limit and after such warning has remained unheeded. The fact that sick or wounded members of the armed forces are nursed in these hospitals, or the presence of small arms and ammunition taken from such combatants which have not yet been handed to the proper service, shall not be considered to be acts harmful to the enemy.

Article 20

Persons regularly and solely engaged in the operation and administration of civilian hospitals, including the personnel engaged in the search for, removal and transporting of and caring for wounded and sick civilians, the infirm and maternity cases shall be respected and protected.

In occupied territory and in zones of military operations, the above personnel shall be recognizable by means of an identity card certifying their status, bearing the photograph of the holder and embossed with the stamp of the responsible authority, and also by means of a stamped, water-resistant armband which they shall wear on the left arm while carrying out their

duties. This armband shall be issued by the State and shall bear the emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949.

Other personnel who are engaged in the operation and administration of civilian hospitals shall be entitled to respect and protection and to wear the armband, as provided in and under the conditions prescribed in this Article, while they are employed on such duties. The identity card shall state the duties on which they are employed.

The management of each hospital shall at all times hold at the disposal of the competent national or occupying authorities an up-to-date list of such personnel.

Article 21

Convoys of vehicles or hospital trains on land or specially provided vessels on sea, conveying wounded and sick civilians, the infirm and maternity cases, shall be respected and protected in the same manner as the hospitals provided for in Article 18, and shall be marked, with the consent of the State, by the display of the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949.

Article 22

Aircraft exclusively employed for the removal of wounded and sick civilians, the infirm and maternity cases or for the transport of medical personnel and equipment, shall not be attacked, but shall be respected while flying at heights, times and on routes specifically agreed upon between all the Parties to the conflict concerned.

They may be marked with the distinctive emblem provided for in Article 38 of the Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field of 12 August 1949.

Unless agreed otherwise, flights over enemy or enemy occupied territory are prohibited.

Such aircraft shall obey every summons to land. In the event of a landing thus imposed, the aircraft with its occupants may continue its flight after examination, if any.

Article 23

Each High Contracting Party shall allow the free passage of all consignments of medical and hospital stores and objects necessary for religious worship intended only for civilians of another High Contracting Party, even if the latter is its adversary. It shall likewise permit the free passage of all consignments of essential foodstuffs, clothing and tonics intended for children under fifteen, expectant mothers and maternity cases.

The obligation of a High Contracting Party to allow the free passage of the consignments indicated in the preceding paragraph is subject to the condition that this Party is satisfied that there are no serious reasons for fearing:

- (a) that the consignments may be diverted from their destination,
- (b) that the control may not be effective, or
- (c) that a definite advantage may accrue to the military efforts or economy of the enemy through the substitution of the above-mentioned consignments for goods which would otherwise be provided or produced by the enemy or through the release of such material, services or facilities as would otherwise be required for the production of such goods.

The Power which allows the passage of the consignments indicated in the first paragraph of this Article may make such permission conditional on the distribution to the persons benefited thereby being made under the local supervision of the Protecting Powers.

Such consignments shall be forwarded as rapidly as possible, and the Power which permits their free passage shall have the right to prescribe the technical arrangements under which such passage is allowed.

Article 24

The Parties to the conflict shall take the necessary measures to ensure that children under fifteen, who are orphaned or are separated from their families as a result of the war, are not left to their own resources, and that their maintenance, the exercise of their religion and their education are facilitated in all circumstances. Their education shall, as far as possible, be entrusted to persons of a similar cultural tradition.

The Parties to the conflict shall facilitate the reception of such children in a neutral country for the duration of the conflict with the consent of the

Protecting Power, if any, and under due safeguards for the observance of the principles stated in the first paragraph.

They shall, furthermore, endeavour to arrange for all children under twelve to be identified by the wearing of identity discs, or by some other means.

Article 25

All persons in the territory of a Party to the conflict, or in a territory occupied by it, shall be enabled to give news of a strictly personal nature to members of their families, wherever they may be, and to receive news from them. This correspondence shall be forwarded speedily and without undue delay.

If, as a result of circumstances, it becomes difficult or impossible to exchange family correspondence by the ordinary post, the Parties to the conflict concerned shall apply to a neutral intermediary, such as the Central Agency provided for in Article 140, and shall decide in consultation with it how to ensure the fulfilment of their obligations under the best possible conditions, in particular with the cooperation of the National Red Cross (Red Crescent, Red Lion and Sun) Societies.

If the Parties to the conflict deem it necessary to restrict family correspondence, such restrictions shall be confined to the compulsory use of standard forms containing twenty-five freely chosen words, and to the limitation of the number of these forms despatched to one each month.

Article 26

Each Party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of organizations engaged on this task provided they are acceptable to it and conform to its security regulations.

PART III

STATUS AND TREATMENT OF PROTECTED PERSONS

SECTION I

Provisions Common to the Territories of the Parties to the Conflict and to Occupied Territories

Article 27

Protected persons are entitled, in all circumstances, to respect for their persons, their honour, their family rights, their religious convictions and practices, and their manners and customs. They shall at all times be humanely treated, and shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity.

Women shall be especially protected against any attack on their honour, in particular against rape, enforced prostitution, or any form of indecent assault.

Without prejudice to the provisions relating to their state of health, age and sex, all protected persons shall be treated with the same consideration by the Party to the conflict in whose power they are, without any adverse distinction based, in particular, on race, religion or political opinion.

However, the Parties to the conflict may take such measures of control and security in regard to protected persons as may be necessary as a result of the war.

Article 28

The presence of a protected person may not be used to render certain points or areas immune from military operations.

Article 29

The Party to the conflict in whose hands protected persons may be, is responsible for the treatment accorded to them by its agents, irrespective of any individual responsibility which may be incurred.

Article 30

Protected persons shall have every facility for making application to the Protecting Powers, the International Committee of the Red Cross, the National Red Cross (Red Crescent, Red Lion and Sun) Society of the country where they may be, as well as to any organization that might assist them.

These several organizations shall be granted all facilities for that purpose by the authorities, within the bounds set by military or security considerations.

Apart from the visits of the delegates of the Protecting Powers and of the International Committee of the Red Cross, provided for by Article 143, the Detaining or Occupying Powers shall facilitate, as much as possible, visits to protected persons by the representatives of other organizations whose object is to give spiritual aid or material relief to such persons.

Article 31

No physical or moral coercion shall be exercised against protected persons, in particular to obtain information from them or from third parties.

Article 32

The High Contracting Parties specifically agree that each of them is prohibited from taking any measure of such a character as to cause the physical suffering or extermination of protected persons in their hands. This prohibition applies not only to murder, torture, corporal punishments, mutilation and medical or scientific experiments not necessitated by the medical treatment of a protected person, but also to any other measures of brutality whether applied by civilian or military agents.

Article 33

No protected person may be punished for an offence he or she has not personally committed. Collective penalties and likewise all measures of intimidation or of terrorism are prohibited.

Pillage is prohibited.

Reprisals against protected persons and their property are prohibited.

Article 34

The taking of hostages is prohibited.

SECTION II

Aliens in the Territory of a Party to the Conflict

Article 35

All protected persons who may desire to leave the territory at the outset of, or during a conflict, shall be entitled to do so, unless their departure is contrary to the national interests of the State. The applications of such persons to leave shall be decided in accordance with regularly established procedures and the decision shall be taken as rapidly as possible. Those persons permitted to leave may provide themselves with the necessary funds for their journey and take with them a reasonable amount of their effects and articles of personal use.

If any such person is refused permission to leave the territory, he shall be entitled to have refusal reconsidered, as soon as possible by an appropriate court or administrative board designated by the Detaining Power for that purpose.

Upon request, representatives of the Protecting Power shall, unless reasons of security prevent it, or the persons concerned object, be furnished with the reasons for refusal of any request for permission to leave the territory and be given, as expeditiously as possible, the names of all persons who have been denied permission to leave.

Article 36

Departures permitted under the foregoing Article shall be carried out in satisfactory conditions as regards safety, hygiene, sanitation and food. All costs in connection therewith, from the point of exit in the territory of the Detaining Power, shall be borne by the country of destination, or, in the case of accommodation in a neutral country, by the Power whose nationals are benefited. The practical details of such movements may, if necessary, be settled by special agreements between the Powers concerned.

The foregoing shall not prejudice such special agreements as may be concluded between Parties

to the conflict concerning the exchange and repatriation of their nationals in enemy hands.

Article 37

Protected persons who are confined pending proceedings or subject to a sentence involving loss of liberty, shall during their confinement be humanely treated.

As soon as they are released, they may ask to leave the territory in conformity with the foregoing Articles.

Article 38

With the exception of special measures authorized by the present Convention, in particularly by Article 27 and 41 thereof, the situation of protected persons shall continue to be regulated, in principle, by the provisions concerning aliens in time of peace. In any case, the following rights shall be granted to them:

- (1) they shall be enabled to receive the individual or collective relief that may be sent to them.
- (2) they shall, if their state of health so requires, receive medical attention and hospital treatment to the same extent as the nationals of the State concerned.
- (3) they shall be allowed to practise their religion and to receive spiritual assistance from ministers of their faith.
- (4) if they reside in an area particularly exposed to the dangers of war, they shall be authorized to move from that area to the same extent as the nationals of the State concerned.
- (5) children under fifteen years, pregnant women and mothers of children under seven years shall benefit by any preferential treatment to the same extent as the nationals of the State concerned.

Article 39

Protected persons who, as a result of the war, have lost their gainful employment, shall be granted the opportunity to find paid employment. That opportunity shall, subject to security considerations and to the provisions of Article 40, be equal to that enjoyed by the nationals of the Power in whose territory they are.

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**Geneva Convention for the Amelioration of the Condition of the
Wounded and Sick
in Armed Forces in the Field**

**Adopted on 12 August 1949 by the Diplomatic Conference for the Establishment
of International Conventions
for the Protection of Victims of War, held in Geneva from 21 April to 12 August,
1949**

entry into force 21 October 1950

CHAPTER I

GENERAL PROVISIONS

Article 1

The High Contracting Parties undertake to respect and to ensure respect for the present Convention in all circumstances.

Article 2

In addition to the provisions which shall be implemented in peacetime, the present Convention shall apply to all cases of declared war or of any other armed conflict which may arise between two or more of the High Contracting Parties, even if the state of war is not recognized by one of them.

The Convention shall also apply to all cases of partial or total occupation of the territory of a High Contracting Party, even if the said occupation meets with no armed resistance.

Although one of the Powers in conflict may not be a party to the present Convention, the Powers who are parties thereto shall remain bound by it in their mutual relations. They shall furthermore be bound by the Convention in relation to the said Power, if the latter accepts and applies the provisions thereof.

Article 3

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

1. Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

(a) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;

(b) Taking of hostages;

(c) Outrages upon personal dignity, in particular humiliating and degrading treatment;

(d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

2. The wounded and sick shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.

Article 4

Neutral Powers shall apply by analogy the provisions of the present Convention to the wounded and sick, and to members of the medical personnel and to chaplains of the armed forces of the Parties to the conflict, received or interned in their territory, as well as to dead persons found.

Article 5

For the protected persons who have fallen into the hands of the enemy, the present Convention shall apply until their final repatriation.

Article 6

In addition to the agreements expressly provided for in Articles 10, 15, 23, 28, 31, 36, 37 and 52, the High Contracting Parties may conclude other special agreements for all matters concerning which they may deem it suitable to make separate provision. No special agreement shall adversely affect the situation of the wounded and sick, of members of the medical personnel or of chaplains, as defined by the present Convention, nor restrict the rights which it confers upon them.

Wounded and sick, as well as medical personnel and chaplains, shall continue to have the benefit of such agreements as long as the Convention is applicable to them, except where express provisions to the contrary are contained in the aforesaid or in subsequent agreements, or where more favourable measures have been taken with regard to them by one or other of the Parties to the conflict.

Article 7

Wounded and sick, as well as members of the medical personnel and chaplains, may in no circumstances renounce in part or in entirety the rights secured to them by the present Convention, and by the special agreements referred to in the foregoing Article, if such there be.

Article 8

The present Convention shall be applied with the cooperation and under the scrutiny of the Protecting Powers whose duty it is to safeguard the interests of the Parties to the conflict. For this purpose, the Protecting Powers may appoint, apart from their diplomatic or consular staff, delegates from amongst their own nationals or the nationals of other neutral Powers. The said delegates shall be subject to the approval of the Power with which they are to carry out their duties.

The Parties to the conflict shall facilitate, to the greatest extent possible, the task of the representatives or delegates of the Protecting Powers.

The representatives or delegates of the Protecting Powers shall not in any case exceed their mission under the present Convention. They shall, in particular, take account of the imperative necessities of security of the State wherein they carry out their duties. Their activities shall only be restricted as an exceptional and temporary measure when this is rendered necessary by imperative military necessities.

Article 9

The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of wounded and sick, medical personnel and chaplains, and for their relief.

Article 10

The High Contracting Parties may at any time agree to entrust to an organization which offers all guarantees of impartiality and efficacy the duties incumbent on the Protecting Powers by virtue of the present Convention.

When wounded and sick, or medical personnel and chaplains do not benefit or cease to benefit, no matter for what reason, by the activities of a Protecting Power or of an organization provided for in the first paragraph above, the Detaining Power shall request a neutral State, or such an organization, to undertake the functions performed under the present Convention by a Protecting Power designated by the Parties to a conflict.

If protection cannot be arranged accordingly, the Detaining Power shall request or shall accept, subject to the provisions of this Article, the offer of the services of a humanitarian organization, such as the International Committee of the Red Cross, to assume the humanitarian functions performed by Protecting Powers under the present Convention.

Any neutral Power, or any organization invited by the Power concerned or offering itself for these purposes, shall be required to act with a sense of responsibility towards the Party to the conflict on which persons protected by the present Convention depend, and shall be required to furnish sufficient assurances that it is in a position to undertake the appropriate functions and to discharge them impartially.

No derogation from the preceding provisions shall be made by special agreements between Powers one of which is restricted, even temporarily, in its freedom to negotiate with the other Power or its allies by reason of military events, more particularly where the whole, or a substantial part, of the territory of the said Power is occupied.

Whenever in the present Convention mention is made of a Protecting Power, such mention also applies to substitute organizations in the sense of the present Article.

Article 11

In cases where they deem it advisable in the interest of protected persons, particularly in cases of disagreement between the Parties to the conflict as to the application or interpretation of the provisions of the present Convention, the Protecting Powers shall lend their good offices with a view to settling the disagreement.

For this purpose, each of the Protecting Powers may, either at the invitation of one Party or on its own initiative, propose to the Parties to the conflict a meeting of their representatives, in particular of the authorities responsible for the wounded and sick, members of medical personnel and chaplains, possibly on neutral territory suitably chosen. The Parties to the conflict shall be bound to give effect to the proposals made to them for this purpose. The Protecting Powers may, if necessary, propose for approval by the Parties to the conflict a person belonging to a neutral Power or delegated by the International Committee of the Red Cross, who shall be invited to take part in such a meeting.

CHAPTER II

WOUNDED AND SICK

Article 12

Members of the armed forces and other persons mentioned in the following Article, who are wounded or sick, shall be respected and protected in all circumstances.

They shall be treated humanely and cared for by the Party to the conflict in whose power they may be, without any adverse distinction founded on sex, race, nationality, religion, political opinions, or any other similar criteria. Any attempts upon their lives, or violence to their persons, shall be strictly prohibited; in particular, they shall not be murdered or exterminated, subjected to torture or to biological experiments; they shall not wilfully be left without medical assistance and care, nor shall conditions exposing them to contagion or infection be created.

Only urgent medical reasons will authorize priority in the order of treatment to be administered.

Women shall be treated with all consideration due to their sex.

The Party to the conflict which is compelled to abandon wounded or sick to the enemy shall, as far as military considerations permit, leave with them a part of its medical personnel and material to assist in their care.

Article 13

The present Convention shall apply to the wounded and sick belonging to the following categories:

1. Members of the armed forces of a Party to the conflict as well as members of militias or volunteer corps forming part of such armed forces.

Graves Registration Service until proper disposal thereof in accordance with the wishes of the home country.

As soon as circumstances permit, and at latest at the end of hostilities, these Services shall exchange, through the Information Bureau mentioned in the second paragraph of Article 16, lists showing the exact location and markings of the graves together with particulars of the dead interred therein.

Article 18

The military authorities may appeal to the charity of the inhabitants voluntarily to collect and care for, under their direction, the wounded and sick, granting persons who have responded to this appeal the necessary protection and facilities. Should the adverse party take or retake control of the area, he shall likewise grant these persons the same protection and the same facilities.

The military authorities shall permit the inhabitants and relief societies, even in invaded or occupied areas, spontaneously to collect and care for wounded or sick of whatever nationality. The civilian population shall respect these wounded and sick, and in particular abstain from offering them violence.

No one may ever be molested or convicted for having nursed the wounded or sick.

The provisions of the present Article do not relieve the occupying Power of its obligation to give both physical and moral care to the wounded and sick.

CHAPTER III

MEDICAL UNITS AND ESTABLISHMENTS

Article 19

Fixed establishments and mobile medical units of the Medical Service may in no circumstances be attacked, but shall at all times be respected and protected by the Parties to the conflict. Should they fall into the hands of the adverse Party, their personnel shall be free to pursue their duties, as long as the capturing Power has not itself ensured the necessary care of the wounded and sick found in such establishments and units.

The responsible authorities shall ensure that the said medical establishments and units are, as far as possible, situated in such a manner that attacks against military objectives cannot imperil their safety.

Article 20

Hospital ships entitled to the protection of the Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea of August 12, 1949, shall not be attacked from the land.

Article 21

The protection to which fixed establishments and mobile medical units of the Medical Service are entitled shall not cease unless they are used to commit, outside their humanitarian duties, acts harmful to the enemy. Protection may, however, cease only after a due warning has been given,

naming, in all appropriate cases, a reasonable time limit and after such warning has remained unheeded.

Article 22

The following conditions shall not be considered as depriving a medical unit or establishment of the protection guaranteed by Article 19:

1. That the personnel of the unit or establishment are armed, and that they use the arms in their own defence, or in that of the wounded and sick in their charge.
2. That in the absence of armed orderlies, the unit or establishment is protected by a picket or by sentries or by an escort.
3. That small arms and ammunition taken from the wounded and sick and not yet handed to the proper service, are found in the unit or establishment.
4. That personnel and material of the veterinary service are found in the unit or establishment, without forming an integral part thereof.
5. That the humanitarian activities of medical units and establishments or of their personnel extend to the care of civilian wounded or sick.

Article 23

In time of peace, the High Contracting Parties and, after the outbreak of hostilities, the Parties to the conflict may establish in their own territory and, if the need arises, in occupied areas, hospital zones and localities so organized as to protect the wounded and sick from the effects of war, as well as the personnel entrusted with the organization and administration of these zones and localities and with the care of the persons therein assembled.

Upon the outbreak and during the course of hostilities, the Parties concerned may conclude agreements on mutual recognition of the hospital zones and localities they have created. They may for this purpose implement the provisions of the Draft Agreement annexed to the present Convention, with such amendments as they may consider necessary.

The Protecting Powers and the International Committee of the Red Cross are invited to lend their good offices in order to facilitate the institution and recognition of these hospital zones and localities.

CHAPTER IV

PERSONNEL

Article 24

Medical personnel exclusively engaged in the search for, or the collection, transport or treatment of the wounded or sick, or in the prevention of disease, staff exclusively engaged in the administration of medical units and establishments, as well as chaplains attached to the armed forces, shall be respected and protected in all circumstances.

Article 25

Article 45

Each Party to the conflict, acting through its commanders-in-chief, shall ensure the detailed execution of the preceding Articles and provide for unforeseen cases, in conformity with the general principles of the present Convention. Article 46

Reprisals against the wounded, sick, personnel, buildings or equipment protected by the Convention are prohibited.

Article 47

The High Contracting Parties undertake, in time of peace as in time of war, to disseminate the text of the present Convention as widely as possible in their respective countries, and, in particular, to include the study thereof in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population, in particular to the armed fighting forces, the medical personnel and the chaplains.

Article 48

The High Contracting Parties shall communicate to one another through the Swiss Federal Council and, during hostilities, through the Protecting Powers, the official translations of the present Convention, as well as the laws and regulations which they may adopt to ensure the application thereof.

CHAPTER IX

REPRESSION OF ABUSES AND INFRACTIONS

Article 49

The High Contracting Parties undertake to enact any legislation necessary to provide effective penal sanctions for persons committing, or ordering to be committed, any of the grave breaches of the present Convention defined in the following Article.

Each High Contracting Party shall be under the obligation to search for persons alleged to have committed, or to have ordered to be committed, such grave breaches, and shall bring such persons, regardless of their nationality, before its own courts. It may also, if it prefers, and in accordance with the provisions of its own legislation, hand such persons over for trial to another High Contracting Party concerned, provided such High Contracting Party has made out a prima facie case.

Each High Contracting Party shall take measures necessary for the suppression of all acts contrary to the provisions of the present Convention other than the grave breaches defined in the following Article.

In all circumstances, the accused persons shall benefit by safeguards of proper trial and defence, which shall not be less favourable than those provided by Article 105 and those following of the Geneva Convention relative to the Treatment of Prisoners of War of August 12, 1949.

Article 50

LLLLL

No. 17513

MULTILATERAL

Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the protection of victims of non-international armed conflicts (Protocol II) (with Final Act of the Diplomatic Conference on the reaffirmation and development of international humanitarian law applicable in armed conflicts dated 10 June 1977 and resolutions adopted at the fourth session¹). Adopted at Geneva on 8 June 1977

*Authentic texts: English, Arabic, Chinese, Spanish, French and Russian.
Registered by Switzerland on 23 January 1979.*

MULTILATÉRAL

Protocole additionnel aux Conventions de Genève du 12 août 1949 relatif à la protection des victimes des conflits armés non internationaux (Protocole II) [avec Acte final de la Conférence diplomatique sur la réaffirmation et le développement du droit international humanitaire applicable dans les conflits armés en date du 10 juin 1977 et résolutions adoptées à la quatrième session²]. Adopté à Genève le 8 juin 1977

*Textes authentiques : anglais, arabe, chinois, espagnol, français et russe.
Enregistré par la Suisse le 23 janvier 1979.*

¹ For the text of the Final Act and resolutions, see p. 3 of this volume.

² Pour le texte de l'Acte final et des résolutions, voir p. 3 du présent volume.

**PROTOCOL ADDITIONAL¹ TO THE GENEVA CONVENTIONS OF
12 AUGUST 1949,² AND RELATING TO THE PROTECTION OF
VICTIMS OF NON-INTERNATIONAL ARMED CONFLICTS
(PROTOCOL II)**

CONTENTS

Preamble

Part I. Scope of this Protocol

- Article 1. Material field of application
- Article 2. Personal field of application
- Article 3. Non-intervention

Part II. Humane treatment

- Article 4. Fundamental guarantees
- Article 5. Persons whose liberty has been restricted
- Article 6. Penal prosecutions

Part III. Wounded, sick and shipwrecked

- Article 7. Protection and care
- Article 8. Search
- Article 9. Protection of medical and religious personnel
- Article 10. General protection of medical duties
- Article 11. Protection of medical units and transports
- Article 12. The distinctive emblem

Part IV. Civilian population

- Article 13. Protection of the civilian population

- Article 14. Protection of objects indispensable to the survival of the civilian population
- Article 15. Protection of works and installations containing dangerous forces
- Article 16. Protection of cultural objects and of places of worship
- Article 17. Prohibition of forced movement of civilians
- Article 18. Relief societies and relief actions

Part V. Final provisions

- Article 19. Dissemination
- Article 20. Signature
- Article 21. Ratification
- Article 22. Accession
- Article 23. Entry into force
- Article 24. Amendment
- Article 25. Denunciation
- Article 26. Notifications
- Article 27. Registration
- Article 28. Authentic texts

¹ Came into force on 7 December 1978, i.e., six months after the deposit with the Swiss Federal Council of two instruments of ratification or accession, in accordance with article 23 (1). Instruments of ratification or accession were deposited as follows:

<i>State</i>	<i>Date of deposit of the instrument of ratification or accession (a)</i>
Ghana	28 February 1978
(With effect from 7 December 1978. Signature affixed on 12 December 1977.)	
Libyan Arab Jamahiriya	7 June 1978 #
(With effect from 7 December 1978.)	

Subsequently, the Protocol came into force for the following State six months after the deposit with the Swiss Federal Council of its instrument of ratification, in accordance with article 23(2).

<i>State</i>	<i>Date of deposit of the instrument of ratification</i>
El Salvador	23 November 1978
(With effect from 23 May 1979. Signature affixed on 12 December 1977.)	

² United Nations, *Treaty Series*, vol. 75, pp. 31, 85, 135 and 287.

PREAMBLE

The High Contracting Parties,

Recalling that the humanitarian principles enshrined in Article 3 common to the Geneva Conventions of 12 August 1949¹, constitute the foundation of respect for the human person in cases of armed conflict not of an international character,

Recalling furthermore that international instruments relating to human rights offer a basic protection to the human person,

Emphasizing the need to ensure a better protection for the victims of those armed conflicts,

Recalling that, in cases not covered by the law in force, the human person remains under the protection of the principles of humanity and the dictates of the public conscience,

Have agreed on the following:

PART I. SCOPE OF THIS PROTOCOL

Article 1. MATERIAL FIELD OF APPLICATION. 1. This Protocol, which develops and supplements Article 3 common to the Geneva Conventions of 12 August 1949 without modifying its existing conditions of application, shall apply to all armed conflicts which are not covered by Article 1 of the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I)² and which take place in the territory of a High Contracting Party between its armed forces and dissident armed forces or other organized armed groups which, under responsible command, exercise such control over a part of its territory as to enable them to carry out sustained and concerted military operations and to implement this Protocol.

2. This Protocol shall not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence and other acts of a similar nature, as not being armed conflicts.

Article 2. PERSONAL FIELD OF APPLICATION. 1. This Protocol shall be applied without any adverse distinction founded on race, colour, sex, language, religion or belief, political or other opinion, national or social origin, wealth, birth or other status, or on any other similar criteria (hereinafter referred to as "adverse distinction") to all persons affected by an armed conflict as defined in Article 1.

2. At the end of the armed conflict, all the persons who have been deprived of their liberty or whose liberty has been restricted for reasons related to such conflict, as well as those deprived of their liberty or whose liberty is restricted after the conflict for the same reasons, shall enjoy the protection of Articles 5 and 6 until the end of such deprivation or restriction of liberty.

Article 3. NON-INTERVENTION. 1. Nothing in this Protocol shall be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State.

¹ United Nations, *Treaty Series*, vol. 75, pp. 31, 85, 135 and 287.

² See p. 3 of this volume.

2. Nothing in this Protocol shall be invoked as a justification for intervening, directly or indirectly, for any reason whatever, in the armed conflict or in the internal or external affairs of the High Contracting Party in the territory of which that conflict occurs.

PART II. HUMANE TREATMENT

Article 4. FUNDAMENTAL GUARANTEES. 1. All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honour and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction. It is prohibited to order that there shall be no survivors.

2. Without prejudice to the generality of the foregoing, the following acts against the persons referred to in paragraph 1 are and shall remain prohibited at any time and in any place whatsoever:

- (a) Violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
- (b) Collective punishments;
- (c) Taking of hostages;
- (d) Acts of terrorism;
- (e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;
- (f) Slavery and the slave trade in all their forms;
- (g) Pillage;
- (h) Threats to commit any of the foregoing acts.

3. Children shall be provided with the care and aid they require, and in particular:

- (a) They shall receive an education, including religious and moral education, in keeping with the wishes of their parents or, in the absence of parents, of those responsible for their care;
- (b) All appropriate steps shall be taken to facilitate the reunion of families temporarily separated;
- (c) Children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities;
- (d) The special protection provided by this Article to children who have not attained the age of fifteen years shall remain applicable to them if they take a direct part in hostilities despite the provisions of sub-paragraph (c) and are captured;
- (e) Measures shall be taken, if necessary, and whenever possible with the consent of their parents or persons who by law or custom are primarily responsible for their care, to remove children temporarily from the area in which hostilities are taking place to a safer area within the country and ensure that they are accompanied by persons responsible for their safety and well-being.

Article 5. PERSONS WHOSE LIBERTY HAS BEEN RESTRICTED. 1. In addition to the provisions of Article 4, the following provisions shall be respected as a minimum with regard to persons deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained:

- (a) The wounded and the sick shall be treated in accordance with Article 7;
- (b) The persons referred to in this paragraph shall, to the same extent as the local civilian population, be provided with food and drinking water and be afforded safeguards as regards health and hygiene and protection against the rigours of the climate and the dangers of the armed conflict;
- (c) They shall be allowed to receive individual or collective relief;
- (d) They shall be allowed to practise their religion and, if requested and appropriate, to receive spiritual assistance from persons, such as chaplains, performing religious functions;
- (e) They shall, if made to work, have the benefit of working conditions and safeguards similar to those enjoyed by the local civilian population.

2. Those who are responsible for the internment or detention of the persons referred to in paragraph 1 shall also, within the limits of their capabilities, respect the following provisions relating to such persons:

- (a) Except when men and women of a family are accommodated together, women shall be held in quarters separated from those of men and shall be under the immediate supervision of women;
- (b) They shall be allowed to send and receive letters and cards, the number of which may be limited by competent authority if it deems necessary;
- (c) Places of internment and detention shall not be located close to the combat zone. The persons referred to in paragraph 1 shall be evacuated when the places where they are interned or detained become particularly exposed to danger arising out of the armed conflict, if their evacuation can be carried out under adequate conditions of safety;
- (d) They shall have the benefit of medical examinations;
- (e) Their physical or mental health and integrity shall not be endangered by any unjustified act or omission. Accordingly, it is prohibited to subject the persons described in this Article to any medical procedure which is not indicated by the state of health of the person concerned, and which is not consistent with the generally accepted medical standards applied to free persons under similar medical circumstances.

3. Persons who are not covered by paragraph 1 but whose liberty has been restricted in any way whatsoever for reasons related to the armed conflict shall be treated humanely in accordance with Article 4 and with paragraphs 1 (a), (c) and (d), and 2 (b) of this Article.

4. If it is decided to release persons deprived of their liberty, necessary measures to ensure their safety shall be taken by those so deciding.

Article 6. PENAL PROSECUTIONS. 1. This Article applies to the prosecution and punishment of criminal offences related to the armed conflict.

2. No sentence shall be passed and no penalty shall be executed on a person found guilty of an offence except pursuant to a conviction pronounced by a court offering the essential guarantees of independence and impartiality. In particular:

- (a) The procedure shall provide for an accused to be informed without delay of the particulars of the offence alleged against him and shall afford the accused before and during his trial all necessary rights and means of defence;
- (b) No one shall be convicted of an offence except on the basis of individual penal responsibility;

- (c) No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under the law, at the time when it was committed; nor shall a heavier penalty be imposed than that which was applicable at the time when the criminal offence was [committed]¹ if, after the commission of the offence, provision is made by law for the imposition of a lighter penalty, the offender shall benefit thereby;
 - (d) Anyone charged with an offence is presumed innocent until proved guilty according to law;
 - (e) Anyone charged with an offence shall have the right to be tried in his presence;
 - (f) No one shall be compelled to testify against himself or to confess guilt.
3. A convicted person shall be advised on conviction of his judicial and other remedies and of the time-limits within which they may be exercised.
4. The death penalty shall not be pronounced on persons who were under the age of eighteen years at the time of the offence and shall not be carried out on pregnant women or mothers of young children.
5. At the end of hostilities, the authorities in power shall endeavour to grant the broadest possible amnesty to persons who have participated in the armed conflict, or those deprived of their liberty for reasons related to the armed conflict, whether they are interned or detained.

PART III. WOUNDED, SICK AND SHIPWRECKED

Article 7. PROTECTION AND CARE. 1. All the wounded, sick and shipwrecked, whether or not they have taken part in the armed conflict, shall be respected and protected.

2. In all circumstances they shall be treated humanely and shall receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition. There shall be no distinction among them founded on any grounds other than medical ones.

Article 8. SEARCH. Whenever circumstances permit, and particularly after an engagement, all possible measures shall be taken, without delay, to search for and collect the wounded, sick and shipwrecked, to protect them against pillage and ill-treatment, to ensure their adequate care, and to search for the dead, prevent their being despoiled, and decently dispose of them.

Article 9. PROTECTION OF MEDICAL AND RELIGIOUS PERSONNEL. 1. Medical and religious personnel shall be respected and protected and shall be granted all available help for the performance of their duties. They shall not be compelled to carry out tasks which are not compatible with their humanitarian mission.

2. In the performance of their duties medical personnel may not be required to give priority to any person except on medical grounds.

Article 10. GENERAL PROTECTION OF MEDICAL DUTIES 1. Under no circumstances shall any person be punished for having carried out medical activities compatible with medical ethics, regardless of the person benefiting therefrom.

¹ The corrections between brackets were communicated to the States Parties to the Geneva Conventions of 12 August 1949 by the Government of Switzerland on 12 June 1978 and effected by a procès-verbal of rectification dated 6 November 1978. (Information supplied by the Government of Switzerland.)

2. Persons engaged in medical activities shall neither be compelled to perform acts or to carry out work contrary to, nor be compelled to refrain from acts required by, the rules of medical ethics or other rules designed for the benefit of the wounded and sick, or this Protocol.

3. The professional obligations of persons engaged in medical activities regarding information which they may acquire concerning the wounded and sick under their care shall, subject to national law, be respected.

4. Subject to national law, no person engaged in medical activities may be penalized in any way for refusing or failing to give information concerning the wounded and sick who are, or who have been, under his care.

Article 11. PROTECTION OF MEDICAL UNITS AND TRANSPORTS. 1. Medical units and transports shall be respected and protected at all times and shall not be the object of attack.

2. The protection to which medical units and transports are entitled shall not cease unless they are used to commit hostile acts, outside their humanitarian function. Protection may, however, cease only after a warning has been given setting, whenever appropriate, a reasonable time-limit, and after such warning has remained unheeded.

Article 12. THE DISTINCTIVE EMBLEM. Under the direction of the competent authority concerned, the distinctive emblem of the red cross, red crescent or red lion and sun on a white ground shall be displayed by medical and religious personnel and medical units, and on medical transports. It shall be respected in all circumstances. It shall not be used improperly.

PART IV. CIVILIAN POPULATION

Article 13. PROTECTION OF THE CIVILIAN POPULATION. 1. The civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations. To give effect to this protection, the following rules shall be observed in all circumstances.

2. The civilian population as such, as well as individual civilians, shall not be the object of attack. Acts or threats of violence the primary purpose of which is to spread terror among the civilian population are prohibited.

3. Civilians shall enjoy the protection afforded by this Part, unless and for such time as they take a direct part in hostilities.

Article 14. PROTECTION OF OBJECTS INDISPENSABLE TO THE SURVIVAL OF THE CIVILIAN POPULATION. Starvation of civilians as a method of combat is prohibited. It is therefore prohibited to attack, destroy, remove or render useless, for that purpose, objects indispensable to the survival of the civilian population, such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works.

Article 15. PROTECTION OF WORKS AND INSTALLATIONS CONTAINING DANGEROUS FORCES. Works or installations containing dangerous forces, namely dams, dykes and nuclear electrical generating stations, shall not be made the object of attack, even where these objects are military objectives, if such attack may cause the release of dangerous forces and consequent severe losses among the civilian population.

Article 16. PROTECTION OF CULTURAL OBJECTS AND OF PLACES OF WORSHIP. Without prejudice to the provisions of the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict of 14 May 1954,¹ it is prohibited to commit any acts of hostility directed against historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples, and to use them in support of the military effort.

Article 17. PROHIBITION OF FORCED MOVEMENT OF CIVILIANS. 1. The displacement of the civilian population shall not be ordered for reasons related to the conflict unless the security of the civilians involved or imperative military reasons so demand. Should such displacements have to be carried out, all possible measures shall be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health, safety and nutrition.

2. Civilians shall not be compelled to leave their own territory for reasons connected with the conflict.

Article 18. RELIEF SOCIETIES AND RELIEF ACTIONS. 1. Relief societies located in the territory of the High Contracting Party, such as Red Cross (Red Crescent, Red Lion and Sun) organizations, may offer their services for the performance of their traditional functions in relation to the victims of the armed conflict. The civilian population may, even on its own initiative, offer to collect and care for the wounded, sick and shipwrecked.

2. If the civilian population is suffering undue hardship owing to a lack of the supplies essential for its survival, such as foodstuffs and medical supplies, relief actions for the civilian population which are of an exclusively humanitarian and impartial nature and which are conducted without any adverse distinction shall be undertaken subject to the consent of the High Contracting Party concerned.

PART V. FINAL PROVISIONS

Article 19. DISSEMINATION. This Protocol shall be disseminated as widely as possible.

Article 20. SIGNATURE. This Protocol shall be open for signature by the Parties to the Conventions six months after the signing of the Final Act and will remain open for a period of twelve months.

Article 21. RATIFICATION. This Protocol shall be ratified as soon as possible. The instruments of ratification shall be deposited with the Swiss Federal Council, depositary of the Conventions.

Article 22. ACCESSION. This Protocol shall be open for accession by any Party to the Conventions which has not signed it. The instruments of accession shall be deposited with the depositary.

Article 23. ENTRY INTO FORCE. 1. This Protocol shall enter into force six months after two instruments of ratification or accession have been deposited.

2. For each Party to the Conventions thereafter ratifying or acceding to this Protocol, it shall enter into force six months after the deposit by such Party of its instrument of ratification or accession.

¹ United Nations, *Treaty Series*, vol. 249, p. 215.

Article 24. AMENDMENT. 1. Any High Contracting Party may propose amendments to this Protocol. The text of any proposed amendment shall be communicated to the depositary which shall decide, after consultation with all the High Contracting Parties and the International Committee of the Red Cross, whether a conference should be convened to consider the proposed amendment.

2. The depositary shall invite to that conference all the High Contracting Parties as well as the Parties to the Conventions, whether or not they are signatories of this Protocol.

Article 25. DENUNCIATION. 1. In case a High Contracting Party should denounce this Protocol, the denunciation shall only take effect six months after receipt of the instrument of denunciation. If, however, on the expiry of six months, the denouncing Party is engaged in the situation referred to in Article 1, the denunciation shall not take effect before the end of the armed conflict. Persons who have been deprived of liberty, or whose liberty has been restricted, for reasons related to the conflict shall nevertheless continue to benefit from the provisions of this Protocol until their final release.

2. The denunciation shall be notified in writing to the depositary, which shall transmit it to all the High Contracting Parties.

Article 26. NOTIFICATIONS. The depositary shall inform the High Contracting Parties as well as the Parties to the Conventions, whether or not they are signatories of this Protocol, of:

- (a) Signatures affixed to this Protocol and the deposit of instruments of ratification and accession under Articles 21 and 22;
- (b) The date of entry into force of this Protocol under Article 23; and
- (c) Communications and declarations received under Article 24.

Article 27. REGISTRATION. 1. After its entry into force, this Protocol shall be transmitted by the depositary to the Secretariat of the United Nations for registration and publication, in accordance with Article 102 of the Charter of the United Nations.

2. The depositary shall also inform the Secretariat of the United Nations of all ratifications and accessions received by it with respect to this Protocol.

Article 28. AUTHENTIC TEXTS. The original of this Protocol, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the depositary, which shall transmit certified true copies thereof to all the Parties to the Conventions.

For the Arab Republic of Egypt

عن جمهورية مصر العربية

阿拉伯埃及共和国代表

Por la República Árabe de Egipto

Pour la République arabe d'Égypte

От имени Арабской Республики Египет

[ABDULLAH ALI EL-ERIAN]

Sous réserve de ratification¹

For the Republic of El Salvador

عن جمهورية السلفادور

萨尔瓦多共和国代表

Por la República de El Salvador

Pour la République d'El Salvador

От имени Республики Сальвадор

[NICOLÁS RIGOBERTO MONGE LÓPEZ]

For the United Arab Emirates

عن الامارات العربية المتحدة

阿拉伯联合酋长国代表

Por los Emiratos Arabes Unidos

Pour les Emirats arabes unis

От имени Объединенных Арабских Эмиратов

For the Central African Empire

عن امبراطورية أفريقيا الوسطى

中非帝国代表

Por el Imperio Centrafricano

Pour l'Empire centrafricain

От имени Центральноафриканской Империи

¹ Subject to ratification.

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BBC NEWS



LATIN AMERICA & CARIBBEAN

17 January 2012 Last updated at 04:28 ET

El Salvador head apologises for 1981 El Mozote massacre

El Salvador's President Mauricio Funes has sought forgiveness for what he called "the worst massacre of civilians in contemporary Latin American history".

In 1981, soldiers killed some 1,000 people, nearly half of them children, in the town of El Mozote.

They had been accused of collaborating with left-wing guerrillas.

Mr Funes made his emotional apology on the 20th anniversary of peace accords that ended the nation's civil war.

The president travelled to El Mozote, some 200km (120 miles) from the capital, San Salvador, near the border with Honduras.

"For this massacre, for the abhorrent violations of human rights and the abuses perpetrated in the name of the Salvadoran state, I ask forgiveness of the families of the victims," he said on Monday.

Breaking at times into tears, Mr Funes said: "In three days and three nights, the biggest massacre of civilians was committed in contemporary Latin American history".

No trial

Between 11-13 December, 1981, soldiers from a now-banned battalion, the Atlacatl, shot dead residents of El Mozote suspected of sympathising with left-wing rebels.

It was the bloodiest single episode of El Salvador's 12-year civil war that that left some 75,000 dead.

Those responsible were not put on trial as the authorities agreed a general amnesty in 1992, as part of negotiations to end the civil war.

President Funes said the country's armed forces, 20 years on from the peace accords, were very different, "democratic and obedient to civilian power".

He called on the army to revise its history to avoid honouring those responsible for human rights abuses.

Mr Funes made the first apology for civil war-era atrocities in 2009 and last December the government asked for forgiveness for the massacre of El Mozote.

He was elected president in 2009, the first leftist leader in El Salvador for 20 years.

His party, the Farabundo Marti National Liberation Front (FMLN) was founded by Marxist guerrillas who fought the US-backed government in the 1980s.

More Latin America & Caribbean stories



Top Colombian drug lord arrested

[\[/news/world-latin-america-19187008\]](#)

Colombian police arrest one of the country's main drug lords, Erikson Vargas who is also known as Sebastian, at a ranch in Medellin.

Brazil backs university shake-up

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Bolt secures place in 200m final

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RRRRR

ENOUGH ALREADY!

[From El Diario de Hoy 11 June 1980]

The signers below, all members of Municipal Councils from different municipalities of the country, expound to the Salvadoran people:

I. By proposal of the Christian Democratic Party we agreed to form Municipal Councils of our respective localities with the declared intention of serving the country, collaborating in the process of change initiated by the current government and our Party, thus giving to the Salvadoran people a peaceful and democratic exit from the grave crisis that for much time has been affecting El Salvador.

II. Our acceptance of the above-mentioned responsibilities was a conscious decision, as we were not unaware of the risks implied by proposing a different alternative from the ones established by organizations of the extreme left and right, at a time when the process of violence had acquired never before seen proportions and as a consequence, the challenge that we accepted demanded from us a high level of sacrifice and personal danger.

III. Notwithstanding the above, we believed and continue to believe that the patriotic objective of changing the unjust structures and of laying the bases for a more egalitarian and democratic fatherland outweighs the natural impulses that warn us to avoid situations in which our own security could be compromised, and that was how we decided to offer our portion of sacrifice for the future wellbeing of the Salvadoran people.

R 1842

IV. At this date this sacrifice has ceased to be a merely rhetorical attitude since it is now the knowledge of the entire Salvadoran people that in the last few days the following mayors have been assassinated without any reason:

Hector Menjivar- Tejutepeque, Department of Cabanas
Daniel Escobar- El Divisadero, Department of Morazan
Wilfredo Portillo- Moncagua, Department of San Miguel
Obdulio Pena- Ciudad Arce, Department of La Libertad
Jose Secundino Guerrero- Chirlagua, Department of San Miguel
Jose Rolando Sanche Flores- Yoloaiquin, Department of Morazan
Manuel Antonio Carrillo Vasquez- Rosario de Mora, Department of San Salvador
Victor Manuel Moreno- Apopa, Department of San Salvador
Jose Ramon Garcia Campos- Santiago Nonualco, Department of La Paz

On Saturday, the seventh day of June, the house of the Mayor of Apaneca in the Department of Ahuachapan was machine-gunned, many of us have received death threats and have received non-negotiable time limits to resign from our positions. on pain of suffering the same fate as those who have already fallen victim to the murderous bullets shot by members of true execution squads, which have committed themselves to a true strategy of extermination of the Christian Democrat councilmen.

Faced with this situation, we feel disoriented and confused, since we are unable to explain to ourselves what is happening and what are the motives that drive those who have undertaken as their objective an obvious strategy to liquidate all of us, since we know that these attempts are not coming from the extreme left, and, on the other hand, we are functioning members of the present government.

This circumstance renders our position absurd and creates a grave contradiction, since, as officials, we should enjoy the greatest protection from the security forces, but instead we are the object of continuous threats on our lives.

For all the reasons previously set forth, unanimously, WE AGREE:

R 1843

a) To protest and condemn energetically the assassinations and attempts against the lives of our colleagues who are members of the municipal councils mentioned above, and the campaign of terror carried out against the members of the Christian Democratic Municipal Councils.

A special motive for our condemnation and repudiation is the pointless sacrifice of all the Salvadorans who have been victims of the wave of violence and terror that our fatherland is now living through.

b) To demand from the Revolutionary Government Junta (JRG), and the Armed Forces, an exhaustive investigation of the events we are denouncing, and the appropriate punishment of those who are found to be guilty.

c) To request from the Revolutionary Government Junta amendment of Decree Number 160, the Law on the Carrying of Weapons, to include the Mayors and Municipal Councils among the authorities who are permitted to carry arms.

d) To ask the Revolutionary Government Junta to enact measures for the personal security of the Mayors, and also to establish life insurance for the Members of the Municipal Councils of the entire country.

e) To maintain a vigilant attitude, in hopes of clear signals that indicate a change of attitude toward the Christian Democratic Municipal Councils; and of a positive response to our demands.

FOR SOCIAL JUSTICE WITHIN A REGIME OF AUTHENTIC DEMOCRACY!

San Salvador, 9th of June, 1980

[advertisement is signed by the Mayors of 93 municipalities, and states at the bottom "There are 80 additional signatures."]

R 1844

SSSSS

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June 25, 1998, Thursday, Late Edition - Final

SECTION: Section A; Page 3; Column 1; Foreign Desk

LENGTH: 1181 words

HEADLINE: Files Focus on Salvador Colonel in U.S. Women's Deaths

BYLINE: By LARRY ROHTER

DATELINE: MIAMI, June 24

BODY:

El Salvador's Defense Minister suspected that a member of his high command ordered the killing of four American churchwomen in 1980 and later informed the American Ambassador of his belief, according to newly released State Department documents.

For years both Governments asserted that no high-ranking military officials had been involved in the slayings, which provoked an intense debate about United States policy in Central America. The declassified documents also raise questions as to Washington's motives for not investigating the confidential information more aggressively, human rights advocates and former officials said.

The suspicions were confided to Thomas R. Pickering, who was then the American Ambassador to El Salvador and is now Under Secretary of State for Political Affairs. It is not clear from the documents what action, if any, the State Department took to investigate the leads passed on by Mr. Pickering or to pressure the Salvadoran Government to do so.

Mr. Pickering, who is on vacation, did not respond to a request for comment left with his secretary.

"I think someone should be called on the carpet for this," Robert E. White, the American Ambassador at the time of the killings, said in a telephone interview today.

He made clear, however, that he was not referring to Mr. Pickering. "What has been released moves toward confirming what most of us have always believed, that this was ordered by higher ups and was not the idea" of the enlisted men who were convicted, Mr. White added.

Three Roman Catholic nuns, Maura Clarke, Ita Ford and Dorothy Kazel, and a lay worker, Jean Donovan, were abducted by a military unit on Dec. 2, 1980, and raped and shot to death. The killings occurred as the United States was beginning a decadelong multibillion-dollar effort to prevent left-wing guerrillas from gaining power, and the case came to symbolize the pitfalls of American involvement in the region.

In 1984 four Salvadoran National Guard members and their immediate superior were convicted of the murders and sentenced to 30 years in prison. In March the four enlisted men broke their 17-year silence and told American human rights investigators that they had acted only after having received clear and explicit "orders from above."

The Associated Press reported on Wednesday that a judge granted conditional freedom to three of the five guard members under a two-month-old law that mandates a reduction in prison overcrowding. A prosecutor said officials might seek to have the order overturned, however.

The three men, who would be released on Tuesday, have been given credit for good behavior.

Secretary of State Madeleine K. Albright ordered the release of relevant American documents in response to requests by members of Congress and representatives of the Lawyers Committee for Human Rights, which represents the families of the churchwomen and which interviewed the guard members. State Department officials have said the 300 pages will be published and posted on a State Department Web site in a few days.

Throughout the 12-year civil war, in which 75,000 people were killed, the Reagan and Bush Administrations always echoed the Salvadoran Government's contention that the slayings were the work of a small group that was acting on its own.

The documents, however, make clear that officials at the American Embassy in San Salvador, based on conversations with the highest levels of the Salvadoran military, had strong indications to the contrary and that their superiors in Washington apparently chose to ignore the indications.

In February 1985, Mr. Pickering met with the Defense Minister at the time of the killings, Gen. Jose Guillermo Garcia. General Garcia acknowledged that "there existed an attitude among the National Guard elements that colleagues should be protected" and suggested that a subaltern might have been directly involved in the murders.

"When it became clear the women had been murdered, he thought immediately of Col. Edgardo Casanova," military commander in the zone where the churchwomen were abducted, a State Department cable about the discussion said. "Without recounting specifics, Gen. Garcia noted that, sometime before the churchwomen incident, something similar had happened within the territory falling under Casanova's jurisdiction," the cable said.

In another cable, Mr. Pickering related a conversation with the Deputy Defense Minister, Col. Rafael Flores Lima, regarding information that "Edgardo Casanova had been aware of and possibly ordered the murder of the churchwomen."

General Flores Lima "noted that Gen. (then Col.) Garcia had had reservations about Edgardo Casanova," the document states, and it pointed out that Colonel Casanova had been transferred to a desk job at headquarters partly "because of Garcia's concerns."

Lawyers for the families of the churchwomen said today that they particularly welcomed a chance to examine the "special embassy evidence" that American officials, as well as a judicial commission that is looking into the case, have always cited as proving that the guard members acted on their own.

That evidence turns out to be a clandestinely taped conversation between the guardsmen's immediate superior, Sgt. Luis Antonio Colindres Aleman, and a higher-ranking officer in which the issue of orders from above does not come up.

"It is very difficult to avoid the conclusion that those insisting this evidence was definitive proof were engaging in some kind of fraud intended to avoid irreparable damage to the policy, which was to continue working with the Salvadoran military," said R. Scott Greathead of the Lawyers Committee for Human Rights, in New York. "That's the only conclusion you can draw."

The transcript does, though, make it clear that senior Salvadoran officers organized and directed a cover-up. Sergeant Colindres Aleman stated that within days of the killing he admitted his role to Maj. Lizandro Zepeda, who was in charge of the initial military investigation.

"In addition, Zepeda took declarations from at least some of those involved" in which they concocted an official version of events that absolved them of responsibility, said an Embassy cable that accompanied the transcript notes. "Zepeda included these in his January report knowing that they were false."

In 1993 a United Nations Truth Commission report found that General Garcia

and Col. Carlos Eugenio Vides Casanova organized and directed the cover-up. Colonel Vides Casanova, who in 1980 was National Guard director, is a first cousin and friend since childhood of Col. Edgardo Casanova.

Awarded a general's rank, Col. Vides Casanova was later Defense Minister in one of the most violent periods of the war, working closely with American authorities. Within days of retiring in 1989, he moved to Florida, where he was given permanent resident status and lives with his wife and children.

The papers are quite unlikely to lead to new legal cases in El Salvador, because the 10-year statute of limitations on murder has expired.

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In Search

Series 5, Volume 2, January 2010
El Salvador, Central America

The story of thirteen mutilated hearts

Victims present collective lawsuit for the forced disappearance of children during the Quetzana Massacre :10-11

30 Years Disappeared
Chrisopher Roulin Reunites
With His Family :09

The disappearance
of children in
El Salvador :14-15



Commemoration
of Life and Work
Jon Cortina :17

Identity • Justice • Memory • Reparation

PRO-REFUGEE ASSOCIATION



is a publication of Pro-Busqueda "Association for the Search of Disappeared Children." Pro-Busqueda maintains the exclusive right to all opinions that follow. Pro-Busqueda is a non-profit human rights organization made up of family members of children who were forcibly disappeared during the armed conflict, young people who have been found, and other people who identify with the problematic.

It promotes and carries out the search, familial reunion, and reintegration of disappeared children (now young people). It also contributes to the reestablishment of their right to identity and promotes the moral and material reparation for victims. Pro-Busqueda authorizes partial or complete reproduction of the following information if the source is properly cited.

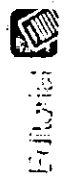
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Summary

- 3 Peace Accords and the obligation to victims of forced disappearance
- 4 y 5 Gregoria Herrinla: "What I want the most is for them to find my little siblings" New lawsuit against the Salvadorean State before the Inter-American Court
- 6 District Attorney ineffective in Cases of Disappeared Children
- 7 16 Years Building Justice
- 8 Groups Demand Ratification of International Convention Against Forced Disappearance
- 9 30 Years Disappeared Christopher Roclin reunites with his family
- 10 y 11 The story of thirteen mutilated hearts
- 12 y 13 "The Commission Cannot be an Decorative Element" Father Manuel Acosta Member of the National Commission of the Search
- 14 y 15 The enforced disappearance of children in El Salvador: A crime against humanity
- 16 The genetic sign in reuniting missing children with their Salvadoran families
- 17 Commemorating the life and work of Father Jon Cortina
- 18 "Fragmentos para el infinito poema de los regresos" To Jon Cortina
- 19 "The Father of the People"

Peace Accords and the obligation to victims of forced disappearance



19 years have passed since the Peace Accords were signed January 16, 1992 between the Government of the Republic of El Salvador and the Farabundo Martí Front for National Liberation, (FMLN) and the State has done very little to repair the wounds, particularly of victims of the forced disappearance of their loved ones.

The 12 years of the armed conflict left tragic consequences: more than 75,000 dead, the majority civilians; 8 thousand disappeared, among them hundreds of children, 12 thousand wounded and more than one million internally displaced people.

Without a doubt, the request made to the victims for forgiveness by President Mauricio Funes in 2010 was a step forward. In the same fashion, the words of Vice President Salvador Sánchez Cerén: "To the Salvadoran people we reiterate our request for forgiveness for all the actions carried out during the armed conflict that caused material and human damage," show the governmental good will to pay attention to the demands of the victims—but it is not enough.

It is not enough to celebrate the Peace Accords and ask for forgiveness, it is necessary that the State and society undertake concrete actions to end the pain, anguish and uncertainty of

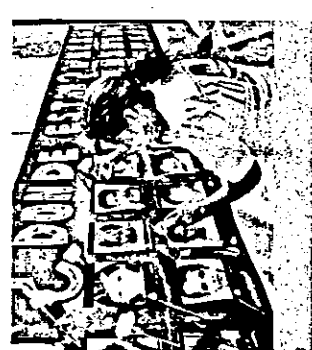
family members of disappeared children; this will only be possible when victims can reunite with the child they search for, or when they can finally mourn with certainty those children who died.

A sign of acting in good faith would be to immediately assign a budget to the "National Commission for the Search of Disappeared Children," that still cannot begin to operate for lack of resources.

How long will the major figures of the armed conflict continue with their evasive positions? The indifference of groups implicated in the armed conflict shows insensitivity towards the acts of violence committed against the civilian population.

The indifference, denial and justification of terrorist acts convert in a breeding ground for these events to repeat.

The whole society should position itself for the search and localization of the more than 518 children, (now adults) who exist somewhere in El Salvador or other countries with the status of "disappeared," as well as many others who to date have not presented their cases. Only in this way will we begin to heal the pain of such deep wounds.





With few words but profound nostalgia, Gregoria Herminia Contreras expressed her expectations for the new lawsuit initiated against the Salvadoran State by the Inter-American Court for Human Rights dealing with the forced disappearance of six children, including her and two siblings.

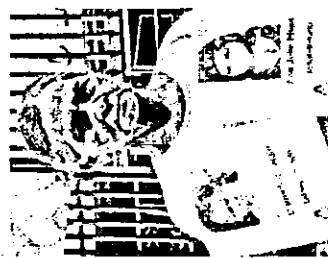
Gregoria Herminia was found by PROBUSQUEDA in 2006, her siblings Sarapio Cristian and Julia Inés Contreras, along with three others, Ana Julia, Carmelina Mejía Ramírez, and José Rubén Rivera, are still missing.

"Me, what I want the most is for them to find my little siblings," said Gregoria Herminia, who at the young age of four survived the military operation that severed her family.

A Painful History

The little ones were disappeared between 1981 and 1983 during the operatives carried out by the Armed Forces of El Salvador (FAES) against the civilian population in the department of San Vicente. During this so-called "Scorched Earth" campaign, soldiers wiped out everything in their path.

The Contreras siblings disappeared August of 1982, in a place called La Conacastada in the town San Juan Buena Vista, in the department



Gregoria Herminia maintains she hopes that one day, she will find her siblings



Ana Julia is one of the minors who remains missing.

Gregoria Herminia:

What I want the most is for them to find my little siblings"

New lawsuit against the Salvadoran State before the Inter-American Court

Their mother Maura looked for 4-month-old Gregoria, 18-month-old Sarapio and 6-month-old Julia Inés, but could find no trace of them. When the Peace Accords were signed Maura, along with other families, began to search for their children with Salvadoran judicial authorities—without result.

Gregoria remembers, "They brought us, me and my siblings, to the barracks. The first night they left me in charge of Julia Inés, because she was the smallest and was crying a lot. The next morning they separated us, since then I haven't had any information about my siblings. But I always remembered them."

CIDH (Inter-American Court for Human Rights):

"The circumstances surrounding the disappearances still have not been clarified, the people responsible have not been identified or sanctioned, and after almost 30 years these acts remain in impunity..."

Judicial Process

The Inter-American Court initiated the process for Human Rights in July of 2010, due to the Salvadoran State's failure to comply with the recommendations previously issued by the Inter-American Commission of Human Rights, which suggested the State investigate the whereabouts of the children as well as the events surrounding their disappearance.

The coordinator of the Judicial Unit, Eisy Lourdes Flores, reported that PROBUSQUEDA, in coordination with the International Center for Justice and International Law (CEJIL), acting as legal representative of the victims, presented collectively the "Written Request, Argument, and Proof before the Inter-American Court of Human Rights."

"We request the Court to declare that the Salvadoran State is responsible for the violation of the rights of the legal status, life, integrity, freedom and personal security of the victims of this case, as a result of their forced disappearance at the hands of state agents and also the lack of investigation of the facts surrounding their forced disappearance," added Flores.

In addition, the Salvadoran State is responsible for the violation of the victims' right to a name as an integral element of their right to identity, as established by the American Convention on Human Rights (CADH).

"Therefore, we have requested that as a result of the violations attributed to the Salvadoran State, the Honorable Court order the State to make reparations to the victims and their families," argued Flores.

For her part, general coordinator Ester Alvaranga expressed, "We feel satisfied with the decision made by the Inter-American Commission, since it represents another success for the victims of forced disappearance."

For Alvaranga, it is deplorable that the Salvadoran State not comply with the recommendations issued by the Commission. She considers that this attitude, and the breaching of international treaties and Conventions for the protection of Human Rights, situates the country unfavorably in the application of exterior politics.

District Attorney Ineffective in Cases of Disappeared Children



The position adopted by the District Attorney's Office towards cases of disappeared children is unfortunate, says General Coordinator of PROBUSQUEDA Ester Alvarenga. "Since in revising the case files we have not been able to negotiate substantial funds for investigation, we seek a hearing with the Attorney General Romeo Barahona Meléndez," informed Alvarenga.

Negligence and other discoveries by the Judicial Unit of PROBUSQUEDA lead us to believe that the Amnesty Law is applied institutionally, promoting impunity for crimes against humanity.

Under these circumstances, PROBUSQUEDA requested in October 2010 that the Legislative Assembly issue a recommendation to Romeo Barahona urging him to speed up the investigations into cases of disappeared children.

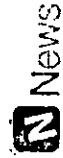
To date this petition has not been answered, showing once more the indifference of the State in responding to the pain of the victims.

This also demonstrates disrespect for Inter-American Court for Human Rights (IDH), that in 2005 gave a sentence against

Case Name / Description	Attorney / Office	Case Status / Date	Outcome / Status
Buffers Orange Hermosa (San Juan de los Rios) For the crime of forced disappearance.	San Vicente District Attorney Office (Case entered in 2000)	The Congress adding laws in a place called La Comandante in the town of San Juan de los Rios, San Vicente. Only one of the missing has been found.	NO JUDICIAL PROCEDURES
Jose Ruben Rivera (case for the crime of forced disappearance).	San Vicente District Attorney Office (Case entered in 2000)	Jose Ruben Rivera disappeared in May of 1983 from the town of La Juvia in Barahona, San Vicente.	NO JUDICIAL PROCEDURES
Sonia and Maria Garcia (Forced Disappearance)	San Vicente District Attorney Office (Case entered in 2000)	Sonia Garcia Cruz disappeared in June of 1983 from the town of La Juvia in Barahona, San Vicente.	NO JUDICIAL PROCEDURES
Marta de los Angeles Moya (Disappeared in 1982) For the crime of forced disappearance.	Expansión District Attorney Office (Case entered in 2008)	Disappeared in November of 1983 from the town of Capatzen in Guatemala.	NO JUDICIAL PROCEDURES
Benito Cruz (Case for the crime of forced disappearance)	Chalchicomula District Attorney Office (Case entered in 1998)	The former station disappeared in the military operation known as the Guadalupe in May of 1982 by Benito Cruz.	NO JUDICIAL PROCEDURES
Jose Juan Pacheco (Disappeared in 1982)	Byzantium District Attorney Office (Case entered in 2002)	Disappeared from the town of San Jose Sagrado in San Martin, December of 1981.	NO JUDICIAL PROCEDURES
Emiliano Lorenz Hernandez (Case for the crime of forced disappearance)	San Francisco Grande District Attorney Office (Case entered in 1998)	Emiliano Lorenz Hernandez disappeared December 1981 from La Juvia in the context of the military operation, Department of Barahona.	NO JUDICIAL PROCEDURES
Ana Jara and Consuelo Perez (Disappearance)	San Francisco Grande District Attorney Office (Case entered in 1998)	The girls disappeared December 13, 1981 from the town of La Juvia in the context of the military operation, Department of Barahona.	NO JUDICIAL PROCEDURES

the Salvadoran Government for the sisters. The government was ordered to uphold its constitutional obligation of effectively investigating the incidents, identifying and sanctioning the people responsible and executing the search for the girls, added Alvarenga.

16 Building Years Justice



The District Attorney, Oscar Luna, is the president of the National Commission for the Search of Disappeared Children.

The last 29th of August family members commemorated the 16th anniversary of the founding of the Association PROBUSQUEDA.

"These have been 16 years of tireless struggle for justice, truth, reparation, and historical memory," expressed Nicolas Rivera, president of the board of directors during the opening of the event.

More than 700 people attended the activity that took place at the Colegio Sagrado Corazon. Father Gerardo Potter offered a solemn moment, reiterating the necessity to maintain hope alive and strengthen the struggle for the victims. Juan José Garcia, vice-minister for Salvadorans outside the country, repeated governmental support to the victims of forced disappearance and emphasized the important work carried out by PROBUSQUEDA.

In the event the members of the National Commission for the Search were present, including its president

the first father who gave life to the Association Pro-Busqueda.

Among the guests of honor were: Santos Dubon, Berta Castro, Victoria Cruz (who received her daughter Suyasca Serrano), Magdalena Ramos, Francisca Romero and Mr. Francisco Alirego (who received his daughter).

In this way, Eisy Dubon, representative of the "jóvenes recontratados," the young people who have had familial reunions, recognized Guadalupe Espinoza, the representative of the Secretary of Social Inclusion, for all their support.

The most heartfelt tribute was the placing of floral offerings for those for whom we are still searching. One-by-one each family member placed a yellow or white rose over the photo of their loved one.

In this way we remember the more than 518 children who remain disappeared, after many years, and we maintain the hope of finding them alive.



Mothers who initiated the project that is today called Pro-Busqueda.

attorney general for defense of Human Rights Oscar Humberto Luna, the assistant Arch-Bishop, and presidential delegate Gregorio Rosa Chavez. Luna assured that he would watch over the cases of disappeared children, "I will not allow the commission to become a decorative element," he added.

"I Want Peace With Everyone United"

Tears flowed when all the young people who have been reunited with their families sang together in unison "I Want Peace," by the Venezuelan group Los Guaraguao, an enormous expression of the wish to reach peace and the unification of society.

Also, Ricardo Vilella delivered a proclamation whose main demand was to create a national policy of reparation for the victims.

He added a recognition of and eternal gratitude for the pioneers in this struggle, as a tribute to the first mothers and

Groups Demand Ratification of International Convention Against Forced Disappearance

News **N**



The participating organizations presented their proposals for the protection of people against forced disappearance. **W**itness the international convention for the protection of people against forced disappearance.

On the International Day of Human Rights, celebrated December 10th, human rights organizations came together for a conference, "Truth Justice and Reparation for victims and families of forced disappearance in the past and present".

This interchange contributed to the struggle against impunity that victims who have had their human rights violated confront throughout Central America.

In attendance were Association Pro-Busqueda for disappeared children, the committees of mothers Monsenor Romero (CO-MADRES), The Committee for families of victims who have had their human rights violated "Mananella Garcia Vilias" (CODEFAM), COMAFAC, Committee for reclaiming the historic department of la Paz "Padre Cosme Spessotto" (COREMHPAZ), Committee of family members of deceased and disappeared migrants (COFAMIDE), from Honduras COFADEH, or the committee of family members of disappeared detainees, and the Guatemalan League for Mental Hygiene.

Luis Salazar, director of the Salvadorean Institute for the integral development of children and adolescents, developed the theme of right to truth, justice and reparation for the victims of forced disappearances.

The lawyer, Ricardo Iglesias, spoke about tools and international mechanisms in place to protect human rights.

The organizations concluded that the states of Guatemala and El Salvador should ratify the "international convention for the protection of all people against forced disappearance."

This convention creates a new human right: the right of each person to not be disappeared, that recognizes for the first time in an international treaty the right to truth of the victims (including family and friends) about the circumstances of forced disappearance, the processes and results of the investigation and the chance of the disappeared person.

With the joining of the convention we can recognize the continuous character of disappearance, allow for the radicalization of impunity, and reinforce the obligation on the State to investigate, judge and sentence responsible people.

The sales of El Salvador and Honduras were asked to incorporate the national internal norm of forced disappearance as a continuing crime. With the adhesion of the convention we can recognize the continuous character of disappearance and eradicate impunity, reinforcing the obligation of the states to investigate, judge and sentence those responsible.

In addition, they demanded that El Salvador and Honduras incorporate a national norm considering the forced disappearance is an ordinary and prolonged crime.



30 Years Disappeared Christopher Roulin re-unites with his family

Christopher Roulin, before called Porfidio Lopez, was reunited with his maternal grandmother on January 14, 2011, after having disappeared for 30 years.

30 long years have passed since the disappearance of Porfidio Lopez, a woman now called Christopher Roulin. He returned to El Salvador - speaking only English - to get to know his biological family, his history, and his true identity.

Christopher was born October 18 1972, in the town of Tenancingo, Cuscatlan, one of the places hit hardest during the armed conflict. He was the first of four siblings, two girls and two boys.

His father Estanislao Antonio Lopez was killed by the National Guard during the cruellest years of civilian repression, and his mother Maria Magdalena Paz was left alone to care for her children.

Their precarious economic situation and all the violence suffered led to the deterioration of Maria Magdalena's health, and she died in early 1980. Christopher and his siblings were orphaned and left to the care of family



Toda la familia se reunió para dar la bienvenida a Christopher.



Christopher recibe las tan añoradas caricias de su abuela materna.

the land that saw him born and to hug his family who had been waiting for him, too.

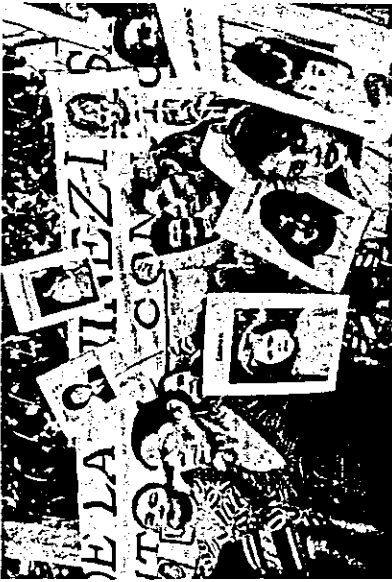
The re-encounter took place in community "Doctor Guillermo Manuel Ungo," in the municipality of Suchitoto, in the department of Cuscatlan, January 14, 2011.

Pro-Busqueda has solved 369 cases, achieving a "reencuentro," or re-encounter, in 222 of these cases. One more reencuentro for family members means happiness, peace and new hope, and for the youth means coming to terms with their history, culture, and roots.

Thanks to information obtained by the investigators at Pro-Busqueda and accurate information provided by the family, it was discovered that the missing child (no longer a child) resided in the United States, and another process began to locate him through the University of Berkeley, California.

In November 2008, Brenda Munoz, an investigator from U Berkeley, first achieved communication with Christopher and determined his current location.

Upon learning that his family was looking for him, Christopher decided to start the process of planning their reunion. Christopher had to wait more than 30 years to take this journey to



"Time does not eliminate the pain, only slows it down and learn to live with him." That is the feeling of the inhabitants and survivors of one of the most atrocious massacres by the armed forces of El Salvador (FAES), against the peasant population of the Municipality of San Agustín, Department of Usulután, known as "The Slaughter of La Quesera".

In late 1979 and the early 80's violence and governmental repression against the civilian population escalated. Usulután became one of the departments in which the first "scorched earth" military operations were carried out by the army against the civilian population.

Within days, the municipalities of San Agustín, Jiquilisco and Benín were devastated, and the soldiers of the Atlacatl Battalion, accompanied by the Battalion Atlacatl and the 51st Infantry Brigade, assassinated everyone who got in their way, burned houses, killed domestic animals and destroyed crops.

More than 500 people, mostly women, elderly people and children fled their homes and took refuge in the town known as La Quesera, where they were massacred.

Marta Atlas, a survivor of that massacre remembers clearly the operation that killed most of her family: "The armies were killing people who they found in their path, children, elderly, women, they did not differentiate, there was no mercy. The only goal was to wipe out the entire civilian population of the area."

Salvador García, another survivor of the massacre and who lost his wife and children in this operation, recalls "The army used a comb in the area, a clip that slowly solidified its grip on the civilian population by preventing the escape of the majority."

The level of brutality knew no bounds, nothing was sufficient to cruelly punish the innocent population. Some people remember that amid the hundreds of killings, troops invited them not to be afraid of leaving their hiding places, as they would be provided with food and medical care, some obeyed only to be killed on the spot. Those who escaped or remained hidden even remember the laughs, jokes, and taunts of the soldiers who proudly and without remorse told their "stories" from the operation.

The story of 13 mutilated operations



"... some survivors saw military helicopters taking off with children on board, said that in some places, including the Rio Lempa, children were thrown alive from the top, falling to earth or drowning in the river..."

Salvador García recalls that some survivors saw the helicopters take off with children aboard, and that in some places, including the Rio Lempa, children were thrown alive from the helicopters, dying upon falling to the ground or into the water of the river. He himself days later found the body of his wife and "some remains" of their children. His daughter, whom he found dead in a tree, was one of the children thrown from the top of the helicopter, he said.

Marta remembers that the military personnel stayed in place for a few days, preventing them from burying those killed, the bodies then were left to the elements, dogs even carried in their snouts the remains and bones of the victims. The genocide was accomplished as the people of the area were literally wiped out with fire from artillery and from the air, they did not have the opportunity to do anything.

In the town of Linares Caudalal, on the outskirts of the Rio Lempa, another survivor, Leona Gonzales, searched with tremendous grief for the remains of her family, which

"What did they do with my children, that they took from my arms, where did they take them..." 30 years later this is still the cry of the mothers and fathers of the 13 children disappeared during the Quesera massacre.

As a result, the affected families, accompanied by Pro-Busqueda, placed a collective denouncement in front of the district attorney of Usulután on February 28, to start an investigation into the facts, invite justice for the victims and more importantly to find the whereabouts of the missing girls and boys. Of these 17 cases of disappeared children, PROBUSQUEDA has been able to locate 4 children, three of whom were in France and 1 in Belgium, leaving 13 cases unresolved.



The families announce the disappearance of 13 disappeared children during the Quesera massacre, carried out by the army in 1987 in the municipality of San Agustín, Usulután.

Justice 30 years later

"For this fundamental reason we demand that the General Investigator of the Republic carries out his constitutional mandate and pays attention to the demands of justice from the families of the disappeared children, achieving a serious and actual investigation that permits the facts to be clarified, to establish the whereabouts of the children and to identify of those responsible for the disappearances," stated Ester Awaranga, General Coordinator of the organization.

"The Commission cannot be an decorative element" Father Manuel Acosta

Interview

The President, Mauricio Funes promised, this past 6th of January, to appoint Priest, Manuel Acosta Bonilla as a member of the National Commission of the Search for the Disappeared Children.

With that statement the commission was completed and was to have the responsibility to quicken the investigation process and the localization of the children who disappeared during the armed conflict.

According to information from PROBUSQUEDA there are more than 891 cases of children disappeared during the 80s, of which 363 have been located.

The integral to the Commission are the Prosecutor for human rights, Oscar

Humberto Luna and they Archbishop's Assistant, Gregorio Rosa Chávez, who function as the Presidential President and Delegate respectively.

The commission was created under Executive Order on the January 16th 2010, as a part of the compliance with the Inter-American Human Rights Court's ruling against the Salvadoran State in 2005 in the case of the sisters Erlinda and Ernestina Serrano Cruz.

To understand the trajectory of Father Acosta and the labor that the commission will carry out, we talked with him, and the conversation appears below.

How did your religious life begin?

I was ordained as a priest in 1992 and from then I was the parish priest in the town of Carrizal in the municipality of La Vueltes, in the department of Chalatenango. With the help of Father Jon Cortina, in 1988 I went to study in Bilbao, Spain for a degree in Theology and I returned to El Salvador in 2000 and I became the parish priest in the Cathedral of Chalatenango.

But Jon always insisted that I finish a doctoral degree and three years later he convinced me and I returned to Spain to finish my doctoral thesis. In 2007 I returned and they name Perfecto of the Seminary San José de la Montaña. I was there until 2009, when they



With the inauguration of Father Manuel Acosta completes the trio that will give life to the National Search Committee. Courtesy of the Ministry.



With the swearing of Father Manuel Acosta completes the trio that will give life to the National Search Committee. Ministry Courtesy.

assigned me to the Parish of Coyolito, in the municipality of Tejutla, always in Chalatenango.

How did you meet Father Jon de Cortina?

In 1985 I was deacon, always in Chalatenango, and there I met Father Jon Cortina, and initially he dedicated himself to assisting the resettled communities in San Carlos Lempa, then he settled in Guayula. This was our first encounter and meeting, but it was until 1991 that we happened to see each other in various clergy meetings.

It was in these meetings that we discussed how the reintegration of the population should take place, after the signing of the Peace Accords (we remember that at this moment the dialogue between the government and the guerrillas had

an authentically bound and he learned how to be a companion of the people, he even walked around with two deers eyes (a seed) in his pants pocket and he was convinced that this was his charm.

What were your first contributions on the issue of missing children?

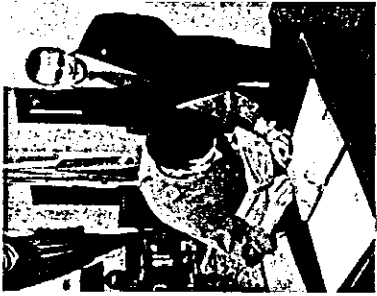
Initiative will encourage communities to talk and give their testimony and report cases, through this work we built a database. My first contributions were to document and our friendship grew and I met Jon and the reality of the victims. When I was pastor at the Cathedral of Chalatenango, just in 2000, Jon came to visit me very worried and told me that the government intended to declare that the sisters Ernestina and Erlinda Serrano Cruz never existed.

He immediately made representations on the Clergy and Bishop Alas ordered file by file review to locate a document and to our good fortune is located in the baptismal document one of the girls. These were my first contribution.

After the death of Jon always accompanies to PROBUSQUEDA, advising on the management and international relations.

How do you feel now that a member of the National Search Commission?

Emotions overwhelm me and reminds me of happiness, because they are the victims.



Father Manuel Acosta signed the minutes of swearing. Courtesy Ministry.

What do you plan to do within the Commission?


First I want to keep a positive attitude, loyalty to the victims and I think that while the Commission is a significant achievement must not settle. It behooves us to go further and do not stay in the bureaucracy. The commission should not be a make-up, victims have the right to know the truth and above all to locate the children.

How and when the Commission starts work?

First you have to plan, then we are and when is the right time will present the action plan at the moment I can only anticipate that the proposals I can only under the line of victims.



The enforced disappearance of children in El Salvador: A crime against humanity

Opinion 

The International Convention for the Protection of All Persons from Enforced Disappearance states in Article 2 that, "enforced disappearance is considered to be arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law."

In Latin America, enforced disappearance of persons occurred throughout the 1960s, 70s, and 80s, especially in nations who were ruled by dictators or authoritarian governments or who experienced internal armed conflicts. Enforced disappearance as a systematic practice is a tool of repression and intimidation. This practice has been and unfortunately continues to be a phenomenon of on-going relevance.

The most tragic repercussions of enforced disappearance persist as long as the whereabouts of the disappeared remain unknown. This lack of information not only prolongs but also amplifies the anguish and uncertainty that families feel into the present moment. It is for this reason that enforced disappearance can be considered an ongoing or permanent crime.

Families whose children are victims of enforced disappearance are without a doubt profoundly affected and, in a way, also become victims. Because they are left without knowledge of the whereabouts of their children, families suffer. At the same time, the situation denies both parents and children their right to life as a family.

With the signing of the Peace Accords, family members of disappeared children began the search for their lost sons and daughters with the help of Father Jon Corino, S.J. Over almost 17 years of untiring labor, Association Pro-busqueda has worked to achieve visibility for the situation of hundreds of disappeared children. Pro-busqueda has also worked to ascertain the adoption trail of many of these children by foreign families, principally in the United States, France, and Italy. Data collected by the U.S. Embassy indicate that visas were extended to 2,357 children to travel to the U.S. during the 1980s.

From 1994 to December of 2010, Association Pro-busqueda has received 681 reports of disappeared children, 29 of which were filed just in the last year.

Enforced disappearance has long been considered an unpunishable crime, and in the state of El Salvador, impunity has been the usual practice. However, in the current international climate, current discussions have not

“A disappearance constitutes one of the most perverse violations of human rights. It is the negation of the right to exist, to have an identity. It changes a human being into a being that has no existence. It is the most advanced level of corruption and abuse of power to which the authorities, responsible for upholding law and order, lower themselves and commit crimes, as a method of repression against political opponents.”

NIALL MACDERMOT,
Secretary General,
The International Commission of Jurists



hesitated to relate this crime to what the International Criminal Court has called crimes against humanity.

Enforced disappearance is considered a crime against humanity because of its inherent violation of many basic human rights, including, the right to life, to individual liberty, to access to the judicial process. Above all, enforced disappearance is a grave affront to human dignity because it is the negation of the right to exist, to have one's own identity.

The Salvadoran government, along with society in general, cannot be considered strong and healthy until they can count facts as supporting evidence, not just elaborate words for official ceremony. A historic debt is owed to disappeared children and their families.

The immediate signing of the International Convention for the Protection of All Persons from Enforced Disappearance would be a concrete start in repaying this debt.

1 The "International Convention for the Protection of All Persons from Enforced Disappearance", signed in 2006 by the UN General Assembly, entered into force on December 23, 2010, after ratification by Iraq on November 23, 2010. Later, Brazil was the first to bring to 21 the number of countries to ratify the Convention. For Latin America and the Caribbean, it has signed and ratified by Argentina, Bolivia, Brazil, Chile, Cuba, Ecuador, Honduras, Mexico, Paraguay and Uruguay. It has signed only Colombia, Costa Rica, Guatemala, Haiti, Panama and Venezuela.

2 This has been debated in the Convention on Enforced Disappearance. Article III, first paragraph, states: "States Parties undertake to adopt in accordance with their constitutional processes, legislative measures necessary to prohibit enforced disappearances and to impose an appropriate punishment commensurate with the extreme gravity. The offense shall be deemed continuous or permanent as long as the fate of whereabouts of the victim."

3 The Boston Globe, July 14, 1998, para. 18. In December 2010, 21 young people missing because of armed conflict and subsequently abducted in the United States were reunited to El Salvador to meet the biological family. Another 39 young people are located in the United States, but their whereabouts have yet to be reunited with their families.

The genetic sign in reuniting missing children with their Salvadorean families

Patricia Vasquez Marras

Opinion

In El Salvador, the efforts of Pro-Busqueda, through research processes that are aided by a tool of applied molecular biology in forensic medicine internationally recognized branch under the name of forensic genetics and dedicated primarily to diagnosis of biological individuality through the analysis of fragments of DNA or genetic polymorphisms, have made this dream come true.

Advances in DNA knowledge and technological resources for their study have enabled the Association promote hundreds of families who suffered the break following the disappearance of their children during the armed conflict.

The PROBUSQUEDA works

The efforts of Pro-Busqueda has been strengthened by some international organizations like Physicians for Human Rights, Human Rights Center at the University of California at Berkeley, Jan Bashinski DNA Laboratory in Point Richmond / Department of Justice California and most recently Chromosomal Labs in Tucson, Arizona.

The project of reunification through the DNA was initiated by Eric Stover, Director of Human Rights Center at the University of California at Berkeley, at the request of Father Jon Cortina, co-founder of Pro-Busqueda.

Process followed

The Research Unit Pro-Busqueda is responsible for search and location of the missing girls and boys. It conducts an interview with the relatives of the disappeared, then a simple way is performed sampling, to a collector of DNA to be rubbed on the inside of the cheek.

If parents are deceased is possible to take samples of siblings, grandparents or other relatives. The sample is placed

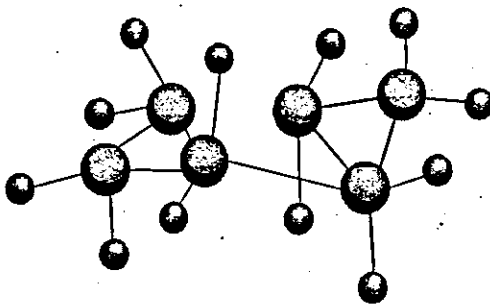
in an envelope which is then sealed, taking care to keep the respective chain of custody. In the laboratory, each sample receives a bar code that comes out its analysis.

When a girl or boy is found, its genetic profile is also introduced to the base and compared to samples from possible relationship with other persons. As each child shares half of its markers with each of their parents, can make an estimate based on the frequency of this marker in population and the likelihood that these people are connected, what is known as the reason for verisimilitude.

The database provides these biological relationships with the software DNA VIEW, created by Dr. Charles Brenner collaborator in the project of reunification. Currently DNA testing is scientifically established and is considered highly reliable in human identification and verification of biological parentage.

Until now closer to 1060 samples of genetic database. This database of genetic profiles is being expanded and will be periodically compare DNA samples of children missing or adopted family members included in it.

Use of DNA Finger sign in scientific search: reuniting missing children with their Salvadoran families. Review: Science and Technology. Vol.12/No.16/June 2007.



Commemorating the life and work of Father Jon Cortina

Cultura



Every year dozens of people visit the Museum of Jon de Cortina, located in Guayula, Chalatenango.

Mass in honor of the birthday of Father Jon de Cortina.

"Father Jon is alive because the legacy left behind in his work is becoming stronger," below this slogan hundreds of people joined the day commemorating the 5th anniversary of the death of Father Jon de Cortina.

As a tribute, Pro-Busqueda the father walked a hard road to the last day of his life.

At the end of the Mass awards were handed to people who have blood of the victims of forced disappearance and their defense of Human Rights.

For the first time, PROBUSQUEDA launched a Poetry Contest "The Life, Memory and Legacy of Father Jon Cortina." A total of 29 poems were received, whose high aesthetic quality

The awards ceremony took place during the commemoration Vigil organized by the community of Guayula, Chalatenango.

Without a doubt, the legacy inherited from Father Jon Cortina maintains valid, because the struggle for justice is a key piece to constructing peace in El Salvador, and it is our duty to make it a reality.

showed the great admiration that the figure of the Father generates in the population. The difficult task of selecting three winners was left to distinguished literary figures: José Roberto Cea, Miguel Huezo Mirco and Silvia Elena Regalado.

The judges unanimously selected six poems to share the first three places: Pedro Valle, first-place winner; author of "Fragment of Infinity, Poem of Return" expressed his satisfaction and congratulated the association for facilitating the activity.

For the first time, PROBUSQUEDA launched a Poetry Contest "The Life, Memory and Legacy of Father Jon Cortina." A total of 29 poems were received, whose high aesthetic quality

The Father of the People

Profiles

"Fragmentos para el infinito poema de los regresos"



Sabes que siempre regreso por los caminos de diciembre para descubrir la música sencilla de aquellos peregrinos que un día volvieron de las fronteras del tiempo

Erigieron una casa grande de amor juntaron manos y bajo todas las tormentas encendieron el fuego de la vida

Nunca importó el dolor que entre golpes de ausencia sea trago Mesa Grande tampoco la cara sucia de la infancia que un día se desdibujó entre disparos de miedo

Era más grande la estrella la luz los pasos del horizonte cercano con tu vuelo de pájaro llegaste para posarte en ese árbol de infinitos ramajes

Del otro lado del mar vino una canción rebelde que también era sed en los mantamientos de la Patria

En el centro del asombro naciste de nuevo cuando la inesperada metralla de la noche aciaga sembró rosas de sangre en el jardín de la historia

Guarilla era silvestre generosa en las manos del campesino que sembró milpas en las colinas del viento

El tren del recuerdo regresa

con una fotografía en blanco y negro Jon es inocente no sabe pero la guerra es mirar el dolor en el rostro de sus padres es dejar la casa los libros y la escuela es olvidar la infancia para huir desesperadamente hacia la noche de una frontera imaginada como si todo se pudiera olvidar cerrando los ojos como si fuera posible arrancarse del corazón todos los mientos

Entonces comprendiste que no hay dolor más grande que refulgirse en el recuerdo de todo lo que se ama Es morir un poco en la incierta geografía de un país sin nombre en la distancia triste de una raíz marchita

Sólo entonces milagrosamente los Serranos recobraron la vida volvieron desde el río sagrado con sus rostros de luz para cultivar en las anchas aradas el nuevo maíz de justicia y verdad

El puente que construiste sigue poblado de pasos desde tu piel hasta mi sangre por eso es inútil buscarte

Habitas por siempre el anónimo lugar de los humildes que abren las puertas del amor para seguir escribiendo el poema de la vida en las páginas del tiempo

Seudónimo: Niño Grande



Who was Father Jon Cortina? Why did he come to this country? What motivated him to serve the people of this country? It's worth it to share a brief biography of such an important figure. Jon de Cortina was a Jesuit priest from the Basque Country, Spain, who lived the large part of his life in El Salvador. He was born in the city of Bilbao on December 8th, 1934. When he was two years old, his family had to flee to France as refugees of the Spanish Civil War, when their town, Guernika, was destroyed by French troops and the Nazi Air Force. The first years he spent away from the Basque Country shaped his life and brought him to join the 'Campaign of Jesus' (the Jesuits) at an early age.

In 1955, at the age of 20, Jon came to El Salvador as a novice priest. He studied in multiple countries: Ecuador, the United States, Canada, Germany and Spain. He graduated with Bachelors Degrees in Humanities, Philosophy and Theology, and a doctorate in Engineering. For his thesis, he studied seismic movements in El Salvador and also wrote a scientific thesis that was used by NASA and the Atomic Commission of Canada.

He taught classes in the Engineering Department at the Central American University 'Joss Simeón Carías' (UCA) in San Salvador. Father Cortina formed part of the same generation of Jesuits as Ignacio Ellacuría, Segundo Montes, Jon Sobrino, Ignacio Martín Baró and others that marked the history of El Salvador.

As an engineer, he worked in the construction of bridges, wells and highways. He combined these activities with his pastoral work and the condemnation of human rights abuses, working together with Rubilio Grande, another Jesuit priest. He worked with other Jesuits in northern El Salvador, helping the poor from rural communities to organize themselves in the struggle for a life of dignity and decency. When Rubilio Grande was assassinated in 1977, Archbishop Oscar Romero assigned

His message bothered the powerful sectors of Salvadoran society, and on November 16th of 1988, a group of 26 soldiers of the Salvadoran Armed Forces entered the UCA and assassinated six Jesuit priests, including Father Ellacuría and a university employee and her daughter. Two of the Jesuits survived the massacre because they did not sleep in the university that night. The two survivors were Jon Sobrino, who was in Asia, and Jon Cortina who was in the city of Guajrala in Chalatenango.

At first, it was believed that Cortina had been killed and he himself heard his name among the names of the assassinated Jesuits when the news was announced on the radio the next morning. The people of Guajrala gave him their support and the protection he needed, and from that time on, the city was his home. The assassination of his colleagues did not lead Father Jon Cortina to abandon his work fighting for human rights, but rather, did the opposite. Once the war was over, he became very concerned by the testimonies of people from Guajrala and other communities, and began to look closely at the problem of children who were disappeared by the Armed Forces during the conflict. He decided to take action to search for justice for these families.

Father Jon Cortina was particularly affected by the stories of mothers and fathers who had suffered the forced disappearance of their children and the lack of answers on the part of the Salvadoran State. It was a combined effort of these women and men that sowed the seed of the Asociación Pro-Busqueda.



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IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
NORTHERN DIVISION

JUAN ROMAGOZA ARCE, JANE)	Docket No.
DOE, in her personal capacity)	99-8364-CIV-HURLEY
as Personal Representative of)	
the ESTATE OF BABY DOE,)	
)	
)	
)	
Plaintiffs,)	
vs.)	West Palm Beach, Florida
)	July 2, 2002
JOSE GUILLERMO GARCIA, an)	
individual, CARLOS EUGENIO VIDES))	
CASANOVA, an individual, and)	VOLUME 5
DOES 1 through 50, inclusive,)	
)	
)	
Defendants.)	
)	x

COURT REPORTER'S TRANSCRIPT OF
TESTIMONY AND PROCEEDINGS HAD BEFORE
JUDGE DANIEL T. K. HURLEY

APPEARANCES:

For the Plaintiffs:	JAMES GREEN, ESQ.
	PETER STERN, ESQ.
	BETH VANSCHAACK, ESQ.
For Defendant:	KURT KLAUS, ESQ.
Court Reporter:	Pauline A. Stipes, C.S.R., C.M.

PAULINE A. STIPES
Official Reporter
U. S. District Court

1 MR. STERN: Yes, Your Honor.

2 THE COURT: Mr. McClintock, you may step down and
3 be excused from your subpoena.

4 (Witness excused.)

5 THE COURT: The Plaintiff may call your next
6 witness.

7 MR. GREEN: At this time, we will call Professor
8 Jos, Garcia.

9 THE COURT: Professor Garcia.

10 Professor, if you would come up to the witness
11 stand, sir, and make yourself comfortable.

12 Professor Garcia, please be seated. I must tell
13 you the microphone has a short pickup range. If you pull
14 the chair up to the desk area, you will be more
15 comfortable. If I may ask you to raise your right hand.

16 JOS GARCIA, PLAINTIFFS' WITNESS SWORN.

17 (Witness sworn through interpreter)

18 THE COURT: Professor Garcia, would you please
19 begin by introducing yourself to the members of the jury?
20 Would you tell them your full name, and would you please
21 spell your last name for the court reporter?

22 THE WITNESS: My name is Jos, Luis Garcia. My
23 name is spelled G-A-R-C-I-A.

24 THE COURT: Thank you.

25 Counsel, you may proceed.

1 DIRECT EXAMINATION

2 BY MR. GREEN:

3 Q. Sir, where do you live?

4 A. I live in Buenos Aires, Republic of Argentina.

5 Q. Sir, do you speak English?

6 A. Very little.

7 Q. Have you ever studied in the United States?

8 A. Yes. 30 years ago.

9 Q. Would you feel more comfortable if we conducted this

10 examination in Spanish?

11 A. Yes. Perfectly.

12 Q. Could you tell the ladies and gentlemen of the jury

13 what leadership and command positions you have held within

14 the Argentine military?

15 A. I am a calvary colonel of the Army of the Republic of

16 Argentina.

17 Q. Are you on active duty?

18 A. No, I am retired.

19 Q. Have you ever taught military command structure and

20 command responsibility to officers of any military service?

21 A. Yes.

22 Q. Have you ever studied in the United States?

23 A. Yes.

24 Q. Where and for what?

25 A. I studied at Fort Knox, State of Kentucky in the

1 United States. In the Armored School of North America from
2 July, 1961 to July, 1962.

3 Q. What rank were you at the time?

4 A. I was a major.

5 Q. Where did you receive your undergraduate studies?

6 A. I went to the National Military College in Argentina
7 and I went the to the post graduate military school where I
8 became general staff officer. The Army also sent me to
9 the -- to study economics at the University in Buenos Aires
10 where I got a degree in programming and economic
11 development.

12 Q. Can you tell the ladies and gentlemen of the jury
13 which courses you took at the Superior War College that
14 would have relevance to your testimony today?

15 A. Well, basically we studied how to establish basic
16 military structures in military establishments, how they
17 should function in accordance with international as well as
18 national law, and what the obligations are of the
19 commanders at the highest military levels in carrying out
20 the high and very important responsibility of the -- the
21 state gives them in those commands.

22 Q. Sir, have you ever taught at the National War College
23 in Argentina?

24 A. I was professor at the National War College of
25 Argentina for 14 years and I was also a professor at the

1 Superior War College and I also taught courses at the
2 Superior Naval College.

3 Q. Who were you teaching at the National War College?

4 A. The National War College is the Superior War College
5 of Argentina, and the students are already colonels, Navy
6 captains, and Air Force commodores.

7 Q. What percentage of your former students who were
8 colonels, Navy captains, and commodores in the Air Force
9 are now generals, admirals or brigadiers in the Argentine
10 military?

11 A. You can estimate 45 to 50 percent.

12 Q. The United States has a National War College. What is
13 the -- how is the function of the Argentine National War
14 College similar to or different from the United States
15 military's National War College?

16 A. Yes, they are similar. They are concerned with issues
17 at the highest levels of military science in their country.

18 Q. At the Argentine National War College, what courses
19 did you teach colonels, Navy captains and Air Force
20 commodores that would be relevant to your testimony today?

21 A. I was a major professor at a subject entitled national
22 defense.

23 Q. And what did national defense include?

24 A. The structure -- national structure in terms of
25 national defense takes the national military defense

1 structures and establishes how the command structure should
2 work. It establishes what the obligations are of the
3 superior officers in those terms as well as it establishes
4 relatively obligations of the superiors in how to maintain
5 discipline and functions for national defense.

6 Q. Why is it important for military to have a command
7 structure?

8 A. Well, it is very important. As we said, the state
9 puts in the hands of commanders an enormous amount of
10 power, and that is not at the disposal of the civilian
11 population. And, therefore, very strict norms of behavior
12 have to be set to govern superiors and rigidly established
13 boundaries that cannot be exceeded in the exercise of
14 command. And those boundaries that must not be exceeded
15 are set by national law as well as military statute.

16 And should command not be carried out in a disciplined
17 and orderly manner, as well as, of course, obedience on the
18 part of the subordinates within this legal framework, that
19 would make an armed force, an armed body into a band of
20 armed criminals with neither moral nor ethical boundaries.

21 Q. May I call you Professor Garcia?

22 A. I have been a professor for 14 years, I taught in 14
23 different universities in Argentina regarding this subject
24 and others.

25 Q. Okay. Professor Garcia, let's go back for a minute to

1 your role as a military commander, as a colonel. How many
2 men did you command?

3 A. I was in charge of a calvary regimen. I had
4 approximately 2500 men.

5 Q. Okay. Were there lieutenant colonels, majors,
6 lieutenants, all the way down the hierarchy?

7 A. Yes. This whole military structure, two lieutenant
8 colonels, five majors, eight captains. Between first
9 lieutenants, second lieutenants, I had about 60 officers,
10 maybe 300 non commissioned officers, and the rest, of
11 course, were enlisted men.

12 Q. Professor Garcia, what matters are you here to offer
13 your expert opinion about?

14 MR. KLAUS: Objection to the form of the
15 question.

16 THE COURT: I don't think it suggests an answer.
17 I will permit that question.

18 THE WITNESS: Yes, I am going to try to explain
19 how a command structure should work, what the command
20 structures are, what the relative dependencies are which
21 make it work, what are the duties and obligations of
22 superiors, what the duties and obligations of subordinates
23 are, how the chain of command should work, how military
24 discipline should work, and how an permanent information
25 chain should work permanently between command and

1 subordinates.

2 BY MR. GREEN:

3 Q. Could you explain -- I am not sure I understood the
4 translation.

5 Could you please explain the role of information
6 flowing up and down the chain of command in any kind of
7 military chain structure?

8 A. Yes. It is a basic function of these structures
9 through which superiors issue orders and through them they
10 communicate their intentions, their decisions and at the
11 same time from the lowest level they receive up to their
12 level whatever questions, whatever needs are those of
13 people who are under them and that acts as a lubricant so
14 the organization will function with no problems and with no
15 friction.

16 Q. Professor Garcia, have you ever served as a military
17 expert -- military command structure expert in the past?

18 A. Yes.

19 Q. When was the first time?

20 A. The first time was in 1984 in the Republic of
21 Argentina.

22 Q. What kind of case was that?

23 A. It was a trial the government of Argentina instituted
24 against the commanders of military Junta during the dirty
25 war in Argentina from 1978 through 1983.

1 Q. What was the dirty war?

2 A. The dirty war was the effort -- illegal effort on the
3 part of the military to take civilian power in Argentina
4 during that period, a system where the military would
5 persecute civilians for their ideas, which persecution
6 didn't end without act of violence, rather it included
7 kidnappings, torture, murder and all kinds of actions
8 against the dignity of the person.

9 Q. What kind of court was that, military court or
10 civilian court?

11 A. Civil court.

12 Q. And who were the people charged in that case?

13 THE COURT: Let's move on to this case if we can.

14 BY MR. GREEN:

15 Q. What was the subject matter of your testimony in the
16 Argentine case?

17 THE COURT: Let's stay with the issues of this
18 case if we might.

19 MR. KLAUS: Your Honor, we stipulate he is an
20 expert on command structure.

21 THE COURT: All right. You may proceed.

22 BY MR. GREEN:

23 Q. What was the next time you testified as a military
24 command expert?

25 THE COURT: Let me stop you for a minute.

1 Defense stipulated the professor is an expert and able to
2 testify. Let's move to testimony.

3 MR. GREEN: Your Honor, this involves El
4 Salvador.

5 THE COURT: Okay. Let's move to testimony about
6 this case.

7 BY MR. GREEN:

8 Q. Professor Garcia, did you ever become familiar with
9 the El Salvadoran armed forces command structure?

10 A. Yes.

11 Q. And when was that?

12 A. The first time was in El Salvador in 1991.

13 Q. And what role did you play in that case?

14 MR. KLAUS: Objection; relevancy.

15 THE COURT: Sustained.

16 BY MR. GREEN:

17 Q. In learning about -- what did you learn about the El
18 Salvadoran armed forces command structure in that case?

19 THE COURT: Wait a minute. Let me stop you for a
20 minute. We will not talk about any other cases. You have
21 a right to go into the credentials of the witnesses, but
22 let's avoid other cases if we might, whether Argentina or
23 anyplace else.

24 BY MR. GREEN:

25 Q. Professor Garcia, you have been asked to provide

1 expert testimony in this case. What were you asked to do?

2 A. I was asked to establish how the command structure of
3 the armed forces of El Salvador worked during the period
4 between 1979 and 1983, to determine the responsibility
5 stipulated by the laws of the country as well as military
6 regulations, to observe how the armed forces of El Salvador
7 were organized in accordance with the laws current or in
8 force at the time, how it actually and in reality
9 functioned, what the duties of all of the military officers
10 at all hierarchal levels were, what they were supposed to
11 know, what did they actually do, and lastly, how the legal
12 military system worked throughout the period in question.

13 Q. Did you also evaluate what corrective actions were
14 taken or could have been taken by superiors when their
15 subordinates did not act according to the norms established
16 by superiors?

17 A. Yes. That is included in the previous point I
18 mentioned, which are what other duties, or what were the
19 duties of superiors as pertains to the compliance as to
20 what did they actually and in fact do.

21 Q. Did you produce any reports in preparation for your
22 testimony here?

23 A. Yes.

24 Q. Which reports?

25 A. Yes. I started with the political Constitution of the

1 Republic of El Salvador which sets forth the fundamental
2 basis for national defense. Then I took the Army ordinance
3 for the period, the Code of Military Justice, the
4 procedural penal code of El Salvador. I also took into
5 account the reports that were current at the time in
6 question from different organizations to include the United
7 Nations, Organization of American States, with a special
8 interest on the way human rights may or may not have been
9 violated against the citizens of this country.

10 I also took into account other reports such as those
11 produced by United States Ambassador for the period. I
12 also took into account reports by members of Congress of
13 the United States of America who visited El Salvador and
14 were able to observe all types of events.

15 I also studied special reports created by
16 organizations involved in the protection of human rights,
17 such as those by Amnesty International, also the report
18 ordered by the United Nations on the situation of civil war
19 in this country, the periods between 1980, 1992.

20 I also refer to sources friendly as may be the reports
21 generated by other agencies, as well as by other reports
22 generated by other organizations involved with human
23 rights -- interpreter corrects himself -- organization for
24 human rights in El Salvador among others.

25 Q. Did you review any other international treaties?

1 A. Yes.

2 Q. Which ones?

3 MR. KLAUS: Objection as to relevancy.

4 THE COURT: I beg your pardon?

5 MR. KLAUS: Objection as to relevancy. He is a
6 command structure expert, not a human rights expert.

7 THE COURT: I will permit that to the extent that
8 it is relevant, and, of course, counsel needs to show that
9 it is relevant.

10 MR. GREEN: Let me step back a second.

11 BY MR. GREEN:

12 Q. Professor Garcia, when you were teaching command
13 structure and command responsibility at the National War
14 College in Argentina, and in other military training
15 programs in Argentina, did you consider international
16 treaties on human rights?

17 THE COURT: Let me stop you for a minute so you
18 understand the basis of my ruling.

19 It must be established that the information
20 relied upon must be of a type that is reasonably relied
21 upon by all experts in that particular field.

22 MR. GREEN: I --

23 THE COURT: I wanted you to understand the basis
24 of my ruling. The first is the general, specific premise
25 that is information generally relied upon by experts in

1 the field, and then in fact Professor Garcia did himself
2 look at it and relying upon it in arriving at his expert
3 opinion.

4 BY MR. GREEN:

5 Q. Professor Garcia, do you and other experts on military
6 command structure and command responsibility consider or
7 rely upon international treaties on human rights in
8 teaching or writing about command structures and command
9 responsibility?

10 A. Yes, it is basic and fundamental. And all of this
11 begins to take shape based on the international Geneva
12 conventions. Let's start by setting out norms for military
13 officers in order to humanize the war efforts. To avoid
14 abuses not only against people who have nothing to do with
15 the conflict, but also for those who are participating in
16 the conflict become prisoners, surrender or are injured.

17 This started for major conflicts such as wars between
18 nations, but since after that wars became internal and took
19 place between natives of one given country, Geneva had to
20 create additional protocols to protect inhabitants of one
21 single country who were confronting each other.

22 This is seen after the Second World War where the
23 world became witness to the atrocities committed by the
24 Nazis in Europe and the Japanese in the Far East, when new
25 elements and new treaties are generated that regulate

1 relations between people under these circumstances.

2 The first one is the famous treaties of London known ✓
3 as -- it is known because it tried all of the German war
4 criminals, which sets forth a new series of norms to
5 protect the rights of innocent persons as well as those of
6 the combatants. It is also known commonly as the Treaty of ✓
7 Nuremberg. ✓

8 After the end of the war we also have the Tokyo
9 treaties where also people are tried for abuses both
10 against civilians as well as combatants, and their final
11 objective was when it comes to that enormous fire power
12 that we military people own. It was so that the people who
13 aren't involved in the armed conflict, to prevent them from
14 being assassinated, raped and subjected to all types of
15 torture.

16 Q. Professor Garcia, could you slow down a little bit?

17 A. These treaties were signed by all nations. El ✓
18 Salvador also signed these treaties, not only the Geneva ✓
19 convention and protocols but the Nuremberg and Tokyo
20 treaties and handed them responsibility of protecting ✓
21 individuals against all types of -- against all types of
22 abuses that may be perpetrated by those who were in power.

23 These treaties were signed by all countries of the
24 world as well as by El Salvador. This is why I tell you
25 the international treaties establish basic and fundamental

1 processes for the appropriate management of a command
2 structure. And there is no military school in the world
3 that doesn't start out by teaching, by starting with the
4 cadets and more importantly with the officers, they start
5 by teaching them what the international laws are that
6 regulate any military procedure in the face of such a
7 violent act that is war.

8 And they try to prevent me from going beyond that
9 framework of protecting human rights, the rights of peoples
10 which are basically a very important subject that would
11 allow me to explain the functioning of a command structure
12 here.

13 Q. Professor Garcia, do these principles set forth in
14 Nuremberg and Geneva, and the other treaties you mention,
15 applied both in times of war and in times of peace?

16 A. They are of obligatory and permanent application at
17 any period of time.

18 Q. And do they apply to both civilians and soldiers?

19 A. For all involved, both civilian as well as military
20 inhabitants.

21 Q. Did you also review the American Convention on Human
22 Rights?

23 A. Yes, within the international treaties I also
24 evaluated the Inter-American Human Rights Treaty of which
25 the republic of El Salvador is a signatory or has signed it

1 as well as covenants established by United Nations for the
2 protection of human rights and later on those that are
3 included in Salvadoran law and Salvadoran military
4 regulations for the period in question.

5 Q. Professor Garcia, do you know Colonel Mejano?

6 A. Yes.

7 Q. And who is Colonel Mejano?

8 A. Colonel Mejano was a member of the revolutionary
9 government Junta that sets itself up in the government of
10 El Salvador in 1979.

11 Q. Did you speak with him concerning the subject matter
12 of your testimony today?

13 A. I have spoken to him not only on the subject matter of
14 my testimony for today, but he also became a very important
15 point of reference for me in another expert testimony
16 assignment I had in El Salvador in 1991, as well as in the
17 formation of an association of military officers --

18 MR. KLAUS: Objection, objection; hearsay.

19 THE COURT: Let me stop for a minute. Ladies and
20 gentlemen, you've noticed throughout the trial that when
21 people have been what we call fact witnesses, in other
22 words, if they come to court and tell you what they say
23 they have seen and they have heard, they are not allowed
24 to tell you what other people have said. And the whole
25 reason for that is that the other person is not here, the

1 other person can't be cross examined.

2 Now, the rules, if you will, are a little bit
3 looser when you have someone who is coming to testify as
4 an expert, because experts are allowed to rely upon the
5 type of information that experts in that field generally
6 rely upon. However, when someone has relied upon other
7 information, that's not offered for the truth of the
8 matter asserted, but it is simply to allow you to know
9 what the witness has relied upon in arriving at his
10 opinion.

11 It is the witness' testimony regarding his
12 opinion that is being offered into evidence, so you can --
13 you are able to know what he has relied upon, but only for
14 the purpose of evaluating his opinion, that is to decide
15 whether the jury will accept the opinion testimony of the
16 witness.

17 Okay.

18 So, I think the question only, so far, is, have
19 there been discussions, and the answer is yes.

20 So let's go on now with the next question.

21 Actually maybe this is an appropriate time to
22 stop, because we are getting to the lunch hour, and I
23 would like to have a chance to talk with counsel for a
24 minute.

25 Ladies and gentlemen, why don't we stick to the

1 schedule we have been following. Why don't we plan to
2 take a break and let's plan to come back at quarter of two
3 and we will come back and continue on with the professor's
4 testimony at that time.

5 So let's take a break until quarter of two.

6 (Thereupon, the jury retired from the courtroom.)

7 THE COURT: Professor, let me allow you to step
8 down. We will come back at quarter of two and come back
9 to your testimony.

10 Thank you.

11 Ladies and gentlemen, please be seated for a
12 moment.

13 Mr. Green, are you moving now beyond this into
14 substantive testimony?

15 MR. GREEN: Yes, Your Honor. The next area of
16 questioning will be what was the military command
17 structure in El Salvador.

18 THE COURT: Okay. I wanted to check with you.
19 You do not intend to go into conversations that the
20 witness had with Colonel Mejano?

21 MR. GREEN: No, except I intend to elicit
22 testimony where basically when Professor Garcia reviewed
23 the documents, and learned what he had learned in the 1991
24 Jesuits trial, he had some additional questions to try to
25 understand how different provisions of Salvadoran law

1 interacted with others in terms of the actual, how the
2 command structure actually worked, how it functioned in
3 reality.

4 THE COURT: Can you give me an example what it is
5 you are talking about?

6 MR. GREEN: Well, there is a particular question
7 about what happened to Colonel Mejano himself. One of the
8 issues here is effective control. When this general,
9 General Garcia, decided to try to defuse the reformist
10 opposition, he did so by utilizing a number of
11 discretionary tools that he had within his control as
12 Minister of Defense, within his powers of Minister of
13 Defense, such as transferring people to remote outposts,
14 sending them overseas. One of the things we hope to
15 establish is with respect to the death squad members who
16 are operating within the Army, National Guard or National
17 Police, even if General Garcia did not have absolute proof
18 that they were, there was enough smoke to justify him in
19 using some of the discretion that he actually had,
20 transferring people to a remote outpost, and that is what
21 General Garcia did with respect to his political
22 opponents.

23 THE COURT: Let me make sure I understand what
24 you are saying.

25 One of the things you would like to bring out is

1 that the witness having studied the powers of the Minister
2 of Defense and the practices, perhaps associated that
3 post, that in addition to the normal types of promotions
4 one thinks of, or assignments perhaps throughout the
5 country, you are suggesting that the Minister of Defense
6 had some authority to -- and I think we have had some
7 testimony about this earlier with respect to Major
8 D'Aubuisson, whether he should be posted as the military
9 attach, in some foreign country.

10 And you are saying that is one of the
11 authorities, or one of the powers that was reposed in the
12 Minister of Defense?

13 MR. GREEN: Yes.

14 THE COURT: Is that something written in
15 documents, or one of the powers that is a more traditional
16 power, but nonetheless is part of the authority of the
17 Minister of Defense?

18 MR. KLAUS: We stipulate --

19 MR. GREEN: It is a more traditional power, Your
20 Honor.

21 THE COURT: And so you are saying for the witness
22 to be able to testify about this, he spoke with Colonel
23 Mejano to gather some information about the power of the
24 Minister of Defense?

25 MR. GREEN: Number one, he will say it is a

1 traditional power, and number two, that was an actual
2 power that was exercised by General Garcia in trying to
3 dissipate or spread out the reformist officers who were at
4 least nominally led by Colonel Mejano. As Your Honor may
5 recall --

6 THE COURT: Let me tell you what my concern is,
7 and I think we ought to be careful here.

8 I am looking at a series of cases, for instance
9 United States versus Rollins, 862 F.2d, 1282, a 1989
10 decision of the Seventh Circuit, or United States versus
11 Affleck, A-F-F-L-E-C-K, 776 F.2d, 1451, a 1985 decision of
12 the Tenth Circuit, and there are others.

13 As I started to mention before, an expert is
14 allowed to come to court and testify, and when one is
15 looking at what the expert has relied upon, the Tenth
16 Circuit has pointed out information relied upon by a
17 particular expert must be the type reasonably relied upon
18 by all experts in a particular field, and that is what we
19 were talking about whether an expert in military command
20 structure would normally look at and study international
21 treaties.

22 The second item, information relied upon by the
23 expert must be used in forming the expert's opinion. In
24 other words, he really was to have looked at that.

25 And third, the information relied upon by the

1 expert to form his opinion need not be admissible in
2 itself.

3 I think we need to be very careful, though, when
4 someone in the process of forming expert opinion has
5 looked at bodies of knowledge that would generally have
6 been looked at and probably has gone a step, too, beyond
7 that. And it is kind of like dealing in field research.
8 When you study presence, you go out and see what is really
9 happening.

10 It seems to me if you look at the command
11 structure, you look at the written documents, and I
12 suspect every country has traditions, norms, and customs
13 that are very significant and you can't learn about that
14 by just reading material. You need to go out to the
15 officers involved in command structure to see how it
16 works.

17 My concern is when we go beyond that and getting
18 into a specific officer what may have happened
19 specifically to him, I think we need to be very careful as
20 we get far down that line so this doesn't become a
21 pipeline for putting in what would otherwise be
22 inadmissible hearsay.

23 So I ask you to guard your process in that. I
24 think we are fine where we are, and that is why I became a
25 little bit concerned, especially when we started getting

1 into the issues of the Argentine trials. I thought they
2 were not relevant or maybe some of the other trials that
3 have existed. I ask you to be careful in terms of how you
4 are phrasing your questions.

5 MR. KLAUS: If I may, Your Honor, we will
6 stipulate that he had the power to transfer people, and he
7 did transfer people. We are going to have a problem if he
8 tries to inquire as to his motives for transferring
9 people. He is not a political expert, he can't begin to
10 pretend to know the reasons why General Garcia transferred
11 specific officers to specific posts. And for him to
12 speculate on that goes way beyond the scope of his
13 expertise.

14 And that is a dangerous area. They are going to
15 mix up his expertise as to his political opinions versus
16 his opinions on command structure.

17 THE COURT: I will allow the Plaintiffs to decide
18 obviously whether they want to accept your stipulation. I
19 don't think a party by offering to stipulate can
20 effectively prevent the other side from developing the
21 body of knowledge. I think your point, though, is well
22 taken.

23 Someone may well be an expert on the powers of
24 the commander, but when you get into why was a particular
25 command decision made, why does someone, for example, the

1 decision or consideration of whether Major D'Aubuisson
2 should be taken out of the country at a particular time.
3 There are probably lots of reasons that go into that, and
4 one needs to be very careful when we are getting into
5 something that may be beyond, you know, an expert's
6 opinion, beyond something upon which an expert can form an
7 opinion.

8 So let's take this step by step. As I understand
9 it, what we have is a person who by background, teaching
10 experience, by study of international treaties, and so on,
11 is talking about the role and responsibility and command
12 structure, what commanders are supposed to know and what
13 they would do in informing themselves, in making decisions
14 and what they are supposed to do when allegations of clear
15 violations of treaties and human rights abuses come to
16 their attention. I assume that is where we are going,
17 what is expected of commanding officers in order to
18 fulfill their command responsibilities.

19 Let's take it step by step. I have a feeling it
20 might be easier for everybody, Mr. Green, if you ask the
21 questions. I know the professor, and I realize, by the
22 way, it is difficult when we are dealing from one language
23 to another, there is a tendency for someone to go ahead
24 and speak. I think if the questions are more direct, I
25 think they will lead the witness and probably avoid some

1 of the concerns that are voiced.

2 MR. GREEN: I will try to ask slightly more
3 leading questions.

4 THE COURT: I am not suggesting you want to ask
5 leading questions, I am suggesting you ask more questions.
6 That is, if you ask the question, Professor Garcia will
7 respond and stay focused and take him into what area you
8 are taking him in. Let's go step by step.

9 I realize it is difficult when we are having
10 everything translated, particularly when you have an
11 expert who is used to speaking, suggesting this is an area
12 you would like to talk about as opposed to a specific
13 question. Maybe if you spoke to the professor and
14 suggested that he also wants to limit himself to your
15 question, understanding that you are going to follow-up
16 with another question and another after that.

17 MR. GREEN: Yes, Your Honor.

18 One matter briefly. In terms of his expertise,
19 all the jury knows is that he testified in Argentina, and
20 he is testifying now, and I -- in light of Your Honor's
21 earlier ruling, I don't want to go into the details of the
22 case in Argentina or --

23 THE COURT: Let me stop you for a minute. I want
24 to make sure you understand my ruling. I am not limiting
25 you in qualifying him as an expert. You have a right to

1 bring out he testified in 20 trials or taught for 14
2 years, or held this rank or that. Where I think we cross
3 the line is where we start getting into the details and
4 allegations of those trials.

5 Certainly the situation in Argentina, while there
6 may be some similarities regarding the allegations, they
7 are all have specific on country by country, and I think
8 the potential for confusion outweighs any benefit. I want
9 to be clear in establishing a person as an expert, you
10 have a right to go in and establish the range of his
11 expertise, number of times he testified, and anything else
12 he may have done, things he has written or speeches he may
13 have given, national or international panels he may have
14 appeared before, things like that. Please don't feel
15 limited in any way in that regard.

16 MR. GREEN: I am very clear with Your Honor's
17 ruling with respect to Argentina, Italy and Spain, and
18 United Nations. There is one thing I was trying to
19 develop with him about he learned -- his first exposure
20 really to El Salvador command structure was in preparing
21 to testify in the case against the officers who were held
22 responsible for murdering the Jesuit priests in 1989.
23 That is when he developed his initial base of knowledge.

24 All I want to do is elicit some brief testimony
25 about that is where he first became exposed to command

1 structure in the El Salvadoran armed forces without going
2 into any details about the case.

3 THE COURT: I think we ought to avoid the case
4 and talk about the fact that he had an opportunity to
5 study this particular command structure because he was
6 apparently going to testify in it, and therefore, spent
7 time, you know, and certainly go into the amount of time
8 and whatever other activities he engaged in to familiarize
9 himself with the military situation in El Salvador. But I
10 think we need to be careful that we don't get into the
11 facts of particular cases for several reasons. There are
12 all kinds of potential pitfalls if we start doing that.

13 So I think the better way would be to see if we
14 could avoid the details of the cases without in any way
15 limiting questioning about the time he spent, and the
16 effort he expended to familiarize himself with a
17 particular military apparatus because I think, if you
18 will, the other side of that is the suggestion that
19 military command structures may differ from country to
20 country, and so the degree to which he did study a
21 particular country becomes very significant. That he is
22 just not operating off general principles, but trying to
23 verify those principles are in fact correct in El
24 Salvador. That is what pertains or they don't, and he
25 understands the nuances as to why they don't and what has

1 been substituted.

2 MR. GREEN: One last point concerning the prior
3 El Salvadoran case that was prosecuted in El Salvador, he
4 was tendered and certified as an expert in that case by
5 the government of El Salvador, at least by The Court in
6 that case, and I would like to bring that out.

7 THE COURT: Well, you know, you think about it.
8 It is a regular -- I see, you want to establish that the
9 entity trying to certify him was in fact the government?

10 MR. GREEN: Yes.

11 MR. KLAUS: That is fine, as long as he doesn't
12 get into --

13 THE COURT: When you think about it, it is
14 regularly established and usually a perfunctory question
15 when somebody comes in, have you testified as an expert,
16 yes, I have, how many times and what courts, so on, so
17 forth. I am not sure that goes too far beyond it.

18 You do get on thin ice when you get into what
19 party was offering you. Sometimes a party is not a
20 plaintiff expert, but they testify for the plaintiff as
21 well as the defendant. And the issue becomes well, who
22 hired you here. You see the thing where somebody brings
23 out, have you been retained by this law firm before, that
24 is similar. You want to establish it was the government
25 of El Salvador itself who sought to have him testify, I

1 don't think there is anything wrong with that.

2 MR. GREEN: To correct that, I think it was the
3 Jesuits who retained him, and The Court certified him as
4 an expert.

5 THE COURT: I see. It is simply a party retained
6 him, and having been retained, the court accepted that he
7 was qualified by background, experience and training?

8 MR. GREEN: Right. And I will not get into a
9 nuance of the Salvadoran justice system, but he became --
10 experts have a different role.

11 THE COURT: Yes, yes, okay. All right. Anything
12 else we need to talk about?

13 MR. KLAUS: No. I don't have a problem with
14 bringing up that he testified as an expert in El Salvador
15 in a case regarding command structure and responsibility
16 in 1991. But beyond that --

17 THE COURT: Well, again, I think if we ask
18 specific questions -- and that is the other reason for
19 specific questions, if the questions are specific, and if
20 you do have an objection, you then have the opportunity to
21 raise it when the question is asked. That is another
22 reason to adhere to that format.

23 Okay. Let's take a break. We are going to
24 resume quarter of two and continue on with the direct
25 examination.

1 (Thereupon, a recess was taken at 12:45 p.m.)

2 (Thereupon, trial reconvened after recess at 1:45
3 p.m.)

4 MR. GREEN: Your Honor, one moment. A minor
5 scheduling.

6 The good news is I think we are streamlining
7 things a bit. The bad news is, I think we anticipated 30
8 to 40 minutes more from Mr. McClintock, and in light of
9 Your Honor's ruling, we were not able to get into that.

10 And in terms of Professor Garcia, I anticipated
11 probably 30, 40 minutes more of discussion of some of the
12 other cases which I can't get into now. The reality is I
13 expect to conclude with Professor Garcia in an hour to an
14 hour and a half which would be followed by, I don't know
15 how long cross examination is, but frankly, we will have
16 run out of witnesses --

17 THE COURT: Do you have a sense of the cross
18 examination, Mr. Klaus?

19 MR. KLAUS: Probably a half hour.

20 THE COURT: Is there any other witness we could
21 move to?

22 MR. GREEN: We just had a witness arrive from
23 Washington. To be perfectly candid, we could put her up,
24 and waste the jury's time, but we could streamline her
25 considerably if we had the night to prepare her.

1 THE COURT: Why don't we see where we are. I
2 think we need to use the jury's time. Let's see how we
3 are going. If there is somebody else, that would be
4 helpful.

5 MR. GREEN: May I confer with my co-counsel?

6 Your Honor, our other expert who has arrived has
7 been out of the country for some time now. She is I think
8 on a different time zone. We could begin with Professor
9 Karl and just begin her and go --

10 THE COURT: Background, expertise, things like
11 that. Why don't we wait and play it by ear. If we get
12 toward the end of the afternoon, we can stop. If we are
13 mid-afternoon we need to forge ahead if we can.

14 MR. GREEN: I wanted to bring it to Your Honor's
15 attention.

16 THE COURT: Okay.

17 MR. GREEN: Should I have Professor Garcia?

18 THE COURT: Yes. Thank you.

19 (Thereupon, the jury returned to the courtroom.)

20 THE COURT: Ladies and gentlemen, please be
21 seated. When we stopped for the luncheon break, we were
22 in direct examination, so I will turn back to Mr. Green
23 and allow him to proceed.

24 Mr. Green.

25

1 BY MR. GREEN:

2 Q. Professor Garcia, have you testified as an expert on
3 military command structure and command responsibility in
4 any countries other than Argentina?

5 A. Yes.

6 Q. Which countries, which jurisdictions?

7 A. In El Salvador, in Haiti, and in Italy.

8 Q. And in the Haitian case, who were you an expert for?

9 A. I was appointed military expert by the United Nations
10 and the Organization of American States in a combined
11 fashion to assist the judge who was trying the case of
12 massacre that was called the Massacre of Raboteau, the
13 interpreter would spell for the record R-A-B-O-T-E-A-U,
14 Raboteau.

15 That was attributed to the dictatorship of General
16 Sadras (phonetic) in Haiti, as well as to other members of
17 the --

18 MR. KLAUS: Objection; relevancy.

19 THE COURT: Let's go forward if we can. What
20 would be the next question?

21 BY MR. GREEN:

22 Q. And with respect to the other case that you testified
23 as an expert in El Salvador, were you accepted as an expert
24 witness on military command structure in that case?

25 A. Yes, yes. I was in the courtroom and I provided

1 testimony.

2 Q. One minor detail here, Professor Garcia, are you in
3 any way related to General Garcia, the Defendant in this
4 case?

5 A. No. No. It is the first time I've seen him.

6 Q. Professor Garcia, before lunch you testified about
7 having reviewed Salvadoran law and military regulations in
8 order to evaluate El Salvadoran armed forces command
9 structure. You also testified that you spoke with Colonel
10 Mejano. Why did you speak with Colonel Mejano?

11 A. I spoke to Colonel Mejano because I wanted to be sure
12 that my studies of the command structure in El Salvador and
13 its way of functioning in the years 1979 through 1983 were
14 a exact reproduction of the reality as well as about the
15 particularities that took place around that time.

16 Q. Professor Garcia, what was the military command
17 structure in El Salvador in the period 1979 to 1983?

18 A. If you will allow me, I will assist my memory by using
19 a chart that shows the organizational chart of the armed
20 forces, national armed forces.

21 MR. GREEN: May I have a moment?

22 Mr. Stern, I believe there is a pointer on the
23 table.

24 THE WITNESS: In accordance with the law, this
25 was the organizational chart of the armed forces of El

1 Salvador in the year 1979. Based on the Salvadoran
2 Constitution, the commander in chief of the armed forces
3 would be the President of the republic. The President of
4 the republic didn't exist in 1979 because there was a
5 revolutionary government Junta that managed power in that
6 country at that time. So instead of the President, it was
7 the Junta that had the -- that were the commanders in
8 chief for the armed forces.

9 The Constitution considers that among its
10 articles that the President of the republic in the event
11 of war or of an internal war, as a result of the fact that
12 usually it is a civilian who holds the position of
13 President of the republic. He may delegate upon an
14 officer who calls the rank of general the position of
15 commander general of the armed forces. This would be a
16 level, shall we say, that the President creates in order
17 to have a relationship with the entire armed forces. He
18 would be the connection.

19 The true commander of the armed forces is the
20 Minister of Defense, to whom the law assigns all
21 responsibilities of creation and management of the armed
22 force and this line denotes the relationship of command
23 and dependency.

24 The relationship of command and dependency
25 continues below the Minister of Defense with an

1 organization known as the general staff of the armed
2 forces. This is a general staff just like any other
3 general staff around the world which holds within it a
4 personnel department known as G-1 and intelligence
5 components known as G-2. Another one for operations known
6 as -- operations is G-3, logistics component known as G-4.
7 And it also has a component known as G-5 which deals with
8 general matters or civilian matters depending on the
9 organization.

10 This organization has a commander which is the
11 commander of the general staff, and it also has a
12 secretary in command.

13 This organization's mission is to transform or
14 receive the orders as issued from the general command
15 through the Minister of Defense and to convert them into
16 orders that go to the subordinate commands, and they look
17 over or oversee the compliance of those orders.

18 The general staff of the armed forces following
19 this line, the Commander General, the Minister of Defense.
20 Of these three, depend these units, the Army, which were
21 deployments or garrisons. The Air Force, the National
22 Navy, the National Guard, which is a militarized security
23 force. The National Police which also depends on the
24 general staff of the armed forces, and the known Treasury
25 Police.

1 All of these elements represent the troops, the
2 soldiers, those in the field. These are the organizations
3 for execution. They execute the orders that come from the
4 President, Minister of Defense, and the Commander of the
5 general staff. Holding this position was the gentleman at
6 that time, Colonel Garcia. At this post the then Colonel
7 Vides Casanova. These are the two positions of conduction
8 and responsibility that each had at that time.

9 Q. In terms of the military command structure, and the
10 military hierarchy, was there a separation between the
11 activities of the military forces, and those of the
12 security forces?

13 A. No, they were all militarized core.

14 Q. And who were responsible for all of those sectors?

15 A. They all depended on the Minister of Defense.

16 Q. Would this particular command structure be considered
17 unusual?

18 A. No.

19 Q. Professor Garcia, you testified that this was the
20 command structure that was on paper as reflected in
21 Salvadoran law?

22 A. Yes.

23 Q. And that the Commander in Chief was the President of
24 the republic?

25 A. That is what the law said, but in the absence of the

1 President, it was the revolutionary Junta. ✓

2 Q. Who, based on your expert opinion, had the real power,
3 real military power in El Salvador in 1979?

4 MR. KLAUS: Objection. Goes beyond the scope of
5 his expertise. Calls for a political opinion.

6 MR. GREEN: I withdraw the question.

7 THE COURT: All right.

8 BY MR. GREEN:

9 Q. You testified that you reviewed various Government
10 cables.

11 THE COURT: Could I stop you for a second so I
12 understood the last question?

13 Professor Garcia, in saying you reviewed
14 governmental cables, are those internal cables to the
15 government of El Salvador?

16 THE WITNESS: I don't understand the question.

17 THE COURT: Let me go back to Mr. Green, then.

18 BY MR. GREEN:

19 Q. I am going to ask some other questions.

20 THE COURT: Okay, all right.

21 BY MR. GREEN:

22 Q. Who was in the revolutionary government Junta at the
23 time?

24 A. There were two colonels and three civilians.

25 Q. With respect to the two colonels who were in the

1 governmental Junta at the time, were either of them field
2 commanders?

3 A. At that time they were not. They were colonels, they
4 only held hierarchal position, they did not exercise
5 effective command of the troops.

6 Q. Who was the -- who was in the Comandancia Armada?

7 A. The revolutionary government Junta appointed a
8 position, Colonel Gutierrez, G-U-T-I-E-R-R-E-Z.

9 Q. Was Colonel Gutierrez an engineer?

10 MR. KLAUS: Objection. Beyond the scope of his
11 knowledge. Relevancy.

12 THE COURT: I will overrule the relevancy
13 objection. Do you know of your own knowledge whether
14 Colonel Gutierrez was an engineer by background? Have
15 your studies shown you that?

16 THE WITNESS: Yes. I studied Colonel Gutierrez
17 CV as well as Colonel Mejano's CV as well as the gentlemen
18 here present.

19 Yes, he was an engineer.

20 BY MR. GREEN:

21 Q. Do you as a professor in command structure and
22 responsibility know what is the significance of having an
23 engineer in the position of Comandancia General de la
24 Fuerza Armada?

25 A. He has no capacity to exercise effective command of

1 the troops.

2 MR. KLAUS: Objection. Beyond the scope of his
3 knowledge, speculation. No predicate, no foundation.

4 THE COURT: I will overrule that objection. You
5 can handle this by cross examination.

6 You may proceed.

7 THE WITNESS: I was saying he did not exercise
8 the command over troops, combatant troops. He was a
9 specialist in engineering, therefore, his job was more as
10 a liaison between Minister of Defense rather than to
11 exercise --

12 MR. KLAUS: Objection; no foundation.

13 THE COURT: I will overrule that. You may
14 proceed.

15 THE WITNESS: -- rather than exercise effective
16 command.

17 BY MR. GREEN:

18 Q. Have you reviewed any United States government cables?

19 A. Yes.

20 Q. Have you reviewed any United States government cables
21 that indicate who had the real military power in El
22 Salvador at that time?

23 MR. KLAUS: Objection; calls for a hearsay
24 answer.

25 THE COURT: I sustain the objection.

1 BY MR. GREEN:

2 Q. Did you review any United States government cables
3 that addressed who actually exercised military command in
4 El Salvador from 1979 to 1983?

5 MR. KLAUS: Objection; same grounds.

6 THE COURT: Same ruling, subject to the ruling I
7 made earlier today. You need to establish that as a
8 predicate.

9 MR. GREEN: Okay.

10 BY MR. GREEN:

11 Q. Professor Garcia, in evaluating how a military command
12 was structured on paper versus how it functioned in
13 reality, do you and other experts rely on government cables
14 and other contemporaneous documents?

15 A. Yes.

16 Q. Based upon your review of United States government
17 cables --

18 THE COURT: Let me stop you for a minute. You
19 asked the general a question regarding governmental
20 cables. You now need to address the distinct and whether
21 there is a distinction between cables internal to the
22 government of El Salvador as opposed to cables of another
23 government, in this case, United States government,
24 whether those are materials that someone studying the
25 subject would look at.

1 BY MR. GREEN:

2 Q. Professor Garcia, with respect to the government
3 cables, I would like to direct your attention specifically
4 to United States government cables. Were the observations
5 of the United States government officials who were on the
6 scene in El Salvador at that time period --

7 MR. KLAUS: Objection to the form of the
8 question; leading.

9 THE COURT: Let me hear the entire question if I
10 might first.

11 BY MR. GREEN:

12 Q. As a military command structure expert, do you and
13 other military command structure experts commonly rely on
14 government cables such as those from the United States that
15 evaluate who was exercising real command in determining who
16 was evaluating -- who was exercising real command?

17 A. Yes, as well as upon other things.

18 Q. What other things did you also consider and do other
19 military command structure experts consider in evaluating,
20 forming opinions as to who is exercising real command?

21 A. Among other things, upon the real behavior as
22 evidenced by documents from the time period generated by
23 the government of El Salvador and testimony of people who
24 were eyewitnesses, and some of them protagonists at the
25 highest level on information that comes not only from

1 reports from the Embassy of the United States, but also
2 from the intelligence services of the United States of
3 material that has been declassified, and placed available
4 to me at some given time, among other things.

5 Q. Professor Garcia, based upon your review of all that
6 information, based upon your understanding that Colonel
7 Gutierrez who held the position of commandancia general de
8 la Fuerza Armada, did you form an opinion who exercised
9 real command and control in El Salvador from 1979 to 1983?

10 MR. KLAUS: Objection; calls for an opinion not
11 based on sufficient facts.

12 THE COURT: I will overrule the objection. You
13 may proceed.

14 THE WITNESS: Yes.

15 MR. KLAUS: Also objection, based on none of
16 those documents mentioned in his expert report that he was
17 going to rely on for his opinion.

18 THE COURT: Let me see the report.

19 MR. GREEN: If I may approach.

20 THE COURT: Yes. I will overrule the objection,
21 and you may proceed.

22 Excuse me, for the record, let the record reflect
23 The Court has looked at a copy of the expert report that
24 was furnished in discovery in this case.

25 You may proceed.

1 THE WITNESS: What was the question?

2 BY MR. GREEN:

3 Q. Based on review of all of that information, you
4 indicated you formed an opinion as to who in the command
5 structure exercised military command over the subordinate
6 troops and forces in El Salvador from 1979 to 1983?

7 A. Yes.

8 Q. Who was that?

9 A. It was the Minister of Defense.

10 Q. General Garcia?

11 A. The current General Garcia who at the time was Colonel
12 Garcia.

13 Q. Professor Garcia, as a military commander, what kind
14 of information, what sources of information would you rely
15 upon in determining what troops under your command were
16 doing?

17 MR. KLAUS: Objection; relevancy as to what he
18 did.

19 THE COURT: I sustain the objection. Let me
20 allow Mr. Green to rephrase the question.

21 BY MR. GREEN:

22 Q. Professor Garcia, as a military command expert, what
23 kind of information would a military commander rely upon in
24 exercising his or her duties?

25 A. In the first place, whichever information comes from

1 my own command structure.

2 Second, if I am at the head of any of these
3 organizations, let's say, for example, as the Minister of
4 Defense, I receive information from the general staff of
5 the armed forces which it produces through its intelligence
6 component, the G-2, the obligation of which is to maintain
7 me permanently and constantly informed as pertains to all
8 kinds of events that may take place in my area of
9 responsibility.

10 In addition, anything that happens at this level
11 (indicating), these gentlemen who head each one of these
12 organizations, they have the obligation to inform of these
13 things to the general staff, which through the chain of
14 command proceeds to inform me of what is happening at each
15 place.

16 By the same token, let's say, for example, the
17 National Guard, whoever is at the head of this
18 organization, the National Guard, has a series of units
19 that respond to his command, and that are deployed in the
20 field throughout the territory of the country, that
21 maintain direct contact with the population. They are in
22 direct contact with a potential enemy if there were one to
23 exist, and each one of these all the way down to the last
24 soldier who depends or reports to him, reports through what
25 is known as his chain of command that informs the commander

1 of the National Guard who informs the general staff, who
2 lastly informs me.

3 I would throughout this entire structure and following
4 the same channels, I have all of those below me, I maintain
5 them informed, I do the returned trip. Not only of what I
6 know do I inform them, but also whatever I receive from the
7 presidency of the nation or the general command.

8 This is a continuous activity that keeps everyone up
9 to date as to what is taking place. Intelligence
10 information is a fundamental element for the correct
11 functions of any armed force. If I don't know what is
12 going on, I cannot make decisions and I cannot issue
13 orders. I cannot correct anomalies, and I never end up
14 having effective command.

15 And I cannot allow this to take place, because if I am ✓
16 a general or a colonel in charge of the entire armed force,
17 I can never say that I don't know what is going on because ✓
18 that is recognizing that my entire chain of command both on
19 the way down as well as on the way up has failed, and that
20 I have not made timely measurements or measures --
21 interpreter corrects himself -- measures to correct the
22 situation that will extract me from the situation of
23 ignoring everything or from finding out what people say or
24 from what newspapers say, or for whatever I am told by the
25 Embassy of XYZ country.

1 It is elemental in military command. This goes way ✓
2 beyond the task of an expert witness, this is a matter of
3 common sense. This is the rule that you even use when you ✓
4 are regulating your own family nucleus.

5 That would be the first part, which is to say, which
6 is to say information that comes from my own structure,
7 which should always be the most reliable. After that,
8 let's continue with this level here --

9 Q. What other information would you say the Minister of
10 Defense considers and relies upon in either forming
11 strategy or directing, supervising your troops?

12 MR. KLAUS: Objection. Not relevant what he
13 would do.

14 THE COURT: Let me ask Mr. Green if he would
15 please rephrase the question.

16 BY MR. GREEN:

17 Q. As a military command structure expert, what other
18 kinds of information should a military commander exercising
19 his duties under the command responsibility doctrine
20 consider and act upon?

21 A. We are using the case of Minister of Defense. We
22 first said that it is your own structure. Within that
23 structure there are specific intelligence organizations,
24 the permanent mission of which is to collect information of
25 all sorts concerning potential enemies on the terrain, on

1 your own troops, on the general activity within the zone of
2 operations where you are the commander.

3 These are the well-known intelligence elements of
4 whichever military organization has use and that generate a
5 daily, weekly or monthly report depending on the
6 regulations that I set forth from this position, and that
7 period depends or responds to the needs of the country
8 during a period of time, and this information alerts me in
9 a timely manner of things that could be damaging to my
10 command or my exercise of command.

11 And this allows me to take the preventative measures
12 to prevent this from falling apart. And that is why I
13 place this in second position. First is your structure,
14 and then is the specific intelligence organizations within
15 your unit.

16 Q. As a military command structure, should a military
17 information come from non military or security forces?

18 A. Yes, so long as they are reliable.

19 Q. What would be some examples of information that you
20 would receive from outside the military command structure?

21 A. I would say, for number one, I would say information
22 that comes from the United Nations organization that has
23 specific organizations that cover all of the countries of
24 the world, that generate reports specifically on human
25 rights situations in each one of those countries.

1 In addition to the United Nations, the Organization of
2 American States. In addition reports that come to me from
3 Embassies of those countries that are truly my friends.

4 Q. Would the United States back during that time have
5 been considered a friendly country to the country of El
6 Salvador?

7 MR. KLAUS: Objection; goes beyond the scope of
8 his expertise.

9 THE COURT: No. I will permit the witness to
10 answer that question.

11 THE WITNESS: Yes. In addition to the reports
12 coming from countries that are friendly, reports that come
13 from world wide organizations that denounce things that
14 are taking place in my country and that affect my orbit of
15 influence and responsibility. As well as that which comes
16 from the press, be it written, oral, televised which give
17 its daily reports. As well as from those recognized
18 persons in politics, religion and culture within my
19 country who may come to my office to tell me, look, this
20 is happening and that's happening. That's what I call
21 reliable information.

22 BY MR. GREEN:

23 Q. What about information that comes from acknowledged
24 Democratic parties within the country?

25 A. Yes. I have mentioned the relevant people in

1 politics, otherwise, yes.

2 Q. Okay. Have you read the letter of January 31, 1980
3 from the Christian Democratic party to the revolutionary
4 government Junta?

5 THE INTERPRETER: Counsel, please repeat the
6 date.

7 MR. GREEN: January 31, 1980.

8 THE WITNESS: Yes.

9 MR. GREEN: Your Honor, this document is already
10 in evidence, Plaintiffs' Exhibit 499.

11 THE COURT: Thank you.

12 MR. GREEN: If I could have Plaintiffs' Exhibit
13 499, R-3536 brought up on the screen, please.

14 Your Honor, I don't know if we need to dim the
15 lights. I am going to spend a few minutes on this
16 exhibit.

17 THE COURT: All right.

18 MR. GREEN: Highlight the date, addressee and
19 first paragraph.

20 MR. KLAUS: Objection; no proper predicate.

21 THE COURT: I think the question was whether he
22 had reviewed this letter.

23 MR. KLAUS: That was the initial question.

24 THE COURT: What is your objection?

25 MR. KLAUS: He is not qualified to comment on

1 this letter.

2 THE COURT: Let me hear the next question and I
3 will entertain an objection if there is one.

4 BY MR. GREEN:

5 Q. Professor Garcia, you testified as a military command
6 expert that in terms of information --

7 THE COURT: Let me stop you and ask counsel not
8 to ask a leading question.

9 BY MR. GREEN:

10 Q. Professor Garcia, have you reviewed this letter --

11 MR. KLAUS: Objection; asked and answered.

12 THE COURT: Let's go ahead, please.

13 MR. GREEN: I haven't finished my question, I am
14 trying to phrase it.

15 THE COURT: All right.

16 BY MR. GREEN:

17 Q. Professor Garcia, in forming your opinions in this
18 case, did you review this document in order to establish
19 what kind of information was made available to the Minister
20 of Defense during the time period in question?

21 A. Yes.

22 Q. As a military command expert, what was the
23 significance to you of this letter in determining what kind
24 of information was made available to General Garcia as a
25 Minister of Defense as of January 31, 1980?

1 A. I want to make a small caveat. I have a translation
2 of this letter that has served me well for my evaluations.
3 As you can see, this letter is not addressed to General
4 Garcia, but it is addressed to the members of the
5 revolutionary government Junta, which is to say that it was
6 not addressed to the general who is present here.

7 But I have also acknowledge from the initial
8 deposition provided in this case by General Garcia in which
9 he accepts that he learned of the contents of this letter,
10 which is to say that even though the letter is not
11 addressed to him as a member of the hierarchy, he
12 acknowledges that he knew of the contents of this letter.
13 And that is why I want to respond with more precision in my
14 position as an expert witness as provided by this court.

15 Q. Was General Garcia a member of the high command of the
16 armed forces of El Salvador?

17 A. He was a member, yes.

18 Q. And does this letter request that General Garcia
19 himself take specific actions?

20 A. Yes.

21 Q. Directing your attention now to this letter, could you
22 please tell the jury what the significance of this letter
23 is to you as a military command expert?

24 A. This letter carries out a series of very grave
25 accusations accusing the personnel that depended or were

1 below me --

2 Q. When you say me, who are you referring to?

3 A. I am referring to the position of Minister of Defense.

4 -- of having repeatedly violated and without cause as
5 well as throughout the entire territory of my jurisdiction
6 violated the rights of people, violated the human rights.

7 MR. GREEN: Can we go to the second slide, page
8 3536?

9 BY MR. GREEN:

10 Q. Could you please advise the jury what the significance
11 of the factual recital here is?

12 MR. KLAUS: Objection, Your Honor. It is hearsay
13 and needless presentation of cumulative evidence. The
14 letter is in evidence, it is hearsay. He has no way of
15 verifying reliability of the facts, of the allegations in
16 the letter.

17 THE COURT: All right. Let me stop for a minute.

18 If I understand the question, the question asks
19 the witness to give us his opinion as to A, the
20 significance of having received a letter like that and
21 then what obligations, if any, would be imposed upon the
22 Minister of Defense.

23 Is that the question that is pending?

24 MR. GREEN: Yes, Your Honor.

25 THE COURT: All right. Let's proceed if that is

1 the question.

2 THE WITNESS: Shall I answer?

3 BY MR. GREEN:

4 Q. Yes.

5 A. Yes. They were very grave denunciations made here
6 that affect my command responsibility and the signer, or
7 signators to this letter were persons who deserved trust by
8 my command.

9 As a proof of that, I can say that one of the
10 signators by the name of Napoleon Duarte, N-A-P-O-L-E-O-N,
11 last name, D-U-A-R-T-E, a short time after this letter, he
12 became a member of the revolutionary Junta and shortly
13 after that he was appointed President of the republic by
14 this very same group who carried out the military coup
15 d'etat. More trustworthy than the leader of a political
16 party that was collaborating with the military process is
17 almost impossible, and that is where the importance that I
18 would get as Minister of Defense upon receiving this
19 letter, and that I would carry out a series of measures as
20 established in law and military regulations.

21 Q. Professor Garcia, how many specific instances of
22 repression or violations of human rights were documented in
23 this letter?

24 MR. GREEN: If we can go to page 3537.

25 THE WITNESS: 19. ✓

1 BY MR. GREEN:

2 Q. And what specific kinds of violations are alleged in
3 these 19 instances?

4 A. In general they each have their own particularities.
5 Members of the armed forces are accused of having
6 systematically violated human rights of persons. Not
7 directly involved in the operations of an internal war that
8 was being carried out in El Salvador, but simple
9 inhabitants whose only crime was that of thought.

10 MR. GREEN: Can you blow up paragraph number
11 three on page two?

12 BY MR. GREEN:

13 Q. For instance, what does this allegation indicate to
14 you as a military command expert?

15 A. Can everyone read what it says? Otherwise I will read
16 it.

17 This case number three speaks of Jos, Mejia and
18 Francisco Ventura. These were two university students who ✓
19 were captured exactly in front of the Embassy of United
20 States of America which is located in a very central area
21 of the city. And it was also an Embassy of a government ✓
22 that was friendly and that was collaborating with me.

23 And there, in front of the Democratic -- Christian
24 Democratic party that shortly thereafter would provide a
25 President for the country, witnesses went there to sign and

1 say that it was members of the National Guard who were at
2 the time under the command of then Colonel Vides Casanova.

3 Q. Professor Garcia, where is the United States Embassy
4 in the country of El Salvador?

5 A. It is located in a very central point.

6 Q. Which city?

7 A. In El Salvador.

8 Q. Which city in El Salvador?

9 A. In the capital city of the republic.

10 Q. And where was general, then colonel, later General
11 Garcia's offices?

12 A. In the city of San Salvador.

13 Q. And where was General Vides Casanova's National Guard
14 headquarters at the time?

15 A. In the city of San Salvador.

16 Q. As a military commander, would you consider the
17 abduction of university students in front of the United
18 States Embassy to be in a remote area of the country?

19 A. No.

20 MR. GREEN: Can we go to paragraph number six?

21 BY MR. GREEN:

22 Q. Professor Garcia, as a military command structure
23 expert, what concerns, if any, would you have about this
24 kind of allegation?

25 A. In this case, it is the case of a regidor --

1 interpreter would spell for the record R-E-G-I-D-O-R -- a
2 member of the government of El Salvador at the time and in
3 the state of Libertad, a state that comprised the republic
4 of El Salvador and he was a member of the Christian
5 Democratic party who went to his party headquarters to
6 denounce what had taken place. You can see the
7 denunciation that appears here. They took him to the
8 cemetery, beat him with the butts of their rifles for no
9 cause, and he was also threatened with his death if he
10 denounced what had happened to him.

11 As we said in the beginning, when there is no
12 discipline and no control of commanders over the structure,
13 these elements with their heavy fire power become armed
14 bands that are very dangerous.

15 Q. Professor Garcia, I notice there are a number of other
16 instances listed on that page. If we can go to the next
17 page, which is R-3538, paragraph 14, please.

18 Professor Garcia, as a military command expert, what
19 significance, if any, would you place on this allegation?

20 THE COURT: Could I stop you for just a second,
21 because I think it is important that we come back here.

22 If I understand it properly, Professor Garcia has
23 been called as an expert in the military command structure
24 and an expert in the obligations of the military commander
25 when presented with this kind of information. So, in

1 other words, I take it the question that you are putting
2 to the witness is, if this type of information was
3 presented to a military commander, then what? What is the
4 question you are asking?

5 MR. GREEN: What I am going to do is get to what
6 the Christian Democrats requested of the government at the
7 end of this recitation of 19 separate incidents. I can go
8 there right now.

9 THE COURT: Handle it any way you like, but I
10 want to make sure the jury understands that the premise of
11 the question as I understand it is, because, obviously, I
12 think everybody also understands that Professor Garcia has
13 no personal knowledge of these events.

14 The question, I think, is, if information like
15 this is presented to a military commander, what are the
16 obligations that are then placed on a military commander
17 to either look at this or investigate it or take
18 appropriate actions. But I hope everybody understands
19 that in going through these paragraphs as we have, there
20 is no suggestion that the professor has personal knowledge
21 about it himself. He is here to testify that if this was
22 presented to a military commander, what should the
23 military commander have done.

24 Let me go back to Mr. Green and allow him to
25 phrase the next question.

1 BY MR. GREEN:

2 Q. Professor Garcia, as a military command structure
3 expert, and as an expert on command responsibility, what
4 significance would a military commander have placed on the
5 allegations in paragraph 14 and what should a military
6 commander do in the face of such an allegation?

7 THE COURT: Can I stop you for a second just to
8 rephrase that?

9 I think the question is: Should this have been
10 significant to a military commander and what should a
11 military commander have done if presented with this type
12 accusation.

13 THE WITNESS: I shall answer the judge's
14 question. I as a military commander in light of such
15 reliable denunciation as the ones that we are analyzing, I
16 would immediately make use of the obligations that are
17 established in the military code of justice for the period
18 what they -- what those articles assign to my level.

19 Each command level that we have explained today
20 has legal responsibilities within the military justice
21 system, which is to say Minister of Defense has his at his
22 level, the chief of the general staff has his, director of
23 the National Guard has his, and also a commander of a
24 garrison has his, all the way down here. The code to each
25 one assigns legal responsibilities, to investigate crimes

1 and misdemeanors.

2 These denounced facts are crimes.

3 Q. When you say denounced facts, are you referring to the
4 allegations, the 19 allegations?

5 A. Yes. I am referring to what we have been reviewing up
6 until this time. At the level of the Minister of Defense
7 where all of these denunciations arrived, the Minister of
8 Defense of El Salvador, he was at the head of all of the
9 legal responsibilities that immerge from the code of
10 military justice. And he could order investigations
11 throughout the entire command structure from his own level
12 all the way to the smallest facts, these alleged
13 denunciations, all crimes.

14 The first step was to order the corresponding
15 investigation. That is how military justice works, it
16 doesn't make arbitrary or take arbitrary measures. That is
17 what the military code of justice said for that time in El
18 Salvador. I assign an investigative official for that
19 investigation or file. He provides me with the conclusions
20 of his investigation and in accordance with what the
21 advocate general of the armed forces reports to me -- when
22 I say me, I am speaking of the Minister of Defense -- I
23 then order not that this be turned over to a military
24 tribunal.

25 If the military tribunal has not been convened, and I

1 am facing a very grave situation, for example, I am
2 provided with an option by that code of creating a new
3 military tribunal at that very moment immediately and
4 anywhere within the territory of the republic, and this is
5 stated specifically in that code for the cases of
6 violations of human rights, which is the contents of these
7 allegations.

8 So military court begins to function at that time
9 where the accused are provided with all of the options as
10 those are provided to the two accused in this courtroom,
11 evidence is provided as in any other court and a ruling is
12 handed down.

13 Q. Based upon your reading of these Defendants'
14 depositions, did General Garcia ever order an investigation
15 as to any of the 19 specific incidents alleged in the
16 Christian Democrat letter?

17 MR. KLAUS: Objection, Your Honor. He needs a
18 formal basis. He is referring to the deposition. Could
19 we have a page and line?

20 THE COURT: I think the question, though, is,
21 based on the documents that the witness has had the
22 opportunity to study, which obviously include depositions
23 in this case, I think the question is being asked whether
24 he has an opinion as to whether General Garcia ever
25 ordered an investigation, and I will permit that question.

1 THE WITNESS: No. ✓

2 BY MR. GREEN:

3 Q. In your opinion as a military command structure expert
4 and expert on military command responsibility, did General ✓
5 Garcia fail to do his duty by not ordering an
6 investigation? ✓

7 A. Yes. ✓

8 Q. He failed to do his duty?

9 MR. KLAUS: Objection; asked --

10 THE COURT: I am sorry?

11 MR. KLAUS: Asked and answered.

12 THE COURT: Sustained.

13 BY MR. GREEN:

14 Q. Professor Garcia, are you familiar with the proposals
15 made by the Christian Democratic party in this letter based
16 upon the 19 specific instances set forth?

17 A. Yes.

18 MR. GREEN: If we could go to page 3542, which I
19 believe would be on page eight of the Spanish version.

20 If we can expand, I guess it would be paragraph
21 3.2A.

22 BY MR. GREEN:

23 Q. What did the Christian Democrats propose that the
24 revolutionary government Junta and the high command do?

25 A. The proposals were on two levels. One were of general

1 policy directed to the revolutionary Junta, that if this
2 commission of violations of human rights was a policy of
3 the revolutionary government, it proposed that the
4 revolutionary Junta change its policies as pertains to the
5 exercise of power as a government.

6 And the second level of the proposal were of a
7 military character, and these were directed directly to the
8 level of the Minister of Defense and his subordinates. And
9 in these proposals, they say what the minimum measures are
10 that should be imposed within the structure of the armed
11 forces in order that this continuous violation of human
12 rights cease, to provide discipline to the troops and
13 eliminate those people who are reticent to the compliance
14 with orders and that therefore affected the prestige of the
15 institution and as well as that of the country.

16 In summary, that is the contents of these proposals
17 after the 19 allegations of each one of the violations.

18 Q. Were there any specific recommendations concerning
19 giving instructions, high command giving instructions to
20 subordinates about respect for human rights?

21 A. Yes.

22 MR. GREEN: Page 3543. I believe this would be
23 on page eight of the Spanish version.

24 THE WITNESS: Yes, I will find it.

25 MR. GREEN: Could we expand one through four,

1 please?

2 BY MR. GREEN:

3 Q. As a military commander, command structure expert,
4 would a military commander be obligated under the Doctrine
5 of Command Responsibility and the various international
6 treaties you testified about --

7 THE COURT: Let me stop you for a second. I will
8 ask you to rephrase the question and ask you to use some
9 other term. At some point I will need to instruct the
10 jury on the legal requirements in this case on the
11 Doctrine of Command Responsibility, and I think we are
12 mixing them up.

13 I think what you are asking, though, if I might,
14 when presented with these kinds of requests under the
15 obligations that are inherent on a military commander, and
16 let me go forward with that. Okay.

17 BY MR. GREEN:

18 Q. Professor Garcia, when presented with these kinds of
19 requests, would it be incumbent upon a military commander
20 to issue the kinds of express prohibitions requested by the
21 Christian Democrats in this letter?

22 A. Yes. In addition to the pertinent investigation we
23 spoke of earlier, immediately, and at least preventively, I
24 would carry out these measures, and I would adopt a series
25 of punishments throughout the chain of command.

1 It cannot be, for example, that the allegations be
2 leveled against the National Guard, and that the National
3 Guard commander knows nothing about this. And that if the
4 director of the National Guard doesn't advise me in a
5 timely manner that my command is affected in such a way,
6 so, information failed, and I may not allow that
7 information fail not even for one second, and I may not
8 allow for even one second that command responsibility be
9 violated at each one of the levels or any of the levels
10 leaving reliable political party such as this one was, as
11 far as I am concerned, comes to give me the background, me,
12 the commander, background of the procedures of my
13 subordinates.

14 This is inadmissible.

15 Q. Professor Garcia, if you could look through items one
16 through four of these directives, and following that items
17 five through eight.

18 MR. GREEN: Could we bring up the next four
19 paragraphs?

20 THE WITNESS: Yes.

21 BY MR. GREEN:

22 Q. Professor Garcia, based upon your review of the
23 documents and deposition testimony in this case, did
24 General Garcia adopt or order any of these directives or
25 prohibitions that were requested by the Christian

1 Democratic party?

2 A. I found none of that throughout my entire evaluation.

3 Q. Moving on, did the Christian Democratic letter name
4 any specific troops or security personnel who the Christian
5 Democratic party believed engaged in human rights abuses?

6 A. Yes.

7 Q. I believe that would be on page ten of the Spanish
8 translation?

9 A. Yes.

10 MR. GREEN: And can we bring up page 3544,
11 please? Can we highlight the top half?

12 BY MR. GREEN:

13 Q. This letter demands removal of a number of specific
14 individuals in the National Guard and the military. Based
15 upon your review of the evidence in the deposition of
16 General Garcia, did he remove any of these individuals in
17 response to this request from the Christian Democratic
18 party?

19 MR. KLAUS: Objection; misleading, confusing.

20 THE COURT: Legal objections are what?

21 MR. KLAUS: Misleading, confusing.

22 THE COURT: The question is misleading or
23 confusing?

24 MR. KLAUS: Yes. According to the documents,
25 only two documents that he looked at, whether General

1 Garcia did something, how can he tell from looking at two
2 documents.

3 THE COURT: I will overrule that and you can
4 cover that on cross examination.

5 You may answer the question, sir.

6 THE WITNESS: As a consequence of this letter?

7 BY MR. GREEN:

8 Q. Correct.

9 A. No.

10 THE COURT: Mr. Green, I think we need to stop
11 for the mid-afternoon recess. Why don't we take a break
12 for 15 minutes. We will come back and continue on.

13 (Thereupon, the jury retired from the courtroom.)

14 THE COURT: Let me allow the professor to step
15 down from the witness stand.

16 Let me just take a second. There are certain
17 documents that are in evidence, and they say whatever they
18 say.

19 Now, whether the allegations in those documents
20 are true obviously depends on other evidence and other
21 testimony, but my suggestion would be that -- and I want
22 you to obviously handle this the way you like, but my
23 suggestion would be that you call the professor's
24 attention to the statement and then pose whatever question
25 it is you are posing, because as I tried to point out to

1 the jury, I don't think there is any question, and no one
2 is suggesting that the professor himself made an
3 independent investigation as to whether these allegations
4 are true.

5 But I take it that the thrust of the testimony is
6 that if a military commander were presented with this type
7 of allegation considering its source and nature of the
8 allegation and so on, what is the expert's opinion as to
9 what a commander in that situation would be obligated to
10 do. In other words, to conduct an investigation if the
11 reports were credible to punishment, so on, so forth.

12 I think we will move more appropriately, and I
13 think we will also avoid any problems of suggesting that
14 there are any kind of independent investigations made by
15 Professor Garcia, because what the Plaintiff is asking of
16 the professor, what is his opinion, if this happened, what
17 is your opinion a military commander should have done, and
18 based on your research of the records, was anything like
19 that done.

20 That is what you are saying, and defense is
21 pointing out and questioning adequacy of the informational
22 basis that the professor may be relying on to make his
23 judgments or render those opinions.

24 I think that we need to keep focused because the
25 mere fact that he is an expert doesn't allow him to simply

1 start getting into factual issues.

2 He is really giving his opinions that if these
3 facts were presented, what should someone have done. I
4 think that is what it is you are seeking to do, is it not?

5 MR. GREEN: Yes, and actually we will be moving
6 into specific Army regulations and constitutional
7 provisions.

8 THE COURT: Let me come back to one other thing.
9 I don't think it is intentionally, I think what you are
10 talking about is what is the conception in the military
11 command structure, what does the commanding officer have
12 to do and so on. I want to be careful not to use the term
13 Doctrine of Command Responsibility. Doctrine of Command
14 Responsibility may be different than what a military
15 commander -- so on. That is a legal document where
16 someone seeks to hold someone liable for doing or not
17 doing something.

18 What you are really talking about is what does
19 the military command structure require military commanders
20 to do consistent with treaty, treaty obligations, human
21 rights obligations, all obligations that the professor
22 contends all military commanders are obligated to do.
23 What does a military commander have to do when confronted
24 with this allegation or that allegation. I think it would
25 help us move forward.

1 Does that address the concerns you have,
2 Mr. Klaus?

3 MR. KLAUS: Yes. Most of them I can take care of
4 in cross examination. I think it is confusing to the jury
5 that they may take these allegations as being true. I
6 will deal with that on cross.

7 THE COURT: Okay. Let's take a 15 minute break
8 and come back and go right back to direct examination.

9 By the way, does this alleviate the concern you
10 have in terms of where we are right now?

11 MR. GREEN: It is taking a lot longer than I
12 anticipated.

13 THE COURT: All right. We will take a break for
14 15 minutes.

15 (Thereupon, a short recess was taken.)

16 (Thereupon, trial reconvened after recess.)

17 THE COURT: Ladies and gentlemen, please be
18 seated.

19 When we stopped, we were in direct examination,
20 so I will turn back to Mr. Green and allow him to proceed.

21 Mr. Green.

22 BY MR. GREEN:

23 Q. Professor Garcia, I believe before we broke that I was
24 asking you about the naming of specific individuals by the
25 Christian Democratic party that were felt to be responsible

1 for some of the human rights violations.

2 Based upon your review of the documents and
3 depositions in this case, have you heard the reason Colonel
4 Garcia made in his depositions for not having recommended
5 the suggestion made by the Christian Democratic party in
6 their January 31, 1980 letter?

7 A. Yes.

8 Q. What were those reasons?

9 A. He gave some reasons that were somewhat general, first
10 by saying that he had little memory of having received or
11 read the letter, and then by saying that it seemed to him
12 that as a result of this letter or some other letter a
13 meeting had been held that included all of the commanders
14 to determine whether there were any measures that could be
15 implemented in order to prevent these violations of human
16 rights.

17 And at that meeting one of the participants, one of
18 the participating commanders rose and said that if any of
19 the measures that were proposed by this letter were
20 implemented or some other letter that the gentleman does
21 not recall, there would be a military coup in 24 hours.
22 That is what General Garcia states in his deposition.

23 Q. Under Salvadoran Army regulations, can a military
24 commander justify his failure to act or his failure to
25 command because he is afraid of how his troops will react?

1 A. I would like to answer that question with the contents
2 of the military code of justice in a very short reading if
3 I am allowed. Let me get that out.

4 We are talking about number 357 of the ordinance --
5 375 -- that in very short lines expresses what I am about
6 to say.

7 MR. KLAUS: Your Honor, before he refers to it,
8 can I be given a copy of it?

9 THE COURT: Do you have an extra copy of this for
10 opposing counsel?

11 THE WITNESS: The ordinance is in the hands of
12 all of the members in this court. If you would like a
13 copy of mine, I will provide that, too.

14 THE COURT: Let's see if we have a copy for
15 opposing counsel.

16 MR. KLAUS: I would ask before he be allowed to
17 read from it, that he identify it and authenticate it.

18 MR. GREEN: I can show Mr. Klaus mine.

19 BY MR. GREEN:

20 Q. Go ahead.

21 A. Article 375.

22 THE INTERPRETER: The interpreter requests that
23 counsel provide the interpreter the official translation.

24 Article 375 the interpreter will read into the
25 record.

1 "Any officer who is in command or any other
2 person who finds himself alone at the head of troops, it
3 will be proof of deficient spirit and command inadequacy
4 for him to say that he was not able to keep his troops
5 under his orders; that he, by himself, was unable to
6 control so many persons and any other such excuses
7 intended to exculpate him for the excesses of his men or
8 for their cowardice in war actions; because he who
9 commands, from the moment he is placed at the head of his
10 troops, must assure obedience in everything, and inspire
11 bravery and contempt for risks.

12 "Within that said ordinance under Article 9 it
13 says: Legal orders from superiors must be complied with
14 by subordinates with no observations by them nor any type
15 of complaint, with no hesitancy and no muttering, and they
16 may nevertheless make a claim if there were reason for
17 such a claim upon having complied with those orders."

18 THE COURT: May I interrupt you for a moment?
19 Could I see counsel sidebar, please?

20 (Sidebar discussion on the record.)

21 THE COURT: We have just gotten a note from the
22 day care center where Ms. Essler, juror number two's,
23 daughter is. They are concerned the baby is getting a
24 rash all over and refusing to drink milk. I should call
25 Ms. Essler up and let her know and see what she feels she

1 needs to do. I don't have a problem recessing for the day
2 if we need to do that in terms of accommodating her in
3 terms of what she has done. Is that all right?

4 MR. GREEN: Yes.

5 THE COURT: Ms. Essler, would you come up for a
6 second?

7 We just received this note, and we wanted to
8 share it with you to see what you think we should do.

9 A JUROR: They are going to want me to go.

10 THE COURT: Do you want us to stop now so you
11 could go down to see what is going on? Is this a boy, or
12 girl?

13 A JUROR: Boy. He was crying a lot yesterday in
14 day care. He seemed fine this morning.

15 THE COURT: I think it is important that maybe
16 you need to go down. What we will do is stop for the day
17 and maybe you could give me a call in the morning. I want
18 you to know, we very much want you to be here, we
19 realized -- we talked about this. And let's see what is
20 going on, and hope everything is okay. It might be a
21 minor thing.

22 Let me take a second and I will do that. You can
23 sit down.

24 (After sidebar.)

25 THE COURT: Ladies and gentlemen, we have just

1 gotten a note from the day care center where Ms. Essler's
2 son is, that there may be a little bit of a problem, and
3 we want Ms. Essler to be able to attend to it.

4 We were talking earlier about the fact that we
5 were heading ahead of schedule, we slowed down a little
6 bit, but we were concerned in any event. I think in order
7 to accommodate Ms. Essler we want to stop. We hope
8 everybody is going to be fine, but I ask Ms. Essler to
9 give me a call in the morning to let me know how things
10 are going.

11 Let me remind the jury about the general jury
12 instructions. I think you understand, we are progressing
13 into the case, you want to be careful, don't look at any
14 T.V., newspapers, anything that deals with the matter.
15 You want to be careful, don't let anyone talk about the
16 case, don't let anyone talk with you.

17 We will plan to resume at 9:30 tomorrow morning,
18 and we will go back to the professor's direct testimony at
19 that time and continue along. We will recess early and
20 reconvene tomorrow morning at 9:30 and we will continue on
21 with the testimony.

22 Let me allow the jury to step out.

23 (Thereupon, the jury retired from the courtroom.)

24 THE COURT: Professor, because you are in the
25 midst of testifying, could I ask you please not talk to

1 any of the lawyers about the substance of your testimony?
2 Certainly you can talk about any other matters. And when
3 you come back tomorrow morning, we will go back and
4 continue with the direct examination, finish on that, and
5 then turn to cross examination.

6 Let me allow you to step down, and take a moment
7 to gather your documents.

8 THE WITNESS: Thank you.

9 THE COURT: Please be seated, ladies and
10 gentlemen.

11 Have counsel had an opportunity to look at the
12 proposed jury instructions? Would that make sense to talk
13 about them, or is it too early?

14 MR. GREEN: I think we can talk generally about
15 them. I know there are a couple matters that we need to
16 discuss among ourselves.

17 THE COURT: Okay. Before we turn to the jury
18 instructions, then, why don't we, as we have before, let's
19 make a list if there are any other matters including jury
20 instructions, any matters the Plaintiff has that we need
21 to put on the agenda.

22 MR. STERN: One small item regarding an exhibit,
23 Your Honor.

24 THE COURT: Okay. How about defense?

25 MR. KLAUS: Scheduling. Your Honor, I would like

1 to know their witnesses.

2 THE COURT: All right. Why don't we take them in
3 reverse order. Scheduling is obviously the easiest.

4 Mr. Green, where do you think you are in the
5 direct examination of Professor Garcia? How much more
6 time do you think you have?

7 MR. GREEN: I think I have another 45 minutes to
8 perhaps an hour.

9 THE COURT: Okay. Maybe an hour for the
10 Plaintiff. How about the cross, do you have a sense of
11 the length of the cross examination?

12 MR. KLAUS: An hour, hour and a half.

13 THE COURT: Okay. Who would be the next witness.

14 MR. GREEN: Ms. Popkin.

15 THE COURT: Who would be the person after
16 Ms. Popkin?

17 MR. GREEN: Professor Karl.

18 THE COURT: Okay.

19 MR. KLAUS: I spoke to Ambassador Corr yesterday,
20 and I told him to be here on the 15th. I thought that
21 would be -- that is the Monday.

22 THE COURT: Monday the 15th?

23 MR. KLAUS: Yes. Figuring based on the
24 representations last week, you would go until the 9th or
25 10th, and I would have a day or two with the generals and

1 then Ambassador Corr, and I could finish with the
2 generals, if I am going to call any of them for rebuttal.

3 THE COURT: We obviously slowed down because of
4 translation and everything else. Mr. Green, my
5 recollection was you felt if all went well, that the
6 Plaintiffs might conclude their case on Tuesday the 9th.
7 Does that still seem doable?

8 MR. GREEN: I think still a pretty good estimate.

9 THE COURT: If the Plaintiffs were to conclude on
10 the 9th, and defense started on the 10th, does the 15th
11 still sound like it is an appropriate target date.

12 MR. KLAUS: Yes, because even if I am not done
13 with the other witnesses, I thought we could --

14 THE COURT: You would be willing to interrupt and
15 take the Ambassador out of turn to accommodate his
16 schedule?

17 MR. KLAUS: Yes, if that is agreeable.

18 THE COURT: We tried to do that, and said we
19 would do it for other witnesses. I think that is a
20 reasonable request.

21 Why don't I turn to Mr. Stern for the issue on
22 the exhibit.

23 MR. STERN: Yes, Your Honor, during examination
24 of Mr. McClintock we introduced one page from an exhibit,
25 Exhibit 400, and consensus seems to be the best way to

1 handle this is to designate the one page as a new exhibit
2 and introduce that exhibit rather than dealing with
3 things --

4 THE COURT: How is it marked?

5 MR. STERN: The new page would be marked 811.

6 THE COURT: What about 400, did that come in?

7 MR. KLAUS: No.

8 MR. STERN: It is part of a batch of documents
9 marked 400. Rather than take a page out of that, we
10 thought it would make sense to create a new one.

11 THE COURT: All right. What we will do is
12 correct the record so 400 has not been offered nor
13 received. And how would you mark the new exhibit, the one
14 page exhibit?

15 MR. STERN: I think we propose to put a sticker
16 on it that says 811.

17 THE COURT: 811. My records indicate the
18 previous exhibit was received into evidence over
19 objection. Is there any objection to this?

20 MR. KLAUS: No, no. That makes sense. I have my
21 same objections as originally stated.

22 THE COURT: You want this received into evidence
23 over objection?

24 MR. KLAUS: Yes.

25 THE COURT: You want to preserve your objection?

1 MR. KLAUS: Yes.

2 THE COURT: 811 having been received into
3 evidence over objection as previously stated.

4 (Plaintiffs' Exhibit 811 received in evidence
5 over objection and Plaintiffs' Exhibit 400 was
6 withdrawn.)

7 MR. STERN: It will be redacted, Your Honor.

8 THE COURT: Thank you very much. I want to give
9 you back -- 689 was offered, I think I have the original
10 or a copy, let me give that back to you. And we want to
11 indicate that the objection was sustained on that so that
12 won't go back to the jury, and I ask that you keep that
13 separate.

14 The effort was simply to give us a working draft
15 that we could look at, and I thought it would be helpful
16 to lay out in that draft, and I didn't mean to exclude the
17 Defendants' version, I just couldn't lay my hands on it,
18 but what we have is an effort to draft an instruction
19 based on the Doctrine of Command Responsibility from the
20 decision of the United States Court of Appeals for the
21 Eleventh Circuit in Ford versus Garcia and that is what
22 the first one is meant to be. It is an effort to do that.

23 The second is the instruction as given in the
24 Ford case, and the third is the instruction as drafted by
25 the Plaintiff I think in the May 11th submission, because

1 I think there were two submissions, and I think you felt
2 May 11th was your second effort at it having the benefit
3 of the copy of the Eleventh Circuit's opinion.

4 Do you want to talk about this or do you want to
5 wait?

6 MR. GREEN: We would like an instruction on
7 depositions.

8 THE COURT: Sure. Why don't you -- there is
9 probably a standard on that.

10 MS. VansCHAACK: We submitted it with our
11 original.

12 THE COURT: All right. We will add that, that is
13 no problem. I assume there is no objection, that cuts
14 both ways.

15 MR. KLAUS: That is fine.

16 THE COURT: Depositions are to be treated as
17 though the persons testified in court.

18 MR. GREEN: If I could defer to minds greater
19 than mine.

20 MS. VansCHAACK: Just preliminary observations,
21 based on a quick look I was able to give this at lunch,
22 The Court's language goes a long way towards teaching of
23 the Eleventh Circuit in the Ford case, and standard of the
24 command responsibility in the ad hoc tribunals.

25 At this point there are some technical

1 suggestions I would make before getting into the real meat
2 of the instruction that would make sure that the
3 instruction better reflects the claims that the Plaintiffs
4 have brought this particular formulation appears to relate
5 only to the Torture Victim Protection Act. With respect
6 to two of the Plaintiffs not U.S. citizens, we have
7 additional claims under the Alien Tort Claims Act.

8 THE COURT: Do they differ?

9 MS. VansCHAACK: The torture victims are limited
10 to the claims for torture and extrajudicial killing.
11 Under the Torture Victim Protection Act we have only
12 torture claims. Alien Tort Claims Act allows for claims
13 for relief for any tort in violation of the laws of
14 nation. It is a broader range. And arbitrary detention,
15 and cruel and degrading treatment.

16 THE COURT: We need to define each of those
17 terms.

18 MS. VansCHAACK: That is right.

19 THE COURT: Let's take a second and see if we can
20 sketch this out.

21 Why don't we start with Dr. Romagoza. What
22 claims are being brought by Dr. Romagoza?

23 MS. VansCHAACK: His claims proceed only the
24 Torture Victim Protection Act. The only claim is for
25 torture.

1 THE COURT: Dr. Romagoza against one or both
2 Defendants?

3 MS. VansCHAACK: Both Defendants.

4 THE COURT: Okay.

5 MS. VansCHAACK: Both Professor Mauricio and
6 Gonzalez have claims for torture and arbitrary detention,
7 crimes against humanity, and CIDT.

8 THE COURT: Hold on a second, if you would.
9 Let's turn to Ms. Gonzalez.

10 MS. VansCHAACK: Ms. Gonzalez claims against both
11 Defendants, and Mr. Mauricio only against General Vides
12 Casanova. General Garcia retired at the point at which he
13 was detained.

14 Given this sort of a patchwork --

15 THE COURT: Professor Mauricio claims only
16 against General Vides.

17 MS. VansCHAACK: That is right.

18 THE COURT: You pointed out Ms. Gonzalez claims
19 under the Torture Victim Protection Act.

20 MS. VansCHAACK: As well as the Alien Tort Claims
21 Act.

22 THE COURT: And Professor Mauricio?

23 MS. VansCHAACK: The same, under both statutes,
24 by virtue of the fact they are not U.S. citizens.

25 THE COURT: Let's talk about this for a second.

1 We have, torture would certainly deal with
2 alleged beatings, infliction of physical pain, so on, so
3 forth. Although a predicate for torture might be illegal
4 detention under the Tort Claims Act, you are asking for
5 arbitrary detention?

6 MS. VansCHAACK: Yes, separate and apart from the
7 actual physical harm.

8 THE COURT: What else?

9 MS. VansCHAACK: Allegation of crimes against
10 humanity.

11 THE COURT: What do you think that encompasses?

12 MS. VansCHAACK: Crimes against humanity are
13 constellation of acts unlawful when committed in a wide
14 spread or systematic attack against civilian population.
15 The idea is there is a campaign of civilian population
16 torture when they are committed within the context of that
17 act.

18 THE COURT: Is it your view an individual person,
19 take Ms. Gonzalez as an example, she would have a claim
20 for arbitrary detention? Let's put the crimes against
21 humanity aside for a second. What other claim would be
22 made under Alien Tort Claims Act?

23 MS. VansCHAACK: Supports claims for torture,
24 obviously, and we've alleged in our Complaint cruel and
25 inhumane degrading treatment, which exists on the

1 ingredient of torture, it could be unlawful under the
2 rubric of cruel and degrading treatment.

3 THE COURT: Let me put this out and ask you to
4 think about this for a minute. Nobody has to make a
5 decision today, but something to reflect on.

6 I think in any lawsuit, we see it all the time in
7 civil lawsuits, people start out, lawyers, trying to be as
8 conservative as possible to preserve everything. People
9 plead the world and make judgment calls as you go on down
10 the line.

11 Have the Plaintiffs given any thought to
12 abandoning their claims under the Alien Tort Claims Act
13 and limiting their claims to the claims for torture? And
14 I say that, it seems to me that to the degree to which we
15 can, to simplify matters to the jury, it would make sense,
16 the claims that are made are obviously enormously serious.
17 In other words, listening to the testimony we haven't
18 heard from Ms. Gonzalez yet, but certainly having listened
19 to Mr. Green's opening statement that detail that, it
20 would seem to me that if someone were going to recover,
21 the recovery under one would be coextensive with the
22 other.

23 And I just wonder while on a theoretical basis
24 there are multiple grounds, whether it might make sense at
25 some point if the Plaintiffs are disposed to do that, to

1 have one basis and whether that would simplify matters or
2 not. I would ask you just to think about it.

3 It sounds to me in this case that might make some
4 sense, and I only say that because at some point,
5 obviously, we are going to need to get beyond the legal
6 claim to the concept of damages, and I would imagine there
7 would be one -- I don't know, you probably thought this
8 through yourselves, but I assume ultimately there would be
9 one line for compensatory damages.

10 Now, we would have to specify what are the
11 matters that can be considered in determining whether that
12 claim has been proved and whether moneys can be awarded.
13 And then there is discussion of punitive damages as well.
14 I want to suggest to you there may be, in a case like this
15 there may be some benefit to simply considering whether
16 one basis is appropriate in that they are all so serious,
17 and that it would seem to me that an award under one would
18 probably be coextensive with an award under another
19 theory, I don't know. I am sure you have been reflecting
20 on that.

21 MS. VANSCHAACK: We have been considering that.
22 It is something we would like to reserve.

23 THE COURT: Absolutely. You know, when you are
24 talking about allegations as serious as someone saying
25 they were tortured, beaten, or so on, I would think that

1 if the jury were to find for the Plaintiff, an award under
2 one basis would be coextensive with any other. I think
3 the -- obviously, and it was true in the Ford case, that
4 the tough issues are the legal issues of responsibility
5 and so on.

6 I thank you for pointing this out. We are going
7 to have to come back and take a look at it. If we have
8 to, we will need to go in and define those separate bases.
9 And for instance, it occurs to me if someone is asking for
10 damages greater than the damages they suffered themselves,
11 for instance, under the concept of crimes against
12 humanity, if that is something more than that which they
13 suffered, although they may be alleging that they are
14 simply the person who is the victim in a wider spread
15 campaign. Let me ask you to reflect on that, and at some
16 point we will obviously be in a position to make that
17 judgment call.

18 Are there any other observations or thoughts you
19 have? Does it make sense to use one of these as a
20 starting point or -- I simply thought it made sense to try
21 to use the Eleventh Circuit's opinion as a starting point
22 because we obviously on both sides want to have a
23 statement of the law that is neutral and has been
24 approved, and therefore we don't do anything that would
25 imperil the verdict.

1 MS. VanSCHAACK: I think it does make sense to
2 use The Court's proposed instruction to do the tweaking
3 here and there. The fact that you started from scratch
4 with the opinion as your template makes a lot of sense.

5 THE COURT: I thought it made more sense for both
6 of you to offer that.

7 Mr. Klaus, do you have a view what you want to
8 start from?

9 MR. KLAUS: I think that is a good starting
10 point. I have a couple comments right off the bat. You
11 want those?

12 THE COURT: If you would like to make them.

13 MR. KLAUS: Under effective command.

14 THE COURT: Yes.

15 MR. KLAUS: The second sentence, you mentioned
16 presumption, I don't think there is presumption.

17 THE COURT: Are you looking at The Court's
18 instruction?

19 MR. KLAUS: Yes. You have on page six.

20 THE COURT: Yes.

21 MR. KLAUS: I don't think there --

22 THE COURT: You are suggesting the word
23 presumption should be removed?

24 MR. KLAUS: Yes.

25 THE COURT: I think that is correct. I think

1 de jure and de facto authority. In Bosnia you had people
2 who were clearly military commanders but held no rank or
3 office. When you looked at what was happening, no
4 question those people had de facto authority over military
5 forces. I think all it is meant to suggest is that it is
6 undisputed in this case that General Garcia and General
7 Vides were in fact legitimate military commanders.

8 MR. KLAUS: Maybe if it is worded like that, but
9 the way it is worded --

10 THE COURT: I will flag that as a problem area
11 and go back and see if we can get more language that
12 perhaps deals with what is disputed and not disputed.

13 MR. KLAUS: We are not sure who the subordinates,
14 who the individuals who actually perpetrated atrocities or
15 torture were. We are not sure that they were
16 subordinates, they may have been subordinates to someone
17 else, like the Bosnian cases where they had a guy holding
18 himself out as some kind of military commander, he was a
19 commander and he had troops, but he wasn't part of any
20 government.

21 THE COURT: Well, of course, in this case, just
22 coming back, and I need to go back and look at the
23 testimony, and you may not be prepared to stipulate to
24 something like this, and I understand it, but the
25 testimony, for instance, from Professor Mauricio was that

1 he was held at the National Police headquarters. And I
2 think the testimony from Dr. Romagoza was that he was
3 held, and I thought it was the National Guard
4 headquarters.

5 Now, certainly these are questions of fact that
6 the jury is ultimately going to have to decide, I am not
7 asking you to stipulate to matters that you feel you don't
8 want to do. We want to be careful that the jury
9 instructions remain neutral and state the law properly.

10 Any other observations of matters we helped to
11 look at?

12 MR. KLAUS: No. We are at a good starting point.

13 THE COURT: Do you feel comfortable in using the
14 first proposal, The Court's proposed instruction as a
15 starting point to do drafting from?

16 MR. KLAUS: Yes. My proposed jury instructions
17 were the jury instructions from the Ford case. You didn't
18 miss them, that is what they were.

19 THE COURT: Why don't we do this, why don't we
20 use what is marked court instructions new as the basis,
21 the template, and let's make whatever changes to these.
22 That doesn't restrict anybody, if there is anything you
23 want to add wholesale or paragraphs, feel free to do that.
24 Let's put the other two aside and try to build on this as
25 the instruction.

1 Now, again, I think the Plaintiffs point out that
2 if the Plaintiffs ultimately decide that they do want to
3 go forward on the two different statutes, we definitely
4 are going to have to go back and define some of those
5 terms. And I think we can easily do that, but I think
6 probably there is a judgment call that the Plaintiffs have
7 to make as to what they want to do in that regard.

8 How about compensatory damages, is that
9 adequately set forth for you?

10 MS. VanSCHAACK: I haven't done a line by line,
11 but both formulation of compensatory and punitive damages
12 looks like good start.

13 THE COURT: Emotional pain, physical
14 disfigurement, physical pain. Why don't we use that as a
15 beginning point. If anyone feels anything else needs to
16 be added, we will do that.

17 What about punitive damages, are all three
18 Plaintiffs seeking punitive damages in the case?

19 MR. GREEN: Yes.

20 MS. VanSCHAACK: Yes.

21 THE COURT: Do you all feel that is the correct
22 standard, wanton and reckless?

23 MR. GREEN: We believe also deliberate
24 indifference. I have not studied the punitive aspect.

25 THE COURT: I wondered in thinking about it if we

1 ought to look at the Title Seven standard. There is a
2 standard acknowledging reckless indifference to the rights
3 of somebody -- language about protected rights. I wonder
4 if that better fits in with this kind of situation.

5 MR. GREEN: And Carry and 1983 cases talk about
6 deliberate indifference as well. We contend there is
7 deliberate indifference.

8 THE COURT: We need to look at that again so
9 everybody feels comfortable that the law is properly
10 stated on that. There are two or three sources that we
11 can look at, 1983 actions, restatement on Title Seven,
12 punitive damages, and come up with language that you feel
13 is adequate to the issues in this case.

14 Are there any special instructions being
15 requested by the defense that are not in?

16 MR. KLAUS: I don't know, Your Honor. I raised
17 some affirmative defenses, most of them are frankly legal
18 defenses, and I will be raising them by motion.

19 THE COURT: I thought you raised most of your
20 legal defenses in various motions, and that is why I
21 didn't address them here. If you feel there are some that
22 remain that need to be addressed, if you could just alert
23 me to that, I will go back and take another look. I
24 didn't mean to simply bypass them.

25 MR. KLAUS: No, I thought about it over the

1 weekend. I am not sure if I am entitled to an
2 instruction, most of them come as legal defenses. Like,
3 you know, statute of limitations, that is a matter -- I
4 don't know if that is a matter for a jury to consider. It
5 has been raised. It is in my pretrial catalog, raised by
6 the pleadings, and raised by the evidence. I would like
7 the jury to be able to decide that.

8 THE COURT: Well, it is my recollection that if
9 there are disputed facts on those kinds of issues, that
10 they are jury questions. In other words, there are
11 defenses that have gone to the jury where the facts are
12 disputed because The Court can't resolve disputed facts.
13 I ask that you take a look at that. If you seriously
14 think there is something that has a factual component to
15 it, and we might handle that by either a question to the
16 jury or some other way, but I wasn't aware of anything
17 along those lines.

18 So, if you do, if you would take a look at it and
19 let us all know and we can look at it and get everybody at
20 least thinking about that issue as to what that is there.

21 MR. GREEN: My experience has been the statute of
22 limitations arise in a medical malpractice case where a
23 physician affirmatively misled someone to a diagnosis to
24 indicate tolling or --

25 THE COURT: They are rare, but there are issues

1 where venue is a defense, and there are instructions on
2 that. It asks for a specific question. And I think that
3 could probably exist on statute of limitations if it is --
4 I hate to cite this, but I think it is one we are all
5 familiar with. Do you remember -- I think it was shown in
6 the movie the Civil Action and in the book on it where the
7 jury was asked to determine the time frame when some of
8 the material had seeped and so on.

9 And when you think about it, what that was was a
10 statute of limitations defense, I think. There can be
11 some situations where something like that comes up, we
12 ought to explore it and see for sure what it is and decide
13 whether it is appropriate, but it ought to start with the
14 defense asking for it so we can focus in on what it is.
15 If it is not there, it is not there.

16 MR. KLAUS: The other one, failure to exhaust
17 remedies, available remedies, it has been raised.

18 THE COURT: You raised it as a legal defense, and
19 I ruled on it. The question is whether you want to pursue
20 that, and if you do, how you want to put that to the jury
21 if that is a matter for the jury.

22 MR. KLAUS: Basically, I did prepare -- I don't
23 have copies, but I did prepare initially instructions that
24 incorporated that, and basically they track the language
25 in the statute of the Torture Victim Protection Act. The

1 action commenced within ten years. Now, I don't know if
2 they are going to be entitled to an instruction regarding
3 equitable tolling. Professor Mauricio testified that he
4 wanted to sue General Vides from 1983.

5 THE COURT: Why don't you give some thought to
6 that, and if you want these specific instructions, we are
7 going to have to sit down and do some drafting. I think
8 the same people answer to that, yes, there probably does
9 have to be an instruction on equitable tolling, but the
10 question is whether that is for the jury or The Court. My
11 suspicion is equitable tolling is for The Court.

12 This is the first time we are approaching this in
13 jury instructions. In the Ford case we dealt with all of
14 those as legal matters.

15 MR. KLAUS: There were different facts there.

16 THE COURT: Yes, yes, I understand that. But for
17 instance, and I haven't researched it, but it would seem
18 equitable tolling is clearly a matter for The Court.

19 You want to give some thought what you do want
20 to raise, and if you do, I ask you to draft something and
21 pass it out so we can take a look at it, think about it,
22 and give some reflection to it.

23 Okay. Anything else we need to discuss?

24 Does anyone have anything else you would like to
25 alert anyone to or problem issues you see?

1 MS. VansCHAACK: A question for The Court.

2 How would you like to proceed? Would you like
3 something in writing reacting to the language we propose
4 or do you want to keep it at the oral level?

5 THE COURT: No. I would suggest we use this as
6 the starting point and prepare some written changes, and
7 just to be sure, you might use bold type or whatever you
8 want to use to show what is different.

9 And let's use that so we all have something and
10 enough copies for everybody, and let's do some drafting.
11 But to give everybody first a chance yourself to reflect
12 on what it is you would like or the problem you see, and
13 what we are trying to address.

14 MS. VansCHAACK: Should we submit a brief with
15 that?

16 THE COURT: No. No. Why don't we deal here in
17 the evening, and someone can point out the problem you
18 are trying to deal with, and how you suggest it be
19 approached.

20 MS. VansCHAACK: Okay.

21 THE COURT: I would suggest we try to deal with
22 issues one at a time, if we can. That is, let's get the
23 command responsibility instruction behind us if we can,
24 because that has always been one of the central legal
25 doctrines in the case, and let's move on to some of the

1 other issues we have been discussing, damages.

2 Do we have the right punitive damage instruction,
3 are their affirmative instructions, if so, what are they,
4 and how do they have to be spelled out, and have we
5 correctly addressed the law on those issues.

6 MR. GREEN: Your Honor, one thing I have been
7 doing is running a readability level scan on jury
8 instructions and other items. Would it be possible for us
9 to have a disk, if we bring in a floppy disk for Your
10 Honor?

11 THE COURT: Sure. I think we ought to swap disks
12 back and forth, it is easier for both of us, sure.

13 Are there any other matters we need to discuss?

14 All right. Then, why don't we recess -- let's
15 talk about this -- I have one other thing I need to
16 mention to you.

17 Let's talk about this.

18 What shall we do tomorrow if our juror -- if
19 there is a real problem and she needs to stay at home?

20 MR. GREEN: We have a real problem with
21 Ms. Popkin, she is here now, and --

22 THE COURT: My suggestion, and I know we all
23 don't want to do this. I really felt we had to stop today
24 to accommodate someone who has given so much of her time
25 to this process, but I think and would urge you that we

1 need to forge ahead.

2 That is why we selected a jury larger than six so
3 if there were an emergency, we can go forward. I think
4 that we ought to do that. I hate to lose anybody, but I
5 think that Ms. Essler, by the way, was completely candid
6 with us as I recall during jury selection process,
7 indicating she had a child in day care, and if a problem
8 developed, that was the only difficulty she foresaw.

9 So why don't we wait and hear what happens in
10 the morning, but is it agreeable to both sides, if for
11 some reason Ms. Essler cannot be here, that we move
12 forward.

13 MR. KLAUS: Yes.

14 MR. GREEN: Yes.

15 THE COURT: I wanted to share with you a note
16 that I received from one of the jurors, and I didn't
17 respond in any way. It wasn't with a particular witness.
18 At some point I will have to.

19 It is what is the difference between a document
20 that is objected to and an objection that is overruled,
21 and a document accepted into evidence over objection.

22 We need to tell the jury there is no difference,
23 if it is received it is in evidence, it can be considered.
24 If it is not in evidence, it can't be considered.

25 Okay.

1 MR. KLAUS: That is fine.

2 THE COURT: All right. We will be in recess and
3 reconvene at 9:30 tomorrow morning.

4 (Thereupon, trial was recessed at 4:30 p.m.)
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1 IN THE UNITED STATES DISTRICT COURT
 2 SOUTHERN DISTRICT OF FLORIDA
 3 NORTHERN DIVISION

4 JUAN ROMAGOZA ARCE, JANE) Docket No.
 5 DOE, in her personal capacity) 99-8364-CIV-HURLEY
 6 as Personal Representative of)
 7 the ESTATE OF BABY DOE,)
)
) Plaintiffs,)
 8 vs.) West Palm Beach, Florida
) July 3, 2002
 9 JOSE GUILLERMO GARCIA, an)
 10 individual, CARLOS EUGENIO VIDES))
 11 CASANOVA, an individual, and) VOLUME 6
)
)
) Defendants.)
 12 _____ x

12

13

14 COURT REPORTER'S TRANSCRIPT OF
 15 TESTIMONY AND PROCEEDINGS HAD BEFORE
 16 JUDGE DANIEL T. K. HURLEY

16

17 APPEARANCES:

18 For the Plaintiffs: JAMES GREEN, ESQ.
 PETER STERN, ESQ.
 19 BETH VANSCHAACK, ESQ.
 20 For Defendant: KURT KLAUS, ESQ.
 21 Court Reporter: Pauline A. Stipes, C.S.R., C.M.

22

23

24 PAULINE A. STIPES
 25 Official Reporter
 U. S. District Court

1 THE COURT: Good morning, everybody. Are we all
2 set and ready to proceed.

3 Let me double check.

4 Mr. Marshal, madam courtroom deputy, would you
5 bring in the jury?

6 Is Professor Garcia here this morning?

7 MR. GREEN: Yes, Your Honor.

8 THE COURT: I wonder if we could ask him to come
9 forward.

10 (Thereupon, the jury returned to the courtroom.)

11 THE COURT: Mr. Green, would you like the last
12 couple of questions?

13 MR. GREEN: What I thought I would do is a quick
14 repeat.

15 THE COURT: All right.

16 MR. GREEN: Also, the translation on Article 375,
17 I must take some responsibility for it, my Spanish is not
18 what it used to be, and I asked for a professional
19 interpretation, and we have that blown up. I would like
20 to go there at the beginning.

21 THE COURT: Good. Good.

22 (Thereupon, the jury returned to the courtroom.)

23 THE COURT: Good morning, ladies and gentlemen.
24 We are happy to have all of the members of the jury
25 present. I am glad the baby is feeling well.

1 When we stopped yesterday afternoon, as you know,
2 we were in direct examination of Professor Garcia, so I am
3 going to turn back to Mr. Green and allow him to continue.

4 Mr. Green.

5 BY MR. GREEN:

6 Q. Good morning, Professor Garcia.

7 A. Good morning.

8 Q. Before we recessed yesterday afternoon, you testified
9 about the Christian Democrat letter and General Garcia's
10 reaction to it?

11 A. Yes.

12 Q. In response, you read Army regulation -- or Army
13 Ordinance Article Number 375. I have asked that it be
14 blown up for the benefit of the jury.

15 As a military command structure expert, could you
16 summarize what Article 375 means to you?

17 A. This is the result of experience. You see, this
18 article is common to all Army ordinances around the world,
19 this is nothing unusual.

20 And it is done mainly so a superior is unable to hide
21 his lack of efficacy as well as lack of action.

22 Q. When you say efficacy, you mean lack of ability to
23 control?

24 A. Of course. Or his cowardess on certain occasions.
25 Shielding himself behind actions taken by his subordinates

1 that would prevent him from exercising effective command.
2 That is why this article recommends to whomsoever has
3 command over troops, that he must always be at the head of
4 his subordinates, he must be the first to accept all risks,
5 and he must have trained his subordinates and informed them
6 that they must comply with his orders instantly and without
7 complaint.

8 This is the essence of command.

9 Q. Professor Garcia, as a military command structure
10 expert, under Salvadoran Army regulations can a military
11 commander justify his failure to act because he is afraid
12 how his troops, his subordinates will react?

13 MR. KLAUS: Objection; calls for a legal
14 conclusion beyond his expertise.

15 THE COURT: I am going to overrule the objection.
16 I think the jury understands that the witness is
17 testifying within his area of expertise, and so I am going
18 to limit the answer to that, that is, to allow the witness
19 to give his opinion on these issues.

20 Now, of course, as I said before, ultimately it
21 is going to be for the jury to decide whether to accept
22 that opinion testimony, but I will allow this as an
23 opinion.

24 You may proceed.

25 MR. GREEN: May I repeat the question?

1 THE COURT: Yes.

2 BY MR. GREEN:

3 Q. Professor Garcia, as a military command structure
4 expert under Salvadoran Army regulations, can a military
5 commander justify his failure to act because he is afraid
6 of how his subordinates will react?

7 A. No. Absolutely not.

8 Q. Professor Garcia, as a military command expert under
9 Salvadoran Army regulations, can a military commander
10 justify his failure to act or failure to command because he
11 is afraid of political pressure from civilians?

12 MR. KLAUS: Objection; goes beyond the scope of
13 his expertise. Misleading.

14 THE COURT: Okay. I am going to overrule that
15 objection but let me come back to this again.

16 Ultimately in this case the jury is going to be
17 asked to determine whether the Plaintiffs have established
18 that one or both of the Defendants are liable. That is
19 bare responsibility for what the Plaintiffs say happened
20 to them.

21 The Plaintiffs are relying upon a doctrine, a
22 legal doctrine called the Doctrine of Command
23 Responsibility and I am going to talk to you in detail
24 about that later, but that Doctrine allows a commander to
25 be held liable for the acts of the subordinate officers if

1 the commander knows or should have known that the
2 subordinates are committing violations and the commander
3 doesn't do anything to investigate or punish the
4 subordinate officers who are engaging in those acts.

5 Now, ultimately the jury is going to have to look
6 at the law, that is, the law as explained by The Court, by
7 miss on what are the duties of an officer. You are
8 allowed to consider the testimony if you find it to be
9 credible and worthy of belief in making judgments about
10 whether an officer had the ability to do those things.
11 That is, had the ability to investigate, and so on, and
12 the ability to punish.

13 Those ultimately are factual questions that the
14 jury is going to have to decide. So I am going to
15 overrule the objections and allow counsel to go forward
16 understanding that ultimately the jury is going to have to
17 decide this case on whether there has been a violation of
18 the law of command responsibility, not a violation of the
19 Salvadoran military code.

20 Okay. You may proceed.

21 BY MR. GREEN:

22 Q. Professor Garcia, under Salvadoran Army regulations,
23 can a military commander justify his failure to act because
24 of political pressure from civilians?

25 A. It would have to be a commander who does not comply

1 with his duties before his own institution and his country.

2 That would be impossible.

3 Q. Professor Garcia, is a military commander's duty to
4 act independent of either fear of his own troops reaction
5 or fear of civilian political pressure?

6 A. I do not understand the sense of the question.

7 Q. Let me rephrase it.

8 Professor Garcia, is a military commander's duty to
9 act independent of either political pressure or fear of his
10 troops' reaction?

11 A. Absolutely. Hence, the famous principle of command
12 responsibility which is incorporated in the Nuremberg
13 accords, and Tokyo accords, and incorporated in all of the
14 military legislation all over the world.

15 Q. Professor Garcia, you testified earlier that Minister
16 of Defense Garcia failed to order an investigation of the
17 19 incidents listed in the Christian Democratic letter?

18 A. Yes.

19 Q. What else, if anything, should Minister of Defense
20 Garcia have done besides order an investigation?

21 A. First he has legal responsibilities as assigned by the
22 code of military justice which is the initiation of an
23 investigation.

24 In addition to that which are the obligations assigned
25 to him by the code of military justice, a commander faced

1 with such an incredible amount of allegations, he must call
2 to his headquarters the commanders of the regions where the
3 events took place, and investigate if they were aware of
4 the barbarous acts that were taking place within their
5 jurisdictions. Ask them if they had taken any measure to
6 initiate investigation at their level as it is legally
7 required.

8 Order them to call in at their own level all of their
9 subordinates, and to perform the corresponding
10 investigation face-to-face, because it was evident that
11 something was happening beyond not only my control but
12 beyond the control of all of the levels of command all the
13 way down to corporal, that the disciplinary system that I
14 was trying to impose had broken down, and that may not last
15 but one minute and if I have any dignity in my command, if
16 I cannot reimpose discipline on my troops, I should have --
17 if I could not have done that, I should have stepped down
18 from my command and allow a person with more capacity, more
19 character and more willing to comply with the law to take
20 over my position, because that is my duty before the Army,
21 the institution and to my country. And especially with my
22 own principles and my own conscience.

23 Q. Professor Garcia, did Minister of Defense Garcia have
24 the power to meet directly with the director of the
25 National Guard, Vides Casanova, concerning the 19

1 instances, some of which were involved with National Guard
2 that were specified in the Christian Democratic letter?

3 A. Yes.

4 Q. If the Minister of Defense had information from a
5 reliable source that members of the National Guard were
6 committing torture, did the Minister of Defense have a duty
7 to go directly to the director of the National Guard?

8 A. Yes, that is demanded of him by the principle of
9 command responsibility. It is his duty and his right.

10 MR. GREEN: Mr. Stern, could you place the chain
11 of command chart? Could you hand the pointer in front of
12 the witness box?

13 BY MR. GREEN:

14 Q. Professor Garcia, yesterday you pointed to the jury
15 where the position of Minister of Defense was in this
16 organizational chart.

17 A. Over here (indicating).

18 Q. You also pointed to the positions of National Guard
19 and National Police, in between those positions is the
20 general staff.

21 Based upon your readings of Salvadoran law, Army
22 regulations, and your expertise about military command
23 structure, did the fact that there was a general staff
24 position in that organizational chart in any way restrict
25 Minister of Defense Garcia's duty and obligation to speak

1 directly to the directors of National Police and National
2 Guard concerning the contents of the Christian Democratic
3 letter?

4 A. No, there was no impediment at all. And remember, we,
5 we mentioned these little lines here demonstrate the
6 dependency relationship.

7 The event -- the fact that between the Minister of
8 Defense and the National Guard there is an intermediary
9 organization, based on military principle which is called
10 the principle of command extension, that makes that a step
11 or a stage so high as that of Minister of Defense may face
12 some problems where below him the number of subordinates is
13 a numerous one.

14 So you create an intermediary element to facilitate
15 the command task, but in no way is the chain of command
16 ever broken and the responsibility of the commander of the
17 National Guard continues to depend directly on the Minister
18 of Defense.

19 The fact is during his deposition, General Vides
20 Casanova says that he depended or reported to the Minister
21 of Defense and on some occasions met with him.

22 Q. Professor Garcia, you talked about the number of
23 people at the bottom of the chart. With respect to the Air
24 Force, Navy, National Police, National Guard and the
25 Treasury Police, is that a large number of people to report

1 directly to --

2 Let me withdraw the question.

3 Were there any impediments, any barriers to General
4 Garcia speaking directly with General Vides Casanova?

5 MR. KLAUS: Objection; repetitive.

6 THE COURT: Sustained.

7 BY MR. GREEN:

8 Q. Did the director of the National Guard have a duty to
9 know what was going on in his own headquarters?

10 A. Yes.

11 Q. Did the director of the National Guard have a duty to
12 know what was going on in regional headquarters, such as
13 that in San Vincenti?

14 A. Yes.

15 Q. Does a military commander have an obligation to insure
16 that his troops do not commit human rights violations?

17 A. Yes.

18 Q. You testified that the defense minister -- Minister of
19 Defense had various legal procedures -- strike that.

20 You testified that the Minister of Defense had various
21 powers over military justice?

22 A. Yes, he is the head of the entire system of military
23 justice.

24 Q. Professor Garcia, what are the different components of
25 military justice that were --

1 MR. KLAUS: Objection --

2 BY MR. GREEN:

3 Q. -- that were available to General Garcia and later to
4 General Vides Casanova when they were Minister of Defense?

5 A. Yes, if the judge would allow, I would like to refer
6 to some of my documents that would allow me to be more
7 precise what is set forth in the code of military justice.

8 Q. Yes, please.

9 MR. KLAUS: May I have copies?

10 THE COURT: Yes.

11 MR. GREEN: He has two pages of notes. We will
12 be glad to provide them to defense counsel.

13 THE COURT: Let me stop you for a second. When a
14 witness refers to documents, those documents must be shown
15 to opposing counsel.

16 MR. GREEN: We understand that, Judge. He has
17 notes to assist him with his testimony. We will be glad
18 to provide those to opposing counsel for cross
19 examination.

20 THE COURT: They need to be shown now.

21 MR. GREEN: May I approach the witness?

22 THE COURT: Yes.

23 MR. KLAUS: Could we impose on the court so I
24 could have copies?

25 THE COURT: Yes, we could have copies made.

1 Let's proceed, and we will get those to you. Okay.

2 THE WITNESS: The responsibilities in accordance
3 with the code of military justice in times of peace in
4 accordance with Article 183, this provides the Minister of
5 Defense with the responsibility of --

6 MR. KLAUS: Again, Your Honor, if I may, may I
7 have a copy of Article 183?

8 THE COURT: Well, let me stop you one moment,
9 please.

10 Let me stop you for a minute.

11 I will overrule that request at this time. As I
12 said before, when a witness who is testifying refers to
13 notes while testifying, certainly the opposing party has
14 an absolute right to see those notes. In this instance we
15 will get a copy of them so counsel can have them for cross
16 examination, so let's proceed.

17 MR. GREEN: These were documents provided by
18 Defendants to Plaintiffs in discovery.

19 THE COURT: Let's go forward.

20 THE WITNESS: I am going to try and simplify it
21 to make this -- the Minister of Defense has the obligation
22 of creating or provoking the functioning of the
23 investigative military judges who are the ones who bring
24 together the briefs or the summaries of an alleged crime.

25 They also provoke the creation of the first

1 instance military justice -- judges who initiate this
2 process when they receive the brief, and beyond creating
3 courts marshal, the Minister of Defense can create courts
4 marshal, ordinary, extraordinary and urgent. The ordinary
5 courts marshal are convened by the military of defense in
6 order to try officers for crimes the punishment of which
7 is beyond ten years imprisonment.

8 The extraordinary courts marshal are created by
9 the Minister of Defense for the trial of generals involved
10 in some crime. And beyond these extraordinary courts
11 marshal -- the interpreter corrects himself -- in addition
12 these extraordinary courts marshal allow the Minister of
13 Defense to comply with the contents of Article 177 of the
14 Constitution that we were talking about yesterday.

15 Remember, the Constitution that said that in the
16 event of war or in the events of state of siege -- and I
17 would remind you that from 1979 through 1983 a state of
18 siege was in existence for the trial of crimes that would
19 place the stability of the nation and its institutions in
20 jeopardy, and for any crime that would affect the rights
21 of peoples or human rights, the Minister of Defense may
22 immediately convene this court marshal, it is his
23 authority to do so.

24 And this can be done in any part of the country
25 as stated by the Constitution as well as by the code of

1 military justice.

2 The military code of justice provides him with
3 the provision of creating -- allows him to create an
4 urgent court marshal for those urgent events that take
5 place during war time. The code of military justice
6 therefore provides him with the power to judge over the
7 entire territory of the country, to try any military
8 officer at any rank.

9 And in Article 177 these powers are expanded and
10 he may also try civilians, civilians who may be accused of
11 placing the stability of the nation of violating human
12 rights -- placing the stability of the nation in jeopardy
13 or having violated human rights -- the interpreter
14 corrects himself.

15 So under this summary of obligations, the state
16 places in the hands of the Minister of Defense enormous
17 power when it comes to administering military justice.

18 Article 198 --

19 Q. Professor Garcia, let me stop you there. I want to
20 clarify two points.

21 First of all, what is a state of siege?

22 A. The Constitution of El Salvador says that it is a
23 situation in which under -- in which the stability of the
24 nation is in danger, some constitutional guarantees are
25 suspended. This must be proclaimed by the President of the

1 country in agreement with the legislators. Must establish
2 it for a determined period of time.

3 And this is renewed in accordance or in agreement with
4 the legislature every 30 days. And throughout the entire
5 period of 1979 to 1983 it was renewed constantly and in the
6 absence of a legislature, it was renewed by the
7 dictatorship.

8 Q. Professor Garcia, you indicated that under Article
9 177, once a state of siege is declared, the powers of the
10 Minister of Defense are expanded to allow for the
11 prosecution of both military and civilians for violations
12 of human rights?

13 A. Yes, I said that.

14 Q. Would torture or rape by military or security forces
15 of civilians constitute violations of human rights that
16 would be prosecutable under Article 177?

17 A. Yes.

18 Q. This is power that the Ministers of Defense had in
19 states of siege?

20 A. And those of war as well.

21 Q. Professor Garcia, when you are talking about Article
22 177 and the expanded powers that the Minister of Defense
23 has during war or states of siege, is this just another
24 power that Minister of Defense has in order to discipline
25 and control his troops?

1 A. It is a specific power to that position established by
2 law that will allow him to comply with control of his
3 troops as well as to impose discipline upon them. And this
4 is the obligation imposed upon him by law.

5 Q. Based upon your review of the depositions of the
6 Defendants and the other evidence in this case, did General
7 Garcia's Minister of Defense from 1979 to early 1983, or
8 General Vides Casanova Minister of Defense in later 1983
9 ever invoke the powers that they had under Article 177? ✓

10 A. No. ✓

11 Q. As a military command structure expert, should they ✓
12 have done so?

13 A. Yes. ✓

14 Q. Professor Garcia, are you aware of the contents of the
15 1979 report from the Organization of American States that
16 described clandestine torture cells in the headquarters of
17 the Salvadoran National Guard in San Salvador?

18 MR. KLAUS: Objection; relevance.

19 THE COURT: I will overrule the objection.

20 THE INTERPRETER: Interpreter requests the last
21 part of the question be reread.

22 BY MR. GREEN:

23 Q. Are you aware of the contents of the 1979 report of --
24 the report of 1979 from the Organization of American States
25 that detail clandestine headquarters of the Salvadoran

1 National Guard?

2 A. Yes.

3 Q. What duty would a military commodore have to
4 investigate or personally inspect the locations where the
5 reported torture cells were?

6 A. He would have to do so immediately. I could not take
7 charge of a command under such an accusation.

8 Q. When General Vides Casanova became head of the
9 National Guard in October, 1979, was he aware of the
10 reports of torture cells in the National Guard
11 headquarters?

12 MR. KLAUS: Objection; beyond the scope of his
13 knowledge.

14 THE COURT: Sustained.

15 BY MR. GREEN:

16 Q. Did you review the deposition of General Vides
17 Casanova that he gave in this case?

18 A. Yes.

19 Q. Based upon your reading of that deposition, when
20 General Vides Casanova became head of the National Guard in
21 October of 1979, was he aware of torture cells in National
22 Guard headquarters?

23 MR. KLAUS: Objection. If he is going to refer
24 to the deposition, he needs to provide line and page that
25 he is referring to.

1 THE COURT: I'll sustain that. I think if you
2 are going to refer to a specific source, you need to cite
3 the source.

4 MR. GREEN: If I may have a moment, Your Honor.

5 THE COURT: Sure, take your time.

6 MR. GREEN: Your Honor, I will return to this.
7 It is in here.

8 THE COURT: All right.

9 BY MR. GREEN:

10 Q. When a commander receives word of a serious allegation
11 of human rights abuse among his troops, what should he do? ✓

12 A. The first thing he has to do is find out if that ✓
13 allegation is reliable. It will be reliable depending on
14 the source from whence it comes or whatever knowledge he
15 may have concerning the circumstances connected to that
16 fact.

17 In the face of any reasonable doubt that this event
18 has taken place, he must immediately order an investigation
19 to take place, because this is a very serious crime. This ✓
20 is a violation of human rights and from that moment the
21 code of military justice begins to function with all of the
22 articles that set forth the right of the Defendants to
23 defend themselves in a courtroom.

24 Q. If a military commander after conducting an initial
25 investigation or having an initial investigation conducted

1 determines that a full scale prosecution is not appropriate
2 for a subordinate accused of human rights violations, what
3 other steps can he take to insure the subordinate is
4 prevented from committing human rights abuses again?

5 MR. KLAUS: Objection; overbroad, misleading
6 because it is overbroad.

7 THE COURT: I will overrule the objection, and
8 you may answer the question if you are able to.

9 THE WITNESS: There are times when the
10 investigation does not provide us a sure accusation, but ✓
11 if I as a commander in face of the circumstances that
12 surround this event, I get the feeling that something has
13 been hidden from me because the general environment in
14 which I move, my family members, newspapers, my neighbors
15 all tell me that something is going on and that this
16 investigation hasn't provided me with elements to judge,
17 then I as a commander immediately go to the area where
18 these events have allegedly taken place.

19 I meet there with my subordinate commander, be it ✓
20 from the guard or the police or whatever it is, and I tell
21 him what my impressions are, and I tell him in that place
22 things are taking place that are being hidden from me and
23 I will not tolerate this without his immediate relief of
24 command.

25 But that will not be satisfying for me. I order

1 that commander, the director of the National Guard, for
2 example, to call in all of his subordinate commanders and
3 in a firmer manner I express it also to them. I tell them
4 that in their area of jurisdiction events taking place
5 beyond the commander's control, their control and my
6 control, and in the credible suspicion that this is
7 actually happening, I will proceed to relieve of command,
8 I will transfer all alleged guilty parties because I am
9 not going to allow that this element of violation of human
10 rights grows to become something that is degrading not
11 only for my command but also for my country because I have
12 powers in the highest conduction of command to transfer,
13 to remove, to promote or not promote people involved and
14 all other types of incentives that a commander has over
15 his troops to reward or to punish real or alleged
16 behaviors without violating the law.

17 Q. If human rights violations among subordinates occur,
18 is it important for a commander to set an example of
19 someone by either prosecuting them, reprimanding them or
20 reassigning them?

21 A. Yes, in that order.

22 Q. You testified earlier that abuses might grow if not
23 properly addressed?

24 A. Yes.

25 Q. How would the abuses grow?

1 A. Well, if I as a commander do not take all of the
2 measures I have already mentioned, I could give the sense
3 to my subordinates that there is permission to do just
4 about anything, that impunity will govern my command
5 structure and that they may do within their respective
6 areas of jurisdiction, they may do whatever they want
7 because I don't make corrective action in a timely manner,
8 violently to prevent at any cost that an allegation,
9 accusation so grave as this covers me with shame.

10 Q. Professor Garcia, you use the word impunity. As a
11 military command structure expert, what is the meaning of
12 impunity to you?

13 A. The ability to commit crimes without the appropriate
14 punishment.

15 Q. If a -- strike that.

16 What are the steps a commander should take if he
17 learns that a facility under his command, such as the
18 National Guard headquarters, are being used by his troops
19 to commit torture?

20 A. Always the first step is to determine whether or not
21 that information is reliable. I also have the obligation
22 not to offend my subordinates with false accusations. But
23 if I have a reasonable doubt --

24 Q. Let me stop you there, Professor.

25 You said you have a duty to determine whether the

1 information is reliable. If it comes from a reliable
2 source, would you as a military commander require that it
3 be proven before you would take measures to prevent human
4 rights violations?

5 A. . No.

6 Q. Please continue.

7 A. Then immediately I begin to act personally. There is
8 nothing better in military -- in a military environment
9 there is nothing better than personal action. The presence
10 of the commander at the place where all kinds of events may
11 take place is a deterrent, so I would immediately go to the
12 place where such a thing has been alleged to have taken
13 place.

14 I would meet with all parties involved. I would
15 inspect even the smallest facility within that command so
16 that -- so as to insure that the event does not continue to
17 happen and I would immediately go forward with all of the
18 other actions that I have listed earlier.

19 Q. Would you interview prisoners?

20 A. Yes. To determine whether they are legal prisoners,
21 illegal prisoners, I would talk to them and ask them about
22 the treatment they are receiving, and I would make sure
23 that they are completely free to speak to me and for which
24 I would do this personally accompanied by no one.

25 Q. Was there any evidence in the record that you have

1 reviewed that General Vides Casanova ever interviewed a
2 single prisoner?

3 A. There is no evidence. There are statements but I have
4 been unable to prove them.

5 Q. Would it make any difference whether the torture
6 facility is in his office building or in another National
7 Guard headquarters 30 or 40 miles down the road?

8 A. Yes, it is different.

9 Q. Would you -- if you received reports that there was
10 torture occurring in other National Guard headquarters,
11 would you as director of the National Guard have a duty to
12 investigate?

13 A. Yes, yes. I as director of the National Guard, I
14 would do what I said earlier. I would go immediately to
15 the place of the events.

16 Q. Professor Garcia, if a particular military unit is
17 responsible for repeated abuses, should a military
18 commander break up that unit?

19 A. He should restructure that military unit.

20 Q. Would that include breaking it up, sending people to
21 other units?

22 A. To restructure means that I will carry out the
23 transfers that are necessary throughout all hierarchies
24 because if I am a commander, I have my own ways of finding
25 out who is the alleged ring leader, who is promoting

1 discipline, who is always ready and willing to collaborate
2 with my command. That happens in any organization.

3 It is the principle of leadership, so anything that
4 interferes with my command, even if I cannot prove a
5 charge, and in such a sensitive arena that is human rights
6 violations, I use all of the legal measures that I have as
7 a military commander to stop their power, impose
8 discipline, and if necessary, eliminate them because that
9 cannot continue.

10 Q. Were there any logistical problems that would have
11 prevented General Vides Casanova from knowing what was
12 going on in his own National Guard headquarters?

13 MR. KLAUS: Objection; beyond the scope of his
14 knowledge.

15 THE COURT: The witness may answer if he knows.

16 MR. KLAUS: Lack of proper foundation, lack of
17 proper predicate.

18 THE COURT: Those are too broad objections. What
19 do you mean by that?

20 MR. KLAUS: How would he know? He has to lay a
21 predicate for the source of this information.

22 THE COURT: I sustain that.

23 BY MR. GREEN:

24 Q. Professor Garcia, based upon your review of the
25 Defendants' depositions in this case -/

1 MR. KLAUS: Objection --

2 THE COURT: Let me hear the entire question if
3 you would, please.

4 BY MR. GREEN:

5 Q. -- and the other documents and records that you
6 reviewed, was there any evidence that General Vides
7 Casanova had any logistical problems that would have
8 prevented him from knowing about torture that was occurring
9 in his own National Guard headquarters?

10 MR. KLAUS: Objection. Insufficient facts and
11 data upon which to base an opinion on that question.

12 THE COURT: I will let you handle that on cross
13 examination. I will overrule the objection.

14 MR. KLAUS: Secondly, again, with the deposition,
15 if he is going to refer to the deposition, he is to be
16 specific where in the deposition.

17 THE COURT: I take it counsel has elaborated and
18 suggested there are other documents. I will let you
19 handle that on cross examination.

20 BY MR. GREEN:

21 Q. Let me re-ask the question.

22 Professor Garcia, based upon your review of the
23 depositions in this case from General Vides Casanova, and
24 General Garcia and the other evidence that you reviewed in
25 this case, was there any evidence of any logistical

1 problems that General Vides Casanova would have had that
2 would have prevented him from knowing about torture that
3 was occurring in his own National Guard headquarters?

4 MR. KLAUS: Same objection.

5 THE COURT: Same ruling. You may answer the
6 question.

7 THE WITNESS: No. He needs nothing for that. My
8 headquarters is my house, where every day I show up six
9 o'clock in the morning and I leave ten o'clock at night.
10 What logistical means, do I need in order to know what is
11 going on in every single room in my house, all I need is a
12 good pair of shoes, so there is no logistics involved in
13 this.

14 BY MR. GREEN:

15 Q. Would you occasionally make spot checks at two a.m. or
16 four a.m.?

17 A. Yes, that is customary.

18 Q. Would you inspect the second floors and the third
19 floors of your National Guard headquarters?

20 A. Yes, basement and surrounding areas.

21 Q. Were there any logistical problems that would have
22 prevented General Vides Casanova when he was Minister of
23 Defense from driving three or four miles from his office to
24 the National Police headquarters in San Salvador?

25 A. No.

1 Q. Would there have been any logistical problems that
2 would have prevented General Vides Casanova from
3 interviewing prisoners at the National Police headquarters
4 in San Salvador in 1993 when he was Minister of Defense?

5 MR. KLAUS: The last part makes it really
6 misleading. He said --

7 THE COURT: What is the legal basis of the
8 objection?

9 MR. KLAUS: Misleading and confusing.

10 THE COURT: I will overrule that.

11 MR. KLAUS: Insufficient facts and data upon
12 which to base the opinion.

13 THE COURT: I will overrule that and let you
14 treat that on cross examination.

15 BY MR. GREEN:

16 Q. Professor Garcia, let me state the question so we
17 don't get lost in the objection.

18 Professor Garcia, based on your review of the
19 depositions and other evidence in this case, were there any
20 logistical problems that would have prevented General Vides
21 Casanova when he was Minister of Defense in June, 1993 from
22 driving over three to four miles to the National Police
23 headquarters and interview prisoners?

24 THE COURT: You said June of '93.

25 MR. GREEN: Excuse me, Judge, I apologize.

1 BY MR. GREEN:

2 Q. Professor Garcia, based on the depositions and other
3 evidence that you reviewed in this case, were there any
4 logistical problems that would have prevented General Vides
5 Casanova when he was Minister of Defense in June, 1983 from
6 driving over to the National Police headquarters in San
7 Salvador to interview prisoners about possible torture?

8 A. No.

9 Q. Professor Garcia, if a military commander issues
10 orders to subordinates to respect human rights, but reports
11 of abuses are not investigated or punished, do the orders
12 have any value?

13 A. No, military principles say that no order has any
14 value if you do not control its compliance.

15 Q. If you do not enforce it?

16 A. Of course, by way of control, I insure its compliance.

17 MR. GREEN: May I just have one moment, Your
18 Honor?

19 THE COURT: Surely.

20 BY MR. GREEN:

21 Q. Professor Garcia, you testified earlier about
22 situations where you could not as a military commander have
23 enough proof to actually discipline a particular officer or
24 subordinate who was accused of human rights violations?

25 A. Yes.

1 Q. But as a military commander you had other options
2 available to you?

3 A. Yes.

4 Q. Are you aware of any instances when General Garcia as
5 Minister of Defense removed or transferred military
6 officers with whom he disagreed?

7 A. Yes.

8 Q. Who were they?

9 A. He removed Colonel Majano, M-A-J-A-N-O. He removed
10 Colonel Majano and 17 officers loyal to Colonel Majano from
11 the revolutionary Junta.

12 Q. Were these the 17 officers who were attempting to
13 reform the Salvadoran military?

14 A. They were those of the highest rank who were trying to
15 do the reform, but there were many others involved as well.

16 MR. GREEN: I have no further questions.

17 THE COURT: I wonder if we might borrow now the
18 notes of Professor Garcia so we could get copies made and
19 provide them to Mr. Klaus for his cross examination.

20 Why don't we stop at this point for the
21 mid-morning recess. It is a little earlier than we
22 normally would do, but it would give Mr. Klaus an
23 opportunity to look at those notes in an effort to prepare
24 his cross examination.

25 Let's take a recess for about 15 minutes, and

1 then we will come right back and move into the cross
2 examination.

3 Let me allow the jury to step out.

4 (Thereupon, the jury retired from the courtroom.)

5 THE COURT: Again, Professor, because we are
6 stopping in your examination, may I ask that you not talk
7 to anyone about your testimony until the cross examination
8 and redirect are completed?

9 THE WITNESS: Yes, sir.

10 THE COURT: Gracias.

11 The court will be in recess for 15 minutes.

12 (Thereupon, a short recess was taken.)

13 (Thereupon, trial reconvened after recess.)

14 THE COURT: Mr. Marshal, would you bring in the
15 jury, please?

16 MR. KLAUS: Your Honor, I don't know if this
17 interpreter has been sworn.

18 (Thereupon, the jury returned to the courtroom.)

19 THE COURT: Ladies and gentlemen, please be
20 seated. Just before I turn to Mr. Klaus, Mr. Klaus, we
21 have been joined by another interpreter and I wanted to
22 let you know our other interpreter is also a Federally
23 certified interpreter. I don't know that I actually
24 administered the oath to either of the prior interpreters.
25 I assume that everybody is Federally certified.

1 THE INTERPRETER: My colleague Anna Gomez is
2 Federally certified, and I, on the other hand, am not.

3 THE COURT: Let me discuss that with counsel, and
4 I will administer the oath retroactive.

5 MR. KLAUS: That is fine.

6 THE COURT: I think it is apparent we have had
7 the benefit of having fine court interpreters doing
8 simultaneous interpretation, and one reason we do this is
9 so each of the interpreters can spell each other. I want
10 to thank them for the job they have been doing. We have
11 been joined by a third interpreter. Let me proceed.

12 Let me turn to Mr. Klaus and allow him to cross
13 examine.

14 MR. KLAUS: Thank you, Your Honor.

15 CROSS EXAMINATION

16 BY MR. KLAUS:

17 Q. Good morning, Professor.

18 A. Good morning, sir.

19 Q. You prefer to be addressed as professor or general,
20 which title do you prefer?

21 A. Colonel.

22 Q. Colonel. Is that what you prefer?

23 A. Yes, that is my title.

24 Q. Thank you, Colonel.

25 Most of the opinions you rendered regarding command

1 structure during your testimony here are universal
2 principles and universal doctrines regarding command
3 structure, correct?

4 A. Yes.

5 Q. And they apply essentially to all armed services all
6 over our world?

7 A. Yes.

8 Q. I want to take time to go through and if I could
9 have -- since I have that chart up there, let me go through
10 that.

11 Do you know how many members of the armed forces,
12 armed services of El Salvador there were, including in all
13 those branches indicated on the command chart, during this
14 time period from '79 to '83?

15 A. Yes.

16 Q. And how many?

17 A. Well, starting with the year '79, there were around
18 13,000 members, and in the year '83, by then we had over
19 50,000.

20 Q. So '79 there were 30 and grew to 50 by '83?

21 A. Yes.

22 MR. GREEN: Objection -- withdraw.

23 BY MR. KLAUS:

24 Q. And under the universal theories of command structure,
25 command responsibility, they would all be under the control

1 of Minister of Defense; is that correct?

2 A. Yes.

3 Q. Now, do you know how many letters containing
4 allegations of human rights violations were received by the
5 Government of El Salvador during that time period?

6 A. I don't know the number, but I do know how many I had
7 to read.

8 Q. Well, if we heard testimony from a representative --
9 Mr. McClintock from Amnesty International saying Amnesty
10 International had issued 175 urgent actions, and the
11 average response was 5,000 letters --

12 THE INTERPRETER: Can you repeat the last part.
13 5,000.

14 BY MR. KLAUS:

15 Q. As a result of 175 urgent actions, 5,000 letters per
16 urgent action were sent to the Salvadoran Government. How
17 many letters would that make just from Amnesty
18 International action received by the El Salvadoran
19 Government regarding human rights actions? Do you want to
20 calculate it?

21 A. What is your question? I don't understand it.

22 Q. For the 175, for each 15,000 letters went to the El
23 Salvadoran Government. Would that mean just based on
24 Amnesty International's actions 875,000 letters were
25 received by the Government of El Salvador regarding human

1 rights abuses?

2 A. I didn't hear the deposition of Amnesty International.
3 I wasn't present in the courtroom then. But I can say that
4 under my command their staff charge of receiving all
5 correspondence, selected and bring to me as commander the
6 relevant ones, those that I should be reading.

7 All commands have a very high volume of correspondence
8 received. There are some things that go to the general
9 staff, there is others that go to logistics, to operations,
10 et cetera. The material is selected in each area, and then
11 it is sent to the commander of the general staff. The
12 general staff commander will bring all those pertinent
13 things to my attention. It is a random number.

14 Q. Okay. Do you know if the Minister of Defense during
15 the period from January of 1980 to June of '83 had a staff
16 in place that screened the correspondence that was
17 addressed to him?

18 A. I know the military -- I know of the qualifications of
19 the general, and I suppose he must have organized the
20 commanding efforts. I have no reason to doubt that it
21 wouldn't have been so. In 1989 the general was a very
22 prestigious person in the military because of his
23 qualifications. I don't have a reason to doubt that he
24 wouldn't have organized his command.

25 Q. Okay. So, you, from the research you did in preparing

1 for your testimony here, you weren't able to discern
2 whether he actually had a staff to screen his
3 correspondence or not? I am speaking of the Ministers of
4 Defense.

5 A. It wasn't an important subject matter for me to
6 discern on.

7 Q. Okay. Do you know how many officers were in the
8 military service, everything under the Minister of Defense,
9 how many officers there were during this time period?

10 A. In the whole Salvadoran military structure?

11 Q. Yes.

12 A. There must have been a total number from 200 to 250
13 officers.

14 Q. And what do you consider an officer? What is the
15 lowest rank you consider an officer?

16 A. Lieutenant would be.

17 Q. Did the amount of officers remain fairly constant
18 during that time period even though the members of the
19 armed services went from 30 to 50,000?

20 MR. GREEN: Objection. He said 13,000.

21 THE COURT: That is not a legal objection.

22 BY MR. KLAUS:

23 Q. Went from 30 to 50,000. I am sorry.

24 A. During a period of time?

25 Q. Yes, during the period from 1979 to 1983.

1 MR. GREEN: Objection. May we approach the
2 Bench? There is a concern about a particular translation.

3 THE COURT: No, let's go ahead, if we can. Let's
4 go ahead, if we can.

5 BY MR. KLAUS:

6 Q. During the period from 1979 to 1983?

7 A. It increased from year to year until we got to the
8 number that we have established.

9 Q. The amount of officers, do you know if they increased
10 correspondingly from 250, or did that amount remain
11 constant during that time period?

12 A. Well, it did increase according to the increase in
13 ranks. Each year the military schools have graduates.
14 Some years larger number of graduates than others.

15 Q. Now, do you know if during that time period from '79
16 to '83, was there a military school in El Salvador?

17 A. Yes.

18 Q. And were you familiar with the curriculum of the
19 military school?

20 A. I had to become too familiarized with those.

21 Q. And do you know if during that time period the
22 officers were trained to respect human rights?

23 A. There were courses related to that topic.

24 Q. Now, during that time period, did United States
25 Government assist in the training of enlisted personnel in

1 the El Salvadoran military?

2 A. Yes.

3 Q. And did that training take place outside of the
4 country, namely in Honduras?

5 A. Can you please repeat the question?

6 Q. Did the United States assist in training enlisted
7 personnel of the El Salvadoran military during this time
8 period?

9 A. Yes.

10 Q. And did that military training take place in Honduras?

11 A. Well, no, the military training, that occurred in El
12 Salvador. Sometimes officers and subofficers were sent to
13 additional training in United States and Panama, and some
14 officers, as General Garcia well knows, were sent to Chile
15 or other parts of South America. But the main bulk of
16 instruction was given in El Salvador.

17 Q. And do you know if the United States instructors
18 instructed the enlisted men to respect human rights?

19 A. I know what I was taught in courses in the United
20 States, but I wouldn't know what was taught in courses in
21 El Salvador.

22 Q. Did your research to prepare for your expert testimony
23 in this case include researching what the United States
24 instructors instructed the El Salvadoran Army on?

25 A. No.

1 Q. So you don't have knowledge of that?

2 A. It's impossible to know what is taught at each
3 headquarters or each course, site, only the instructor
4 would know that, or those receiving instruction. I can
5 only tell you what I studied in courses in one year, one
6 year of courses in the United States.

7 Q. Now, what's the primary duty of a military, of a
8 country's military?

9 A. The first obligation is to serve the nation.

10 Q. Is it to maintain the security of the nation?

11 A. And to guard the borders from any attack from abroad.

12 Q. Now, during that time period, was El Salvador involved
13 in a civil war?

14 A. Yes, starting in 1980.

15 Q. Was it threatened from forces outside its borders?

16 A. There was a potential threat, because in those times
17 when we had an east/west confrontation, there were forces
18 like the ones in Cuba and it was said that in Cuba they
19 would send arms to the guerrillas that were operating in El
20 Salvador. It was a potential external threat.

21 Q. And was there a threat from its southern neighbor,
22 Nicaragua?

23 A. Well, a famous war between El Salvador and Nicaragua
24 because of futbol, that happened many, many years before.

25 Q. That wasn't between El Salvador and Nicaragua, it was

1 between El Salvador and Honduras, right?

2 A. No, it was Guatemala. I said Nicaragua, pardon me.

3 Q. It was Honduras, correct?

4 A. Well, fine. Well, I am going to cover Central
5 America. There was a revolutionary movement in Nicaragua.
6 The Sandinista movement, and it was said that perhaps it
7 would reach over to El Salvador with military aid, and it
8 was another potential threat.

9 Q. Okay. I would like to go to the letter from the
10 Christian Democratic party that was referred to by the
11 Plaintiffs' attorney dated January 31, 1980. Could you
12 bring up Exhibit 499 and R3536.

13 Now, if I understand your testimony, you said in your
14 opinion this is a letter that deserved a response from the
15 Minister of Defense, correct?

16 A. Yes.

17 Q. Because of the gravity of the allegations and the
18 credibility of the people who signed the letter, correct?

19 A. Yes.

20 Q. Now, this is a letter of members of a political party
21 addressed to the governing body of the country, which was
22 the members of the revolutionary governing Junta, correct?

23 A. Not only to them, but it was also addressed to the
24 high command.

25 Q. And COPEFA. Do you know what the acronym COPEFA

1 stands for?

2 A. Which one?

3 Q. The third -- it is addressed to three --

4 A. COPEFA?

5 Q. Yes.

6 A. Yes.

7 Q. What was that group, what did it stand for?

8 A. The revolution of 1979 comes about by the efforts of
9 lower ranking officers. And as a consequence all of the
10 generals, high ranking generals disappeared from El
11 Salvador's military ranks. This military revolutionary
12 created this committee called COPEFA and they implemented
13 the famous 1979 declaration, revolutionary declaration and
14 they called in three Colonels to take command of the new
15 revolutionary forces.

16 One of those, Colonel Majano, the other one Colonel
17 Gutierrez, along with three civilians they make up the
18 revolutionary Junta. The other one is Colonel Garcia at ✓
19 that time, at that time he was named Minister of Defense.
20 They form a permanent committee to be consulted on some ✓
21 topics that would lead or promote the revolutionary
22 process.

23 Q. Okay. And that is, COPEFA was the permanent counsel
24 of the armed forces; is that correct?

25 A. Yes.

1 Q. Okay. And that was made up by the members of the
2 October 15, 1979 revolution?

3 A. Yes, and they delegated the command to these persons
4 that I had mentioned before.

5 Q. Okay. Now, was there -- in your research, and I know
6 you consulted with Salvadoran legal documents including the
7 Constitution of the republic of El Salvador, Army
8 ordinance, military code of justice, the law of
9 constitutional procedures, the penal code, the penal
10 procedure code, the armed forces proclamation of
11 October 15, 1979, the decree 50 and decree 507 --

12 THE INTERPRETER: Can you repeat the last?

13 BY MR. KLAUS:

14 Q. The decree 50 and decree 507. In your review of
15 those -- and are they all Salvadoran legal documents that
16 were in effect during this time period from 1979 to 1983?

17 A. The ones that I read were in effect at that time.

18 Q. Okay. Did you find in any of those legal documents a
19 law or ordinance or requirement that the Minister of
20 Defense consider letters from political parties?

21 A. It doesn't say in any legal document per se that a
22 letter by an entity or a political entity has to be
23 investigated, but what does have to be investigated is a
24 credible claim or complaint of some kind of violation.
25 This is what -- this is what the requirements call for.

1 It doesn't specifically say a letter by the Christian
2 Democrats.

3 Q. Okay. And it is your opinion that this letter should
4 have been investigated for the reasons we talked about
5 before, correct?

6 A. Yes, sir.

7 Q. Okay. I would like to go through the letter with you
8 so we have a clear understanding of it in its entirety.

9 Can you highlight the first two paragraphs?

10 A. Yes.

11 MR. GREEN: Your Honor, may I give the witness
12 the Spanish version?

13 THE COURT: Surely.

14 BY MR. KLAUS:

15 Q. This says the Christian Democratic party -- how many
16 political parties were in existence in El Salvador during
17 this time?

18 A. I don't know the exact number.

19 Q. Was it more than ten?

20 A. No, less than ten.

21 Q. Okay. So, "The Christian Democratic party, in
22 analyzing the current situation, has arrived at the
23 conclusion that it is necessary and urgent to present the
24 following position paper to the armed forces and to obtain
25 from the armed forces a clear and concrete response. In

1 view of the relation between the matters discussed and the
2 success of the process of the social change that we have
3 initiated."

4 Now, they are talking about -- are they talking about
5 the process that they initiated -- they are talking about
6 the revolution of October 15, 1979?

7 A. Yes.

8 Q. That happened about three and a half months before
9 this letter was drafted?

10 A. Yes.

11 Q. And then goes on to say, "The political pact that we
12 entered into at the beginning of this month had, as its
13 foundation, the conviction shared by the armed forces and
14 by the Christian Democratic party, of the necessity of
15 structural changes and respect for human rights; if our
16 common undertaking is to advance a revolutionary and
17 democratic process, it is evident that this cannot succeed
18 if human rights are systematically violated and there is
19 produced in the country a climate of repression."

20 Is the pact they are referring to, political pact, is
21 that referring to the formation of the Junta?

22 A. Well, it is an indirect reference to the Junta.

23 Q. Okay. And is it your opinion that a country -- no
24 country can maintain its stability or security if it
25 continually represses human rights; is that correct?

1 A. That's correct.

2 MR. KLAUS: If you could go down to the next two
3 paragraphs, highlight them.

4 BY MR. KLAUS:

5 Q. "This position paper refers specifically to this last
6 point, in that it involves the action of the armed forces
7 and the role that the armed forces should play in the
8 process of change. First, we will set forth some factual
9 considerations, and then we will move on to the analysis of
10 these facts, in order finally to present our concrete
11 views."

12 And that outlines what the rest of the letter is going
13 to be about, correct?

14 A. Yes.

15 Q. Now, the next paragraph, the facts. Is where we begin
16 the 18 -- description of the 18 -- 19 instances of human
17 rights abuse, and goes on to say, "During the present month
18 we have been verifying events of a repressive character
19 that form a pattern of behavior."

20 They are dealing with the month of January, 1980,
21 correct?

22 A. Uh-huh.

23 Q. "We do not refer to all of these events, but only to
24 those that our party has through various means been able to
25 verify; nor do we refer solely to repressive actions taken

1 against members of our party, but also actions against
2 citizens of no political party, and members of other
3 groups, because we consider that human rights are inherent
4 to the individual independently of how such person thinks."

5 That was one of the fundamental items in the
6 proclamation, the initial proclamation, correct?

7 A. Yes.

8 Q. That people in El Salvador should have the right to
9 think and believe the way they wish?

10 A. That was the hope of the revolution.

11 Q. Okay. Now, is there any -- I would like to draw your
12 attention to some of the specific cases. I won't go
13 through them all.

14 MR. KLAUS: Page 3539, 18 and 19 if you can
15 highlight those two.

16 BY MR. KLAUS:

17 Q. These are instances where they actually name the
18 alleged perpetrators?

19 A. One moment, I haven't found it.

20 Q. I am sorry.

21 A. Okay.

22 Q. And this is violations of human rights and by actual
23 members of the military, correct?

24 A. Yes, yes.

25 Q. Where it says, "Colonel Servio Tulio Figueroa,

1 departmental commandante of Santa Ana, has declared
2 publicly to his patrols that they should combat the PDC --"
3 PDC is Christian Democratic party, correct?

4 A. Yes.

5 Q. "-- because it is subversive."

6 A. That is what it says.

7 Q. Okay. Was that against the orders of Colonel Garcia?

8 A. Well, there are some points -- there are some points
9 as to one you have just chosen. That doesn't make a
10 concrete allegation of a human rights violation, but I can
11 point out to you some that do.

12 Q. Okay. Let's go to the next one. Colonel Agir
13 Benavides, departmental commandante of Chalatenango,
14 refuses to communicate with the current mayor and governor
15 of the department; by contrast he maintains close relations
16 with the representatives of the PCN and ORDEN."

17 Now, what was ORDEN?

18 A. It was an illegal paramilitary organization.

19 Q. By that time it had been outlawed and made illegal by
20 the new Junta, correct?

21 A. It was one of the first decrees of the Junta, to
22 designate the operations of that paramilitary group as
23 illegal.

24 Q. Okay. That was even contained in the proclamation,
25 correct?

1 A. Yes.

2 Q. "And they have released unleashed a wave of repression
3 in the department, especially in Las Vueltas, Arcato, San
4 Jos, Las Flores, San Antonio La Cruz, and Nueva Trinidad.
5 In these operations there have been reports of murdered
6 peasants, destroyed homes and stolen property. Major
7 Cienfuegos, second officer of the barracks, was the one who
8 led the operation in Agua Caliente, and in that very town
9 on January 30, the mayor, a member of the PDC Leopoldo
10 Guevara was beaten by the Army."

11 That is a specific instance, correct?

12 A. Of a series of specific events.

13 Q. Okay. Is there any other ones that you want to bring
14 to our attention that were mentioned in these 19 events?

15 A. Yes, I could start with the first one, and then I
16 could go on.

17 Q. Okay. If you want -- do you want -- if you want to
18 summarize them, would it be fair to say these were actions
19 taken either by members of the military -- generally by
20 members of the military against civilians, correct?

21 A. Yes.

22 Q. And all illegal?

23 A. Most illegally.

24 MR. KLAUS: Okay. Now, if we can go to the next
25 paragraph and highlight that.

1 BY MR. KLAUS:

2 Q. "As we have said above, the events described here have
3 been reported to the PDC through the party's own channels,
4 for which person we are able to -- for which reason we are
5 able to confirm the above accounts. The COPEFA, Permanent
6 Counsel of the Armed Forces, was established in order to
7 guard against any deviation from the process initiated on
8 October 15. We consider that these events constitute such
9 clear deviations that a serious crisis is developing in the
10 process of change and democratization. This is one of the
11 reasons for which the PDC feels obligated to point out, in
12 order to prevent a situation such as the present from
13 bringing the Government into total crisis."

14 Now, this is during the time period where there had
15 been a revolt from within the Army, correct?

16 A. This is a period of time that comes about after a
17 military revolution.

18 Q. Okay. Now, would there have been a breakdown in the
19 chain of command and in the command structure because of
20 the revolution, because of the military revolt?

21 A. No.

22 Q. Even though a group of young officers threw out all
23 the generals, there is not a breakdown in command?

24 A. I already stated that the first thing the revolution
25 does is to again constitute order in the commander, the

1 Junta, two military representatives, two colonels. And to
2 command the security and military forces, they place a
3 colonel, a reliable colonel.

4 COPEFA delegates in those officers and they place the
5 command under reliable military colonels and they also
6 maintain a state of alert to watch out -- they maintain a
7 state of alert so that the principles of the revolution are
8 strictly observed and this is what the party, the Christian
9 Democratic party is promoting. They don't want these
10 principles to be abandoned, and they had started to deviate
11 from that.

12 Q. Now, it was the revolutionary government that ✓
13 appointed who was then Colonel Garcia to be Minister of ✓
14 Defense, correct?

15 A. Yes. And they did not restrict him in any of the ✓
16 legal powers that he possessed. I don't think he would ✓
17 have allowed it either.

18 Q. Okay. Also, the revolutionary government, as one of
19 its first acts, it adopted and ratified all the laws that
20 had been in existence, including the Constitution, the laws
21 that I mentioned earlier, the Constitution of the Republic,
22 Army ordinance, military code of justice, the law of
23 constitutional procedures, penal code, the penal procedure
24 code?

25 A. They were not replaced by other documents.

1 Q. Okay. But they were specifically ratified by the
2 revolutionary government to remain in force?

3 A. There was no formal act to do so. It was just a fact.

4 Q. Okay. Now, if we can go down to the analysis. Now,
5 this is the Christian Democratic party's --

6 A. Let me look for it.

7 Q. Right after paragraph 19.

8 A. I've lost my place.

9 Q. That is okay. Take your time.

10 A. Yes, I found it.

11 Q. Okay. Now, this is the author, at least of the man
12 who signed this document, at least this is their
13 analysis --

14 A. Yes.

15 Q. -- of the situation in the country described in the
16 prior 19 paragraphs?

17 A. Yes.

18 Q. And they are saying that all items mentioned above,
19 meaning human rights abuses, have three characteristics in
20 common. "They implicate members of the security forces,
21 especially the National Guard, the local commandantes and
22 civilian paramilitary groups such as ORDEN.

23 "They occur in various locations in the country,
24 presenting a generalized character.

25 "And they all have occurred within a short time span,

1 that is within the present month of January, 1980, which
2 coincides with the period of New Revolutionary Government
3 Junta."

4 And then the analysis goes on further and says, "We
5 are not unaware that acts such as those mentioned can be
6 attributed to personal vengeance or the desire of certain
7 individuals to hold onto power, but the characteristics
8 that are revealed by analysis of the situation bring us to
9 the conclusion that we are seeing a conscious strategy of
10 destabilizing -- destabilization of the government, carried
11 out for the fundamental purpose of preventing the
12 realization of structural changes, so creating a
13 generalized climate of repression in the country. It is
14 obvious that such a strategy accords with the economic and
15 political interests of the Right that --"

16 MR. KLAUS: Go to the next page, highlight the
17 top.

18 BY MR. KLAUS:

19 Q. "-- having maintained a status quo for so many years,
20 now feels itself threatened by the social changes that the
21 armed forces proclamation of October 15, 1979, and the
22 platform of the government provide for, and that this
23 government is committed to bring about."

24 Does that refer to elements of the military that
25 remained even after the revolution of October 15, 1979,

1 still remained in positions of command within the military
2 as well as paramilitary groups and other right-wing groups?

3 A. It refers to civilian components that also remained in
4 their positions after the revolution, not only the military
5 elements. It refers to ideologies of the political
6 parties, but this does not by any stretch of the
7 imagination eliminate the problem that members of the armed
8 forces were directly involved in abuses of human rights.

9 Q. Exactly, let's go to the next paragraph. You can
10 highlight that.

11 "In view of all this, and bearing in mind that
12 elements of the armed forces are involved in repressive
13 acts, we are now presented with the problem of explaining
14 the political responsibility for these acts, in order to be
15 able to correct them. This point is extremely important,
16 because since the success of the social changes requires
17 the free participation of the people in those changes, they
18 cannot be carried out in a climate of repression."

19 So, again, they are referring to there are still
20 members of the armed forces that want to maintain the
21 status quo from 150 years to -- and repress any opposing
22 views, correct?

23 THE INTERPRETER: I apologize, counsel, could you
24 repeat the final part of the question. 150 years.

25

- 1 BY MR. KLAUS:
- 2 Q. And repress any opposing views?
- 3 A. No. They don't say that.
- 4 Q. Well, they said that above, right? Go back to the
5 top.
- 6 A. If you would allow me to tell you, I as a military
7 commander are not concerned with the positions, ideological
8 political positions or the political confrontations for the
9 struggle for power that manifest themselves. What I am
10 concerned with is the behavior of my subordinates, because
11 I have the command responsibility that is inherent to my
12 function, that politicians have every right to have all the
13 fun they like with politics, but I as the commander of the ✓
14 armed forces cannot ever become an instrument of any other ✓
15 force, and I cannot allow that my members become involved ✓
16 in illegal activities. That is my mission.
- 17 Q. Well, wasn't that the whole purpose of the revolution,
18 was to make military subordinate to a civilian force?
- 19 A. That was the purpose of the revolution.
- 20 Q. So you as a military commander, you are subordinate to
21 your civilian leaders, correct?
- 22 A. Yes.
- 23 Q. That was the whole purpose of this revolution, wasn't
24 it?
- 25 A. That was the purpose of the revolution.

1 Q. So you have to concern yourself with the politics,
2 don't you?

3 A. I may become interested as a person but not as a
4 military officer. We have demonstrated this in excess,
5 that when we, the military officers, get involved in
6 politics, those that end up suffering the consequences of
7 that are the innocent people.

8 Q. Exactly. And wasn't that the root of the problem
9 here?

10 A. That is why the revolution is carried out, that is why
11 for political purposes a council is seated and that is why
12 they appoint a military commander with power and prestige
13 and experience to take over the military organization, to
14 discipline it, to command it, to organize it and to lead it
15 to the most noble purpose of that revolution and not to
16 respond to interests of different factions.

17 Q. Exactly. Can that be accomplished -- I mean, could
18 that have been accomplished in two and a half months in El
19 Salvador?

20 A. No, that was to be achieved in a progressive manner.

21 Q. Okay. Then the members of the Christian Democratic
22 party, if you go down to, "Accordingly, two hypotheses
23 suggest themselves." They have as way of explanation, they
24 have two hypotheses of what is occurring or what could
25 occur?

1 A. Yes.

2 Q. And the first hypothesis says, "If the armed forces
3 maintain their hierarchal unity, and if the principle of
4 vertical command structure is in operation -- was the armed
5 forces hierarchy -- hierarchal unity maintained at that
6 time?

7 A. No.

8 Q. Okay. And was the principle vertical command
9 structure in operation at that time?

10 A. From the level of Minister of Defense and below it was
11 in operation. The problem was upstairs in the military
12 Junta, where you had two tendencies in a struggle and those
13 tendencies were led by well-known men.

14 Q. Okay. Let's go on, then. "The facts described above
15 necessarily lead to the conclusion that the high command of
16 the armed forces has a strategy that includes the wave of
17 repression that is scourging the country. If this were the
18 case, the government would stand for the principle of
19 reforms with repression. This is an approach that not only
20 contradicts the ideological principles of Christian
21 democracy and its political practice over 20 years of
22 struggle, but also has shown itself in practice to be an
23 increase in repression and a failure to carry out reforms.
24 The social change that we propose and that we have always
25 struggled for is not totalitarian, but rather democratic

1 and implies a devotion to democratic norms of social life.
2 It is this that our parties has always defended and that is
3 the spirit of the movement of October 15, '79. The
4 Christian Democratic party strongly affirms this scheme of
5 reforms with repression contradicts and violates the
6 essence, the spirit and the letter of the political pact
7 that the armed forces contracted with the political pact
8 and that the armed forces contracted with the PDC."

9 So the hierarchy was not in place?

10 A. No. I didn't say that.

11 Q. Okay. I thought you did.

12 A. No, I didn't say that. If you like, I will repeat
13 what I said.

14 Q. Okay. I asked you if the hierarchy unity of the armed
15 forces had been maintained during this time period.

16 A. I told you that the division existed above the level
17 of commander of the armed forces within the military Junta,
18 and the high command, there were two tendencies and they
19 both had a visible leader. One was Colonel Majano, the
20 other was Colonel Gutierrez.

21 And unfortunately for El Salvador, the commander of
22 the armed forces, which is to say Colonel Garcia, became
23 involved with the tendency led by Colonel Gutierrez, which
24 is the one that is being denounced by the Christian
25 Democratic party in this letter.

1 And the tendency that Colonel Majano wanted, which was
2 more democratic, more for his country is defeated. He is
3 later on eliminated. And not only he is eliminated, but
4 also his main followers, all members of COPEFA.

5 Q. I want to go to the second hypothesis.

6 If the hierarchical unity is not maintained within the
7 armed forces and the principle of vertical command
8 structure has been ruptured, this situation has resulted
9 either from the disobedience on the part of the lower
10 levels of command, or because the external command
11 structure has been infiltrated into the official hierarchy
12 and it is those external forces that order and carry out
13 the strategy of the anti-democratic repression."

14 Has that happened at that time?

15 A. No.

16 Q. "Such a situation would present the grave danger of a
17 divided armed forces."

18 In your opinion were the armed forces divided at that
19 time?

20 A. It was divided at the upper structure.

21 Q. Okay. "And would strike against the necessary
22 ideological, programmatic and strategic unity that is
23 required by the revolutionary democratic government; it
24 would keep the government in a permanent state of --"

25 MR. KLAUS: If you go to the next page.

1 BY MR. KLAUS:

2 Q. "-- insecurity, permanently open to attack from the
3 rear, and would even place at risk the very survival of the
4 Army. For these reasons, the Christian Democratic party
5 wants it to be clear that this situation too nullifies the
6 agreed to pact, since a necessary condition for compliance
7 with that pact is that the armed forces commit itself as a
8 whole to carry the pact out.

9 "Whichever of these hypotheses is correct, the fact is
10 that the present situation urgently requires correction, in
11 order to allow realization of the program contained in the
12 pact, because without such correction, the pact will remain
13 mere words of no practical effect, and if the Christian
14 Democratic party has accepted responsibility of being in
15 the government, it is in order to produce facts, not words.

16 "In this regard, we note particularly that these
17 actions occurred in this month and they present a picture
18 of reversion to repressive and anti-democratic practices
19 that had been kept in check since October 15."

20 MR. KLAUS: You can go onto the next paragraph.

21 BY MR. KLAUS:

22 Q. Then the Christian democrats make some proposals.

23 "In formulating our proposals, we start from the
24 premise that the first hypothesis is not the correct one,
25 because if it were, that would clearly imply the

1 groundlessness of the political pact and a complete
2 redefinition of the government. Accordingly, our proposals
3 intend to correct the situation described in the second
4 hypothesis."

5 That is the hypothesis that sets forth that the Army
6 itself is divided.

7 "Consequently, they relate to the field of both
8 politics and military affairs. We will continue to insist
9 that the solutions will have to be political-military in
10 nature."

11 That is a dangerous mix, mixing politics and military.
12 I mean dangerous for the population for the citizens, for
13 the people of El Salvador?

14 A. This is not an empty document that doesn't consider a
15 situation that was beginning to be perceived in El
16 Salvador. This is not just empty considerations by a party
17 that had supported the revolution.

18 Q. Of course not.

19 A. From the very beginning of the revolution two
20 tendencies emerge.

21 Q. Let me ask you the question again --

22 THE COURT: You must allow the witness to answer
23 the question.

24 MR. KLAUS: It is not responsive.

25 THE COURT: Let's hear the answer.

1 THE WITNESS: Two tendencies emerge. The danger
2 that was perceived in El Salvador at that time, as well as
3 in many countries in the Americas, is that communism were
4 to gain a beach head. That was the time when everyone
5 said if the Communists get in here, and that happens in
6 not only in El Salvador but in many nations of the
7 Americas and in my own country specifically, there is a
8 political military strategy that states that in order to
9 prevent Communists from getting a foothold in my country,
10 what I have to do is not only eliminate all the
11 Communists, but also all of those tendencies that
12 supposedly support communism.

13 So, anyone who thinks that you have to help out
14 the poor, anyone who thinks you have to maintain Christian
15 principles for the people, he who cares at hospitals for
16 the needy, people of the cloth who proclaim -- religious
17 workers who proclaim the life of cries are at the very
18 least accomplices if not suspects.

19 And in order for this idea not to be able to
20 progress, we will punish it, we will terrorize it, and if
21 necessary we will force them to disappear.

22 And the other tendency is the only way to defeat
23 Communism is by way of long-term results, and this is by
24 presenting a Democratic system, a wide spectrum of
25 political opinion, correct functioning of the institutions

1 of democracy, love for freedom and let he who is best
2 followed by the people win in civilian contests.

3 Now, that seems so natural in the United States,
4 it sounds that I am stating something that is very
5 obvious. You are not going to get into gun battles in the
6 middle of the street or exercise violence against common
7 citizens just because they think in a different manner as
8 opposed to President Bush. You will try to win in a
9 Democratic voting process.

10 Unfortunately, the violent tendency won in El
11 Salvador. Not only in El Salvador but in the majority of
12 the countries. But it is being demonstrated over the
13 long-term everyone who was involved in that particular
14 violent tendency sooner or later will be captured by the
15 long arm of justice, because the end will never justify
16 the means. In my country fortunately those who repressed
17 are now in jail.

18 THE COURT: Let me just stop and go back now to
19 Mr. Klaus so he can ask his next question.

20 Mr. Klaus.

21 MR. KLAUS: If you go down and highlight under
22 3.1.

23 BY MR. KLAUS:

24 Q. These are specific proposals by the authors of this
25 letter, correct?

1 A. Yes.

2 Q. Okay. They include the, "Effective dismantling of
3 ORDEN, supplementing the decree by application of the penal
4 code to those who violate it. In this regard --"

5 A. Counsel, sorry, I haven't found it yet.

6 Q. I am sorry, under 3.1.

7 A. A page, I think I am missing a page.

8 MR. GREEN: Your Honor, if we have a moment, we
9 will try to find a page.

10 THE COURT: Yes.

11 THE WITNESS: I don't have that point here. I
12 just have 3.2, I am missing 3.1.

13 MR. KLAUS: I am missing 3.1 in my Spanish
14 version, too.

15 THE WITNESS: I will follow the screen. Yes.

16 BY MR. KLAUS:

17 Q. Political field, these are proposals. "Effective
18 dismantling of ORDEN, supplementing the decree by
19 application of the penal code to those who violate it. In
20 this regard, there must be issued a clear directive
21 prohibiting meetings of members of ORDEN, which order
22 should be read in every locality. At the same time,
23 similar instructions will be given to all military
24 authorities so that they will proceed to disarm the members
25 of ORDEN, and in the event that they do not comply with the

1 prohibition contemplated here, they should be arrested and
2 turned over to The Court.

3 "Dismantling of the PCN; for this, proceed at the
4 national level with the immediate removal of all government
5 officials belonging to the PCN."

6 What is the PCN?

7 A. It was the party that had supported the dictatorship
8 that was there before, that was combatted by the
9 revolution.

10 Q. That was the party of Romero, the reposed military
11 dictator, correct?

12 A. Yes, sir.

13 Q. "Especially justices of the peace, directors of
14 officers of ANTEL."

15 What is ANTEL?

16 A. ANTEL is the national telecommunications entity that
17 was under the control of the armed forces. Colonel Garcia ✓
18 was director of ANTEL.

19 Q. And mayors?

20 A. Yes.

21 Q. "At the national level, decree the illegality of the
22 PCN political party given its anti-democratic tradition.
23 The assets of the PCN should pass to the state.

24 "Give a public demonstration that the activity of the
25 Right that is proclaiming to follow the government and

1 carrying out concrete repressive actions will not be
2 tolerated. For this we propose criminal prosecution of
3 those persons who have made such declarations."

4 MR. KLAUS: Can you go back to the previous page
5 on the bottom?

6 BY MR. KLAUS:

7 Q. Now, if the revolutionary Junta, and the proclamation
8 of the armed forces didn't want people repressed or
9 prosecuted for their beliefs, isn't part of these
10 recommendations, these proposals proposed to do just that?

11 A. No.

12 Q. What about where it says make a political party
13 illegal because it has a history of undemocratic tradition,
14 isn't that prosecuting a party because of its beliefs?

15 A. It was a party that was never within the canons of
16 democracy. It was the one that led the country to live a
17 very perverse dictatorship throughout many years.

18 And the persecution is not the same thing -- not the
19 same kind of persecution that this political party had when
20 it was in power. It states here that it has to be taken to
21 the civil courts, to the corresponding civil courts so that
22 they may be judged, and that is a right afforded by
23 democracy.

24 MR. KLAUS: Let's go to the next page, if you can
25 highlight that. The top.

1 THE WITNESS: 3.2?

2 BY MR. KLAUS:

3 Q. Right. No, not 3.2, yet. Still under 3.1.

4 "We propose these measures because we are convinced
5 that it is urgently necessary to dismantle the repressive
6 system that the Right has imposed on the country for 50
7 years, and just as much because it is urgently necessary to
8 put a stop to the conspiracy that those elements are
9 plotting against the current government.

10 "We note that the measures to be taken for social
11 order with respect to the actions of the ultra-left are not
12 included in this document because --"

13 MR. KLAUS: Can you scroll down, A and B.

14 BY MR. KLAUS:

15 Q. "They will be the result of the political military
16 strategy that a specific commission is now preparing.

17 "The armed forces and the PDC must reach an
18 ideological, political and strategic unity, to be able to
19 bring about, with concrete actions, a change in the
20 repressive image that is currently projected by the
21 government and so to reach a point where the people will
22 support not only the social measures but also the political
23 measures to reestablish the authority of the state."

24 That last part where it says of the ultra-left, are
25 they referring to the Communists?

1 A. The ultra-left, those that would use violent measures
2 to attain in their political objectives.

3 Q. Okay. Now go down to 3.2, and I think you have that.

4 A. Yes.

5 Q. And these are proposals regarding the military field.

6 "Starting from the premise that the high command of
7 the armed forces has the firm conviction to advance the
8 democratic process and the agreed on social changes, we
9 must take appropriate measure so that the decision will not
10 be violated by the intermediate and local level commands
11 and by persons external to the armed forces.

12 "For this reason the revolutionary Junta and the
13 military high command should communicate their decision to
14 all levels of the armed forces, especially in the security
15 forces, in such a manner that no one can claim ignorance of
16 the objective of this position and carry out or order
17 actions contrary to the spirit of creating within the
18 entire nation a positive image of the Army and of the
19 government."

20 Then underneath, "We propose:

21 "A. That the revolutionary government Junta, together
22 with the high command, call together all of the
23 departmental commandantes, and in writing give them precise
24 instructions as to how they should proceed, letting them
25 know they will have to communicate such instructions to

1 their subordinates both orally and in writing, and in the
2 event those orders are violated, they will be removed from
3 their positions. Similarly, all officers and
4 noncommissioned officers with command will have to confirm
5 receipt of such orders in writing. The Minister of Defense
6 will make sure every officer knows the content of the
7 directive."

8 Do you know if that was done by Colonel Garcia?

9 A. He did not.

10 Q. In your research, you couldn't find that he did that?

11 A. I didn't find a trace of that. And even more so, the
12 Social Democratic party is establishing what I had
13 explained before, what had to be done under the armed
14 forces.

15 Q. The Social Democratic party, we are talking about the
16 Christian Democratic party, right?

17 A. Yes.

18 Q. Did you say Social Democratic party?

19 A. The Democratic.

20 Q. Christian Democratic party. Okay.

21 A. Christian Democratic party. It is changed position in
22 Spanish.

23 Q. It doesn't change from the Christian to the Social
24 Democratic party, does it?

25 A. No. I didn't say that.

1 Q. If you go to the next page.

2 "In the security and territorial forces, we propose
3 that the same meetings be called and, in the presence of
4 the Minister and Subsecretary of Defense, the orders are
5 given to carry out the directive, a copy of which should be
6 signed to confirm knowledge of it, and to then be forwarded
7 to the cantonal commandantes."

8 Okay. And then it lists what the directives must
9 contain.

10 MR. KLAUS: If you can scroll down.

11 BY MR. KLAUS:

12 Q. So the Christian Democrats are suggesting that Colonel
13 Garcia should issue an order to all the armed forces
14 containing these directives, "Express prohibition against
15 beating or verbal mistreatment of any person in detention.

16 "Express prohibition against intervening to disperse
17 meetings, demonstrations or other public actions, except
18 with the express authorization of the high command or the
19 director general of the security force.

20 "Express prohibition --"

21 A. Number, please, counsel? Number.

22 Q. Number three. "Express prohibition against arresting
23 any person on the mere grounds of membership in a political
24 organization."

25 Number four. "In every arrest there must be present

1 at a minimum one officer in uniform."

2 Number five. "Every person detained for reasons of
3 public political order must be permitted to make one phone
4 call upon entering the security force that is holding him,
5 such phone call to be paid for by the state."

6 Number six. "Every detained person will be turned
7 over to the courts within a period provided by law, if
8 there is a valid case."

9 Number seven. "In the case of expulsion of occupiers
10 from factories, ranches or other places that have been
11 taken, the order for such action can only be given by the
12 high command."

13 Number eight. "Every officer and noncommissioned
14 officer who sends false and misleading information to his
15 superior will be punished or removed from his position,
16 according to the gravity of the case."

17 "B. Make publicly known removals from office and
18 exemplary changes of those members of the armed forces and
19 security forces who have ostentatiously flaunted their
20 repressive attitude contrary to the democratic objective of
21 the state.

22 "Specifically we emphasize necessity of dismissing the
23 following persons:

24 "National Guard Post Commandante of Tejutepeque.

25 "National Police director of Ilobasco." And go on.

1 "National Guard Post Commandante of Ilobasco.
2 "The Departmental Commandante of Chalatenango, Colonel
3 Agir Benavides.
4 "Captain Ciro Lopez of the National Guard.
5 "Departmental Commandante of Chalatenango, Jesus
6 Vargas.
7 "Major Cienfuegos of the Chalatenango barracks.
8 "Local commandantes of the following towns, Las
9 Vueltas, Arcatao, San Jose Las Flores, San Antonio La Cruz,
10 Nueva Trinidad, Nueva Concepcion, Agua Caliente, and
11 Azacualpa of Chalatenango and Conchagua.
12 "And National Guard Post Commanders of La Palma, San
13 Ignacio, Citala, Tejutepeque, Comasagua and Cancasque."
14 Do you know if any of those men were removed?
15 A. I have no information of the removal of any one of
16 those.
17 Q. Okay. And "Chiefs and officials --"
18 MR. KLAUS: If you can keep going down --
19 THE COURT: Mr. Klaus, we are at a point where we
20 need to take a break for the luncheon recess. Why don't
21 we stop at this point. Let's stick to our schedule and we
22 will come back at quarter of two and continue with the
23 cross examination.
24 Let me allow the jury to step out of the
25 courtroom.

1 (Thereupon, the jury retired from the courtroom.)

2 THE COURT: Colonel, you may step down. Thank
3 you, sir.

4 Please be seated, ladies and gentlemen.

5 Let's take a moment for scheduling purposes,
6 Mr. Klaus, may I ask you in terms of the cross
7 examination, do you have a sense of how much longer you
8 will be going?

9 MR. KLAUS: Probably about 45 minutes.

10 THE COURT: How about redirect?

11 MR. GREEN: No more than 15.

12 THE COURT: The next witness is Ms. Popkin?

13 MR. STERN: Yes, Your Honor.

14 THE COURT: Okay. How are we going to do with
15 direct and cross. I know you were concerned, there was a
16 issue of her availability.

17 MR. STERN: If the estimates are accurate, we
18 stand a good chance of completing her this afternoon.
19 That would be my goal, so she could go back to Washington.

20 THE COURT: Why don't we try to do that. I don't
21 want to limit anybody in terms of direct or cross. We are
22 moving along. Okay.

23 Let's take a break and pick up at quarter of two
24 and continue on with the testimony.

25 (Thereupon, a recess was taken at 12:30 p.m.)

1 (Trial reconvened after recess at 1:45 p.m.)

2 MR. GREEN: Judge, there is one brief matter.

3 During cross examination of Colonel Garcia, Colonel Garcia
4 initially testified in Spanish that there were trace mil,
5 T-R-A-C-E, M-I-L, 13,000. Mr. Klaus in his next question
6 said 30,000. The interpreter corrected Mr. Klaus from --
7 instead of treinta, T-R-E-N-T-A, to T-R-A-C-E. Professor
8 Garcia entered yes.

9 I've spoken with Mr. Klaus and the interpreter,
10 and I think we have agreed to correct the record to
11 reflect --

12 THE COURT: Well, I think the record is correct.
13 The Colonel said whatever he said, and if you want to
14 handle that on redirect, you can. I think you are right,
15 he said 13. I think Mr. Klaus misunderstood him, and
16 thought he said 30.

17 I think that is how you should handle that.

18 MR. KLAUS: I thought he said 30.

19 THE COURT: I know you did. Mr. Green picked up
20 on it, and waited, started to object and then it came out
21 the second time.

22 MR. GREEN: I will correct it on redirect.

23 MR. KLAUS: I will correct it.

24 THE COURT: All right. Right.

25 Was there some other matter you wanted to raise?

1 MR. GREEN: No, Your Honor, we do need to bring
2 in Professor Garcia.

3 No, Your Honor.

4 (Thereupon, the jury returned to the courtroom.)

5 THE COURT: Ladies and gentlemen, please be
6 seated, when we stopped for the luncheon break, we were in
7 cross examination. I will turn back to Mr. Klaus so he
8 can proceed.

9 MR. KLAUS: Thank you, Your Honor.

10 If I could have the page, where we were and
11 highlight that.

12 BY MR. KLAUS:

13 Q. These again are proposals made by the members of the
14 Christian Democratic party who authored this letter,
15 correct?

16 A. Yes.

17 Q. They go on to propose and recommend that, under letter
18 C, that, "Chiefs and officials who can be considered
19 instigators, participants or abettors of possible
20 infiltration by external command should be transferred out
21 of the country as military attaches."

22 Does that refer to chiefs and officials who may be
23 taking orders from people outside their chain of command?

24 A. Not necessarily.

25 Q. Okay. And D is, "The work of the Political Military

1 Commission should be accelerated with the goal that the
2 armed forces may maintain public order in accordance with
3 precise norms."

4 Then the letter goes on, "We cannot do less than
5 insist on the fact that the entire nation is feeling an
6 escalation of repression --"

7 A. One moment, counsel.

8 Q. I am sorry, this is after D, it should be on the last
9 page.

10 A. Page, please?

11 Q. In the Spanish version it's page ten.

12 A. Yes.

13 Q. "We cannot do less than insist on the fact that the
14 entire nation is feeling an escalation of repression to
15 levels even more serious than in the times of the fascist
16 PCN governments, and dismay spreads throughout the world to
17 the point that there are some countries that are
18 considering termination of diplomatic relations.

19 "This repressive situation cannot be ignored by the
20 Government and even less can it shield itself behind
21 silence, while throughout the entire country, at the same
22 time as we are combatting the ultra-left, actions, threats,
23 outrages, and vile murders are being carried out against
24 the less fortunate sectors of the population. It is the
25 obligation of the Government to put a stop to such wrongful

1 behavior, and it is up to the armed forces to act in such a
2 way as not to destabilize the unity of the Government but
3 so as to consolidate its authority and to be able
4 rationally to achieve the kind of popular support that will
5 isolate the ultra-left and restore social discipline."

6 MR. KLAUS: Go up.

7 BY MR. KLAUS:

8 Q. "Failure to create credibility for the democratic
9 government will cause the process to shatter, resulting in
10 polarization and the civil war that the nation seeks to
11 avoid.

12 "We hope that the Revolutionary Government Junta, with
13 the firm support of the chiefs and officers of the high
14 command and of the COPEFA, as the institution designated by
15 all of the officers to keep guard over the process, will
16 exercise its function as general command of the armed
17 forces out of conviction, and not from threats, and will
18 implement the steps that our party suggests and other
19 appropriate measures, in order to bring about renewed faith
20 by the people in the government and in its Army, and a
21 disposition to work together in good faith in order to move
22 beyond the crisis of violence, carry out the structural
23 changes, and return to a just state of law."

24 Do you agree with the premise that without popular
25 support, meaning support of the people of the citizens of

- 1 El Salvador, that any reforms were doomed to failure?
- 2 A. Yes.
- 3 Q. Now, one of the signatures of this letter was Jos, ✓
- 4 Napoleon Duarte, correct?
- 5 A. Yes.
- 6 Q. And within days or weeks after this letter was written
- 7 and delivered, he became a member of the Revolutionary
- 8 Junta, correct?
- 9 A. Two months later.
- 10 Q. Okay. And he was appointed as President of the Junta
- 11 by the other members of the Junta, correct?
- 12 A. Correct.
- 13 Q. And he maintained Colonel Garcia as Minister of the ✓
- 14 National Defense during his government?
- 15 A. Yes. ✓
- 16 Q. And Colonel Vides as commander of the National Guard?
- 17 A. Yes. ✓
- 18 Q. Okay. I want to go back a little about command
- 19 responsibility in general and the universally accepted
- 20 principles under command responsibility.
- 21 Now, an Army or any organization is only as good as
- 22 the people who are members of it, correct?
- 23 A. Yes.
- 24 Q. If members of the military refuse to carry out orders
- 25 and refuse to obey the laws and principles of command

1 structure and of the military code, the military would
2 cease to function effectively, correct?

3 A. This is unheard of. If it was that way, it wouldn't
4 be a military structure. A military structure could not
5 function without discipline.

6 Q. Okay.

7 A. And then the commander would not be the appropriate
8 person for that structure, if the person allows things to
9 get to the extremes that you are exposing.

10 Q. Okay. Now, you read us a part of, I think it was
11 Article 373 -- I am sorry, 375 of the military code of El
12 Salvador that was in effect at that time.

13 A. I read the whole Article 375 of the ordinance.

14 Q. And essentially that says that a commander cannot use
15 disobedience of his orders by subordinates as an excuse to
16 relieve him from liability of what those subordinates do;
17 is that correct?

18 A. Well, not of civil responsibility, but the command
19 responsibility.

20 Q. Okay. So not of civil responsibility, like civil
21 liability?

22 A. It is his military responsibility and he is subject to
23 the justice code, military justice code and the ordinance.

24 Q. Okay. So if officers or enlisted men under my command
25 are without my knowledge selling drugs, I would be

1 responsible as a commander under the military code for
2 their illegal activities, correct?

3 A. I would be responsible of bringing those men to
4 justice, civil justice, because it is about civil laws and
5 responding to them.

6 Q. Okay. But -- so, would I be responsible under
7 military code, under this code for the illegal activities
8 of my subordinates?

9 A. Well, if I wouldn't bring to light of these instances
10 before the justice system, I would become an accomplice or
11 I would be covering up for any citizen.

12 Q. Okay. But if I turn those same men over to civil
13 authorities for prosecution, would that relieve me of my
14 responsibility under the military code?

15 A. It doesn't free you from that.

16 Q. Okay. Okay. Are you being paid to testify as an
17 expert for the Plaintiffs in this case?

18 A. Well, yes. I learned that after three expert
19 witnesses hearings.

20 Well, in my country, I didn't charge the first time, I
21 didn't charge in El Salvador, and when I became a military
22 expert witness for the United Nations, I was told by them
23 that I should charge for my services, and the court would
24 deem if my services were to be classified as an expert, I
25 am military expert witnesses.

1 Q. Are you being compensated at \$50.00 an hour plus
2 expenses to testify as an expert for the Plaintiffs in this
3 case?

4 A. I have been hired by lawyers of the Human Rights
5 Committee of the United States as a consultant up to 100
6 hours, yes, at \$50.00 an hour.

7 Q. Okay.

8 Now, when was the dirty war in Argentina?

9 A. In the year 1976 to the year 1983.

10 Q. And what was your position in the military at that
11 time of Argentina?

12 A. I had just been released from military prison because
13 I revolted against a dictatorship in my country. The
14 dictatorship of General Lenusi (phonetic).

15 Q. Were you reinstated into the military during that
16 time?

17 A. When democracy was returned to my country. When
18 General Peron came back along with a Constitution, I am
19 then designated as professor in the School of National
20 Defense.

21 Q. So when were you in prison, from what year to what
22 year?

23 A. Let me try to remember the year, because I was in
24 several times, always because I was combatting the
25 dictators. This one, on this occasion it was in 1973, from

1 '72 to '73.

2 Q. Okay. So when you were released in '73, what did you
3 do?

4 A. I had to earn a living. I wasn't getting paid.

5 Q. Okay. So is that when you took a job as director of
6 the military school or teaching at the military school?

7 A. No, no. There was a dictatorship, so I had to
8 establish a security company along with other colleagues,
9 military colleagues of mine that had also suffered
10 imprisonment.

11 THE INTERPRETER: The interpreter needs to
12 clarify with the witness a word he used.

13 THE COURT: Yes.

14 THE INTERPRETER: That is fine. Thank you.

15 BY MR. KLAUS:

16 Q. What I want to know is what you did for a living
17 between '73 and '83?

18 A. Well, thanks to my security company, that was the only
19 time in my life that I had money.

20 Q. Okay. Were you also a professor of national defense
21 at the national defense school?

22 A. Yes.

23 Q. Did you have anyone under your command at that time?

24 A. No. When one is teaching, one only accounts with the
25 administrative staff.

1 Q. Now, even though you were in the military, you said
2 you took part in a revolt. Isn't that a political action
3 by a military officer?

4 A. No. It was a constitutional obligation to fight any
5 dictatorship that would attempt against a Constitution.
6 Any Argentinian citizen has that obligation of revolting
7 against that.

8 Q. At that time wasn't there a division in the Argentine
9 military forces similar to the division in the El
10 Salvadoran military forces?

11 A. No. It was something different.

12 Q. Well, didn't the group that you supported in the
13 revolt want to reform the country and bring about
14 democratic reforms and revolted against the fascist or
15 dictatorship military? Is that what happened?

16 A. No. We wanted the country to achieve the possibility
17 of being able to elect their own Government in a legitimate
18 democratic process.

19 Q. And that the people that opposed you and imprisoned
20 you were the dictator, dictator and members of the armed
21 services that supported him, correct?

22 A. Yes, but we never got the civil population involved in
23 that dispute, much less persecute them for their beliefs.
24 This was in a dictatorship that ranged from the years '76
25 to '83, the so-called dirty war and the terrorism that it

1 brought with it.

2 Q. If the civilian population wasn't involved, why did
3 they call it dirty war? And why are we talking about the
4 disappearances in Argentina during that time?

5 A. I didn't say that, I said something else. I said at
6 the time I rebelled against the dictatorship, the
7 population was beyond our military disagreements. The
8 population only becomes a victim of the military
9 dictatorship during the periods of 1976 to 1983, the
10 period known as the dirty war, which was dirty precisely
11 because of that.

12 Q. That is what I am asking you about.

13 MR. KLAUS: I don't have anything further. Thank
14 you.

15 THE COURT: All right. Redirect examination?

16 REDIRECT EXAMINATION

17 BY MR. GREEN:

18 Q. Good afternoon, sir.

19 A. I apologize.

20 Q. Would you do it again?

21 A. I would do it a thousand times.

22 Q. I want to clarify a couple things from your cross
23 examination.

24 When Mr. Klaus initially asked you how many members of
25 the El Salvadoran armed forces there were in 1979, you

- 1 answered 13,000?
- 2 A. Approximately.
- 3 Q. When Mr. Klaus asked you the next question he used the
4 word 30,000, but the interpreter translated it as being
5 13,000.
- 6 A. No.
- 7 Q. It was 13,000, correct?
- 8 A. In '79, yes. In addition, this all comes from the
9 numbers as provided from the two generals that are present
10 here today. I am only giving those numbers as a result of
11 my review of the deposition.
- 12 Q. Professor Garcia, you were asked on cross examination
13 about the number of Amnesty International urgent actions
14 that were sent to the Salvadoran Government?
- 15 A. Yes.
- 16 Q. And I believe that there were 175 urgent actions
17 during the time period in question?
- 18 A. I don't know, because I wasn't here when the gentleman
19 from Amnesty International spoke.
- 20 Q. In any event, was there a centralized system for
21 receiving and processing human rights complaints that was
22 established by the Government of El Salvador between
23 December, 1979 and June, 1983?
- 24 A. No.
- 25 Q. Would that have been important in the exercise of

1 command responsibility?

2 A. In addition to my own command responsibility, the
3 influx was so large that it was absolutely indispensable.

4 Q. You also gave testimony on cross examination about
5 political confrontation at the highest level?

6 A. Yes, sir.

7 Q. What affect, if any, would those political
8 confrontations on the level of the Revolutionary
9 Governmental Junta have on the duty of the Minister of
10 Defense to prevent human rights abuses by his troops?

11 A. At the level of Minister of Defense, it may have
12 affected his personal and mental peace of mind, but as of
13 my level, I may not allow all of this political
14 confrontation be transmitted down to my subordinates.
15 Because I know that the consequences of such an event would
16 be in lack of discipline.

17 Military personnel must be committed to the duty of
18 preparing for war, and have as a norm the respect for the
19 population in general which in fact feeds them.

20 Q. Simply put, did the political confrontations that were
21 occurring at some other level have any affect whatsoever on
22 this man's duty as a Minister of Defense to maintain order
23 and discipline in the ranks beneath him?

24 MR. KLAUS: Objection; redundant.

25 THE COURT: I will permit it. You may go ahead.

1 THE WITNESS: No, I believe that the armed forces
2 of El Salvador were always a well organized force, well
3 organized, well trained. It was famous throughout the
4 region because of the conditions that existed in Central
5 America.

6 It had demonstrated this during a war when no one
7 really gave any -- it demonstrated that during a war in
8 which no one thought El Salvador was going to have any
9 luck, and I think they always demonstrated order and
10 discipline. And to think in any other manner would be an
11 insult to my comrades who were always recognized as
12 officers of the highest class, and they never suffered
13 lack of discipline under their command.

14 BY MR. GREEN:

15 Q. Professor Garcia, let's go down to the level of then
16 Colonel Vides Casanova who is the director of the National
17 Guard.

18 A. Yes.

19 Q. What affects did the political confrontations on the
20 level of the Revolutionary Governmental Junta have on
21 Colonel Vides Casanova's duties to investigate and punish
22 acts of torture being committed in his own National Guard
23 headquarters?

24 A. None.

25 Q. Getting back to the Christian Democratic letter. For

1 purposes of serving as notice to the Minister of Defense
2 Garcia about human rights violations, does the political
3 analysis of the Christian Democrats matter?

4 MR. KLAUS: Objection. Goes beyond the scope of
5 his knowledge.

6 THE COURT: I will overrule the objection. You
7 may answer the question.

8 MR. GREEN: May I repeat?

9 THE COURT: No. Let's go ahead.

10 THE WITNESS: No, I understood.

11 This letter clearly states the two levels to
12 which the letter is addressed, and it sets forth some
13 specific hypotheses. It says if the armed forces were not
14 cohesive, and if they were not disciplined, it would then
15 be a situation that would not be admissible.

16 BY MR. GREEN:

17 Q. Professor Garcia, did that letter serve as notice of
18 19 violations, possible violations of human rights abuses?

19 A. Yes.

20 Q. Should Minister of Defense Garcia have investigated
21 those 19 incidents regardless of the political analysis
22 that was attached?

23 A. Yes.

24 Q. You indicated that the Salvadoran officers, Salvadoran
25 military was well trained and well disciplined?

1 A. Yes.

2 Q. Based upon the evidence that you reviewed and the
3 depositions that you read, given that discipline, was there
4 any evidence to indicate that these two men lacked the
5 power to effectively discipline their troops for engaging
6 in human rights abuses?

7 A. No, no way.

8 Q. In other words, the fact that they had disciplined and
9 they were able to enforce their orders if they wanted to?

10 A. Yes.

11 Q. No doubt in your mind?

12 A. No.

13 MR. GREEN: No further questions.

14 THE COURT: May the Colonel be excused from his
15 subpoena?

16 MR. GREEN: May I have one moment on that?

17 THE COURT: Yes.

18 MR. GREEN: No, Your Honor, not at this time. We
19 may want to call him in rebuttal.

20 THE COURT: Colonel, I am going to allow you to
21 step down, but the attorneys for the Plaintiffs have asked
22 that you remain available in that there may be a
23 possibility that they might wish to recall you as a
24 witness in what is called the rebuttal phase of the case.
25 So I will ask counsel to talk with you and make those

1 arrangements if that is acceptable.

2 THE WITNESS: Would you like to speak to me now?

3 THE COURT: No. I think they may want to talk to
4 you. There is a possibility that they may ask you to come
5 back and testify again.

6 THE WITNESS: It will depend on the dates.

7 THE COURT: All right. Thank you. Thank you
8 very much.

9 THE WITNESS: Gracias.

10 THE COURT: Gracias.

11 (Witness stepped down.)

12 The Plaintiffs may call your next witness.

13 MR. STERN: May it please The Court, the
14 Plaintiff will call Margaret Popkin.

15 THE COURT: Ms. Popkin, would you come up to the
16 stand? And I think you will be more comfortable if you
17 pull that chair up to the desk area.

18 THE WITNESS: Okay, thank you.

19 THE COURT: Ma'am, if you would begin by raising
20 your right hand, please.

21 MARGARET POPKIN, PLAINTIFFS' WITNESS SWORN.

22 THE COURT: Ma'am, would you please begin by
23 introducing yourself to the members of the jury? Would
24 you tell them your full name, and would you please spell
25 your last name for the court reporter?

VVVVV

4. INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS

New York, 16 December 1966

ENTRY INTO FORCE: 23 March 1976, in accordance with article 49, for all provisions except those of article 41; 28 March 1979 for the provisions of article 41 (Human Rights Committee), in accordance with paragraph 2 of the said article 41.

REGISTRATION: 23 March 1976, No. 14668.

STATUS: Signatories: 72. Parties: 167.

TEXT: United Nations, *Treaty Series*, vol. 999, p. 171 and vol. 1057, p. 407 (procès-verbal of rectification of the authentic Spanish text); depositary notification C.N.782.2001.TREATIES-6 of 5 October 2001 [Proposal of correction to the original of the Covenant (Chinese authentic text)] and C.N.8.2002.TREATIES-1 of 3 January 2002 [Rectification of the original of the Covenant (Chinese authentic text)].

Note: The Covenant was opened for signature at New York on 19 December 1966.

<i>Participant</i>	<i>Signature</i>	<i>Accession(a), Succession(d), Ratification</i>	<i>Participant</i>	<i>Signature</i>	<i>Accession(a), Succession(d), Ratification</i>
Afghanistan.....		24 Jan 1983 a	Chad.....		9 Jun 1995 a
Albania.....		4 Oct 1991 a	Chile.....	16 Sep 1969	10 Feb 1972
Algeria.....	10 Dec 1968	12 Sep 1989	China ^{4,5,6}	5 Oct 1998	
Andorra.....	5 Aug 2002	22 Sep 2006	Colombia.....	21 Dec 1966	29 Oct 1969
Angola.....		10 Jan 1992 a	Comoros.....	25 Sep 2008	
Argentina.....	19 Feb 1968	8 Aug 1986	Congo.....		5 Oct 1983 a
Armenia.....		23 Jun 1993 a	Costa Rica.....	19 Dec 1966	29 Nov 1968
Australia.....	18 Dec 1972	13 Aug 1980	Côte d'Ivoire.....		26 Mar 1992 a
Austria.....	10 Dec 1973	10 Sep 1978	Croatia ¹		12 Oct 1992 d
Azerbaijan.....		13 Aug 1992 a	Cuba.....	28 Feb 2008	
Bahamas.....	4 Dec 2008	23 Dec 2008	Cyprus.....	19 Dec 1966	2 Apr 1969
Bahrain.....		20 Sep 2006 a	Czech Republic ⁷		22 Feb 1993 d
Bangladesh.....		6 Sep 2000 a	Democratic People's Republic of Korea ⁸ ..		14 Sep 1981 a
Barbados.....		5 Jan 1973 a	Democratic Republic of the Congo.....		1 Nov 1976 a
Belarus.....	19 Mar 1968	12 Nov 1973	Denmark.....	20 Mar 1968	6 Jan 1972
Belgium.....	10 Dec 1968	21 Apr 1983	Djibouti.....		5 Nov 2002 a
Belize.....		10 Jun 1996 a	Dominica.....		17 Jun 1993 a
Benin.....		12 Mar 1992 a	Dominican Republic.....		4 Jan 1978 a
Bolivia.....		12 Aug 1982 a	Ecuador.....	4 Apr 1968	6 Mar 1969
Bosnia and Herzegovina ¹		1 Sep 1993 d	Egypt.....	4 Aug 1967	14 Jan 1982
Botswana.....	8 Sep 2000	8 Sep 2000	El Salvador.....	21 Sep 1967	30 Nov 1979
Brazil.....		24 Jan 1992 a	Equatorial Guinea.....		25 Sep 1987 a
Bulgaria.....	8 Oct 1968	21 Sep 1970	Eritrea.....		22 Jan 2002 a
Burkina Faso.....		4 Jan 1999 a	Estonia.....		21 Oct 1991 a
Burundi.....		9 May 1990 a	Ethiopia.....		11 Jun 1993 a
Cambodia ^{2,3}	17 Oct 1980	26 May 1992 a	Finland.....	11 Oct 1967	19 Aug 1975
Cameroon.....		27 Jun 1984 a	France.....		4 Nov 1980 a
Canada.....		19 May 1976 a	Gabon.....		21 Jan 1983 a
Cape Verde.....		6 Aug 1993 a	Gambia.....		22 Mar 1979 a
Central African Republic.....		8 May 1981 a	Georgia.....		3 May 1994 a

<i>Participant</i>	<i>Signature</i>	<i>Accession(a), Succession(d), Ratification</i>	<i>Participant</i>	<i>Signature</i>	<i>Accession(a), Succession(d), Ratification</i>
Germany ^{9,10}	9 Oct 1968	17 Dec 1973	Mauritius		12 Dec 1973 a
Ghana	7 Sep 2000	7 Sep 2000	Mexico		23 Mar 1981 a
Greece		5 May 1997 a	Monaco	26 Jun 1997	28 Aug 1997
Grenada		6 Sep 1991 a	Mongolia	5 Jun 1968	18 Nov 1974
Guatemala		5 May 1992 a	Montenegro ¹¹		23 Oct 2006 d
Guinea	28 Feb 1967	24 Jan 1978	Morocco	19 Jan 1977	3 May 1979
Guinea-Bissau	12 Sep 2000	1 Nov 2010	Mozambique		21 Jul 1993 a
Guyana	22 Aug 1968	15 Feb 1977	Namibia		28 Nov 1994 a
Haiti		6 Feb 1991 a	Nauru	12 Nov 2001	
Honduras	19 Dec 1966	25 Aug 1997	Nepal		14 May 1991 a
Hungary	25 Mar 1969	17 Jan 1974	Netherlands	25 Jun 1969	11 Dec 1978
Iceland	30 Dec 1968	22 Aug 1979	New Zealand ¹²	12 Nov 1968	28 Dec 1978
India		10 Apr 1979 a	Nicaragua		12 Mar 1980 a
Indonesia		23 Feb 2006 a	Niger		7 Mar 1986 a
Iran (Islamic Republic of)	4 Apr 1968	24 Jun 1975	Nigeria		29 Jul 1993 a
Iraq	18 Feb 1969	25 Jan 1971	Norway	20 Mar 1968	13 Sep 1972
Ireland	1 Oct 1973	8 Dec 1989	Pakistan	17 Apr 2008	23 Jun 2010
Israel	19 Dec 1966	3 Oct 1991	Panama	27 Jul 1976	8 Mar 1977
Italy	18 Jan 1967	15 Sep 1978	Papua New Guinea		21 Jul 2008 a
Jamaica	19 Dec 1966	3 Oct 1975	Paraguay		10 Jun 1992 a
Japan	30 May 1978	21 Jun 1979	Peru	11 Aug 1977	28 Apr 1978
Jordan	30 Jun 1972	28 May 1975	Philippines	19 Dec 1966	23 Oct 1986
Kazakhstan	2 Dec 2003	24 Jan 2006	Poland	2 Mar 1967	18 Mar 1977
Kenya		1 May 1972 a	Portugal ⁴	7 Oct 1976	15 Jun 1978
Kuwait		21 May 1996 a	Republic of Korea		10 Apr 1990 a
Kyrgyzstan		7 Oct 1994 a	Republic of Moldova		26 Jan 1993 a
Lao People's Democratic Republic	7 Dec 2000	25 Sep 2009	Romania	27 Jun 1968	9 Dec 1974
Latvia		14 Apr 1992 a	Russian Federation	18 Mar 1968	16 Oct 1973
Lebanon		3 Nov 1972 a	Rwanda		16 Apr 1975 a
Lesotho		9 Sep 1992 a	Samoa		15 Feb 2008 a
Liberia	18 Apr 1967	22 Sep 2004	San Marino		18 Oct 1985 a
Libyan Arab Jamahiriya		15 May 1970 a	Sao Tome and Principe	31 Oct 1995	
Liechtenstein		10 Dec 1998 a	Senegal	6 Jul 1970	13 Feb 1978
Lithuania		20 Nov 1991 a	Serbia ¹		12 Mar 2001 d
Luxembourg	26 Nov 1974	18 Aug 1983	Seychelles		5 May 1992 a
Madagascar	17 Sep 1969	21 Jun 1971	Sierra Leone		23 Aug 1996 a
Malawi		22 Dec 1993 a	Slovakia ⁷		28 May 1993 d
Maldives		19 Sep 2006 a	Slovenia ¹		6 Jul 1992 d
Mali		16 Jul 1974 a	Somalia		24 Jan 1990 a
Malta		13 Sep 1990 a	South Africa	3 Oct 1994	10 Dec 1998
Mauritania		17 Nov 2004 a	Spain	28 Sep 1976	27 Apr 1977
			Sri Lanka		11 Jun 1980 a
			St. Vincent and the Grenadines		9 Nov 1981 a

<i>Participant</i>	<i>Signature</i>	<i>Accession(a), Succession(d), Ratification</i>	<i>Participant</i>	<i>Signature</i>	<i>Accession(a), Succession(d), Ratification</i>
Sudan		18 Mar 1986 a	Ukraine	20 Mar 1968	12 Nov 1973
Suriname		28 Dec 1976 a	United Kingdom of Great Britain and Northern Ireland ⁶	16 Sep 1968	20 May 1976
Swaziland.....		26 Mar 2004 a	United Republic of Tanzania.....		11 Jun 1976 a
Sweden.....	29 Sep 1967	6 Dec 1971	United States of America.....	5 Oct 1977	8 Jun 1992
Switzerland		18 Jun 1992 a	Uruguay	21 Feb 1967	1 Apr 1970
Syrian Arab Republic....		21 Apr 1969 a	Uzbekistan		28 Sep 1995 a
Tajikistan.....		4 Jan 1999 a	Vanuatu.....	29 Nov 2007	21 Nov 2008
Thailand		29 Oct 1996 a	Venezuela (Bolivarian Republic of).....	24 Jun 1969	10 May 1978
The former Yugoslav Republic of Macedonia ¹		18 Jan 1994 d	Viet Nam.....		24 Sep 1982 a
Timor-Leste.....		18 Sep 2003 a	Yemen.....		9 Feb 1987 a
Togo		24 May 1984 a	Zambia		10 Apr 1984 a
Trinidad and Tobago....		21 Dec 1978 a	Zimbabwe		13 May 1991 a
Tunisia	30 Apr 1968	18 Mar 1969			
Turkey	15 Aug 2000	23 Sep 2003			
Turkmenistan		1 May 1997 a			
Uganda		21 Jun 1995 a			

Declarations and Reservations

(Unless otherwise indicated, the declarations and reservations were made upon ratification, accession or succession.

For objections thereto and declarations recognizing the competence of the Human Rights Committee under article 41, see hereinafter.)

AFGHANISTAN

[See chapter IV.3.]

ALGERIA¹³

[See chapter IV.3.]

ARGENTINA

Understanding:

The Argentine Government states that the application of the second part of article 15 of the International Covenant on Civil and Political Rights shall be subject to the principle laid down in article 18 of the Argentine National Constitution.

AUSTRALIA¹⁴

Reservations:

Article 10

"In relation to paragraph 2 (a) the principle of segregation is accepted as an objective to be achieved progressively. In relation to paragraph 2 (b) and 3 (second sentence) the obligation to segregate is accepted only to the extent that such segregation is considered by the responsible authorities to be beneficial to the juveniles or adults concerned".

Article 14

"Australia makes the reservation that the provision of compensation for miscarriage of justice in the circumstances contemplated in paragraph 6 of article 14 may be by administrative procedures rather than pursuant to specific legal provision."

Article 20

"Australia interprets the rights provided for by articles 19, 21 and 22 as consistent with article 20; accordingly, the Commonwealth and the constituent States, having legislated with respect to the subject matter of the article in matters of practical concern in the interest of public order (*ordre public*), the right is reserved not to introduce any further legislative provision on these matters."

Declaration:

"Australia has a federal constitutional system in which legislative, executive and judicial powers are shared or distributed between the Commonwealth and the constituent States. The implementation of the treaty throughout Australia will be effected by the Commonwealth, State and Territory authorities having regard to their respective constitutional powers and arrangements concerning their exercise."

AUSTRIA

1. Article 12, paragraph 4, of the Covenant will be applied provided that it will not affect the Act of April 3, 1919, State Law Gazette No. 209, concerning the Expulsion and the Transfer of Property of the House of Habsburg-Lorraine as amended by the Act of October 30, 1919, State Law Gazette No. 501, the Federal

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EX 121

San Salvador, January 31, 1980

Members of the Revolutionary Government Junta
Members of the High Command of the Armed Forces
Members of the Leadership of the COPEFA [= Permanent Council of the Armed Forces]

Gentlemen:

The Christian Democratic Party, in analyzing the current situation, has arrived at the conclusion that it is necessary and urgent to present the following position paper to the Armed Forces and to obtain from the Armed Forces a clear and concrete response, in view of the relation between the matters discussed and the success of the process of social change that we have initiated. ✓

The Political Pact that we entered into at the beginning of this month had, as its foundation, the conviction, shared both by the Armed Forces and by the Christian Democratic Party, of the necessity of structural changes and respect for human rights; if our common undertaking is to advance a revolutionary and democratic process, it is evident that this cannot succeed if human rights are systematically violated and there is produced in the country a climate of repression.

This position paper refers specifically to this last point, in that it involves the action of the Armed Forces and the role that the Armed Forces should play in the process of change. First, we will set forth some factual considerations, and then we will move on to an analysis of these facts, in order finally to present our concrete views.

I. The Facts

During the present month, we have been verifying events of a repressive character that form a pattern of behavior. We do not refer to all of these events, but only to those that our Party has through various means been able to verify; nor do we refer solely to repressive actions taken against members of our Party, but also actions against citizens of no political party, and members of other groups, because we consider that human rights are inherent to the individual, independently of how such person thinks:

1. Case of Chinamequita;: this repressive act in which the Local Comandante participated, has been amply documented, and so does not need to be detailed here. ✓
2. The case of La Colonia April 22 [this appears to be the name of a neighborhood in San Salvador, not the date of the event]: 4 murdered, ✓ presumably by the UGB [White Warriors Union, a death squad];

R 3536

PL 1792

nevertheless, in the investigations carried out by the Mayor's Office of San Salvador, by PRIDECO [? Don't know what it is] and by our Party, the witnesses all agree in pointing out that at the moment of the seizure [of the victims], there was a tank in the area.

3. The case of Jose H. Mejia and Francisco A. Venturino, university [students]] captured in front of the United States Embassy; there are witnesses who confirm that it was National Guardsmen who captured them.
4. Witnesses inform us that in Cojutepeque, in the early morning of [January] 23, two persons were violently taken from their house by agents of the security forces and are now disappeared: [these were] a father and a son who had participated in the demonstration on [January] 22.
5. In the region that include Ilobasco and Tejutepeque, there has been unleashed a generalized repression, especially in the rural areas; violent searches are common; the National Guard of the Tejutepeque post is stay inebriated and constantly mistreat the population, seizing them from off of buses and throwing them onto the ground.
6. In Comasagua, Libertad Department, 5 National Guardsmen seized a Christian Democratic leader, brought him to the cemetery, beat him with the butts of their rifles and jumped on him, threatening to kill him if he reported what happened; all of this took place on January 27.
7. The case of the murder of Elias Guzman Ponce, member of the PDC [Christian Democratic Party], the 28th of January this year, en Ilobasco; under the pretext of a confrontation between guerrillas and the Armed Forces, he was violently taken from his house, dragged to the National Guard post and there shot with a G-3 [this is the normal National Guard rifle]; they robbed him of is possessions, destroyed his identifying documents and finally threw him in a place where there were already three other cadavers, and they placed a FAPU [= one of the guerrilla organizations] flag on top of him.
8. In the towns of La Palma, San Ignacio and Citala, the National Guards frequently get drunk at night, provoking fights and intimidating the community with rifle shots. In addition, the Justice of the Peace of La Palma [who is also] the leader of ORDEN [government sponsored rural paramilitary group notorious for brutality; was formally disbanded as one of the first acts of the First Junta, but in fact, continued to function in tandem with the military and death squads] eats and sleeps in the National Guard post, and carries army weapons.

R 3537

PL 1793

9. The murder of the Christian Democratic Mayor of Tejutepeque, Hector Menjivar, a case in which one of the witnesses states that he recognized a National Guardsman among the perpetrators.
10. In Ilobasco, members of our Party state that individuals belonging to ORDEN, the PCN [National Conciliation Party; was a political party closely associated with the military] and FUDI constantly meet with the Director of the National Police and the Comandante of the National Guard Post, in order to prepare and decide on repressive acts to be carried out against the population.
11. On January 20, 13 residents of an inn in this city [Ilobasco] complain that they were the object of a search by the National Guard that was carried out with the lights extinguished; the residents were accused of being subversives and had their money and household goods stolen by the National Guard.
12. In the Towns of Nueva Concepcion, Agua Caliente and Azacualpa, in Chalatenango [Department], the respective local comandantes devote themselves to intimidating the population, especially members of the PDC, deriding the Revolutionary Government Junta; the same thing has happened in San Rafael Obrajuelo, Tapalhuaca, Olocuilta, Santa Maria Ostuma and Mercedes La Ceiba, Department of La Paz, cases that have already been presented to Colonel Majano.
13. In Tacuba, Ahuachapan, Captain Ciro Lopez, Third Officer of the National Guard, together with the Local Comandante, dedicate themselves to the task of intimidating the people, telling them that if they join the Christian Democratic Party, they will arrest them.
14. On the morning of January 15, uniformed National Guardsmen attempted to arrest Carmen Gomez (17 years old); they were unsuccessful, and returned in the afternoon, dressed in civilian clothes, and then they captured her; when the townspeople came out to defend the young girl, the Guards killed Ramon Mejia. These events took place in the Canton of San Francisco Angulo, Tecoluca. The girl has been disappeared.
15. In Arcatao, National Guard repression has again broken out to such a degree that many of the people there have chosen to abandon the place; such is the case of two old men, the Dubon brothers. The Mayor who was appointed by this Junta has not taken office because he is in flight, owing to threats from ORDEN and the National Guard.
16. On January 14, at the detour of Delicias de Concepcion, Morazan Department, two National Guardsmen removed from a bus and

R 3538

PL 1794

arrested Antonio Lopez, a Catechist, who turned up the following day dead, on the sidewalk near the Mayor's office in Oxicala. The body showed signs of having been tortured.

17. Colonel Jesus Vargas, the Departmental Comandante of Cuscatlan, has organized rallies with members of ORDEN, at which he announces that the Junta will soon fall, and that all of the subversives, including the Christian Democrats, will be killed.
18. Colonel Servio Tulio Figueroa, Departmental Comandante of Santa Ana, has declared publicly to his patrols, that they should combat the PDC because it is subversive.
19. Colonel Agir Benavides, Departmental Comandante of Chalatenango, refuses to communicate with the current Mayor and Governor of the Department; by contrast, he maintains close relations with the representatives of the PCN and ORDEN, and they have unleashed a wave of repression in the Department, especially in Las Vueltas, Arcato, San Jose Las Flores, San Antonio La Cruz and Nueva Trinidad; in these operations, there have been reports of murdered peasants, destroyed homes and stolen property; Major Cienfuegos, Second Officer of the Barracks, was the one who led the operation in Agua Caliente, and in that very town, on January 30, the Mayor, a member of the PDC, Leopoldo Guevara, was beaten by the army.

As we have said above, the events described here have been reported to the PDC through the Party's own channels, for which reason we are able to confirm the above accounts. The COPEFA [Permanent Council of the Armed Forces] was established in order to guard against any deviation from the process initiated on October 15; we consider that these events constitute such clear deviations that a serious crisis is developing in the process of change and democratization; this is one of the reasons for which the PDC feels obligated to point them out, in order to prevent a situation such as the present from bringing the government into total crisis.

II. Analysis

The above described cases have three characteristics in common:

- a. They implicate members of the security forces, especially the National Guard, the local comandantes and civilian paramilitary groups such as ORDEN.
- b. They occur in various locations in the country, presenting a generalized character.

R 3539

PL 1795

- c. They all have occurred within a short time-span, that is, within the present month of January 1980, which coincides with the period of the New Revolutionary Government Junta.

We are not unaware that acts such as those mentioned can be attributed to personal vengeance or the desire of certain individuals to hold onto power, but the characteristics that are revealed by analysis of the situation bring us to the conclusion that we are seeing a conscious strategy of destabilization of the government, carried out for the fundamental purpose of preventing the realization of structural changes, so creating a generalized climate of repression in the country; it is obvious that such a strategy accords with the economic and political interests of the Right that, having maintained the status quo for so many years, now feels itself threatened by the social changes that the [Armed Forces] Proclamation [of October 15, 1979] and the Platform of the Government provide for, and that this Government is committed to bringing about.

In view of all this, and bearing in mind that elements of the Armed Forces are involved in repressive acts, we are now presented with the problem of explaining the political responsibility for these acts, in order to be able to correct them; this point is extremely important, because since the success of the social changes requires the free participation of the people in those changes, they cannot be carried out in a climate of repression.

Accordingly, two hypotheses suggest themselves:

a. First Hypothesis

If the Armed Forces maintain their hierarchical unity and if the principle of vertical command structure is in operation, the facts described above necessarily lead to the conclusion that the High Command of the Armed Forces has a strategy that includes the wave of repression that is scourging the country. If this were the case, the government would stand for the principle of "reforms with repression;" this is an approach that not only contradicts the ideological principles of Christian Democracy and its political practice over 20 years of struggle, but also has shown itself, in practice, to be an increase in repression and a failure to carry out reforms; the social change that we propose and that we have always struggled for is not totalitarian, but rather democratic, and implies a devotion to democratic norms of social life; it is this that our Party has always defended and that is the spirit of the Movement of October 15 [1979]. The Christian Democratic Party strongly affirms that this scheme of "reforms with repression" contradicts and violates the essence, the spirit and the letter of the Political Pact that the Armed Forces contracted with the people and the PDC.

b. Second Hypothesis

R 3540

PL 1796

If the hierarchical unity is not maintained within the Armed Forces and the principle of vertical command structure has been ruptured, this situation has resulted either from disobedience on the part of the lower levels of command, or because external command structure have been infiltrated into the official hierarchy and it is those external forces that order and carry out the strategy of anti-democratic repression.

Such a situation would present the grave danger of a divided Armed Forces and would strike against the necessary ideological, programmatic and strategic unity that is required by the revolutionary-democratic government; it would keep the government in a permanent state of insecurity, permanently open to attack from the rear, and would even place at risk the very survival of the army. For these reasons, the Christian Democratic Party wants it to be clear that this situation too nullifies the agreed to Pact, since a necessary condition for compliance with that Pact is that the Armed Forces commit itself as a whole to carry the Pact out.

Whichever of these hypotheses is correct, the fact is that the present situation urgently requires correction, in order to allow realization of the program contained in the Pact; because without such correction, the Pact will remain mere words, of no real practical effect, and if the Christian Democratic Party has accepted the responsibility of being in the Government, it is in order to produce facts, not words.

In this regard, we note particularly that these actions occurred in this month and they present a picture of reversion to repressive and antidemocratic practices that had been kept in check since October 15.

III. Proposals

In formulating our proposals, we start from the premise that the first hypothesis is not the correct one, because if it were, that would clearly imply the groundlessness of the Political Pact, and a complete redefinition of the government; accordingly, our proposals intend to correct the situation described in the second hypothesis; consequently, they relate to the field of both politics and military affairs; we will continue to insist that the solutions will have to be political-military in nature, but for practical reasons we will treat them separately below:

3.1 Political Field

Effective dismantling of ORDEN, supplementing the decree [of the First Junta, abolishing ORDEN] by application of the Penal Code to those who violate it; in this regard, there must be issued a clear directive prohibiting meetings of members of ORDEN, which order should be read in every locality; at the same time, similar instructions will be given to all military

R 3541

PL 1797

authorities, so that they will proceed to disarm the members of ORDEN and in the event that they do not comply with the prohibition contemplated here, they should be arrested and turned over to the court.

Dismantling of the PCN [National Conciliation Party, a political party traditionally closely identified with the military dictatorships]; for this, proceed at the national level with the immediate removal of all government officials belonging to the PCN, especially justices of the peace, directors of officers of ANTEL [national telephone company, closely associated with the military] and Mayors. At the national level, decree the illegality of the [PCN] political party, given its antidemocratic tradition; the assets of the PCN should pass to the State.

Give a public demonstration that the activity of the Right that is proclaiming the fall of the government and carrying out concrete repressive actions will not be tolerated; for this we propose criminal prosecution of those persons who have made such declarations.

We propose these measure because we are convinced that it is urgently necessary to dismantle the repressive system that the Right has imposed on the country for 50 years; and just as much, because it is urgently necessary to put a stop to the conspiracy that those elements are plotting against the current government.

We note that the measures to be taken for SOCIAL ORDER with respect to actions of the ultra-left are not included in this document, because:

- a. They will be the result of a Political-Military Strategy that a specific Commission is now preparing.
- b. The Armed Forces and the PDC must reach an ideological, political and strategic unity, to be able to bring about, with concrete actions, a change in the repressive image that is currently projected by the Government and so to reach a point where the people will support not only the social measures, but also the political measures to reestablish the authority of the state.

3.2 Military Field

Starting from the premise that the High Command of the Armed Forces has the firm conviction to advance the democratic process and the agreed on social changes, we must take the appropriate measure so that that decision will not be violated by the intermediate and local level commands and by persons external to the Armed Forces.

For this reason, the Revolutionary Junta and the Military High Command should communicate its decision to all levels of the Armed Forces, especially in the security forces, in such a manner that no one can claim ignorance of the

R 3542

PL 1798

objective of this position, and carry out or order actions contrary to the spirit of creating within the entire Nation a positive image of the army and of the government.

We propose:

- a. That the Revolutionary Government Junta, together with the High Command, call together all of the departmental comandantes, and, in writing, give them precise instructions as to how they should proceed, letting them know that they will have to communicate such instructions to their subordinates both orally and in writing, and that in the event those orders are violated, they will be removed from their positions. Similarly, all officers and noncommissioned officers with command [responsibilities] will have to confirm receipt of such orders in writing; the Minister of Defense will make sure every officer knows the contents of the directive.

In the security and territorial [rural?] forces, we propose that the same meetings be called and, in the presence of the Minister and Subsecretary of Defense, the orders are given to carry out the directive, a copy of which should be signed to confirm knowledge of it and to be then forwarded to the cantonal comandantes.

Among the norms that such a directive must contain should be the following:

1. Express prohibition against beating or verbal mistreatment of any person in detention.
2. Express prohibition against intervening to disperse meetings, demonstrations or other public actions, except with the express authorization of the High Command or of the Director General of the Security Force.
3. Express prohibition against arresting any person on the mere grounds of membership in a political organization.
4. In every arrest, there must be present at a minimum one officer in uniform.
5. Every person detained for reasons of public political order must be permitted to make one phone call upon entering the Security Force that is holding him, such phone call to be paid for by the State.
6. Every detained person will be turned over to the courts within the period provided by law, if there is a valid case.

R 3543

PL 1799

7. In the case of expulsion of occupiers from factories, ranches or other places that have been taken, the order for such action can only be given by the High Command.
 8. Every officer and noncommissioned officer who sends false or misleading information to his superior will be punished or removed from his position, according to the gravity of the case.
- b. Make publicly known the removals from office and exemplary changes of those members of the Armed Forces and security forces who have ostentatiously flaunted their repressive attitude contrary to the democratic objective of the State.

Specifically we emphasize the necessity of dismissing the following persons:

- National Guard Post Comandante of Tejutepeque.
 - National Police Director of Ilobasco.
 - National Guard Post Comandante of Ilobasco.
 - Departmental Comandante of Chalatenango, Colonel Agir Benavides.
 - Captain Ciro Lopez of the National Guard.
 - Departmental Comandante of Chalatenango, Jesus Vargas.
 - Major Cienfuegos, of the Chalatenango Barracks.
 - Local Comandantes of the following towns: Las Vueltas, Arcatao, San Jose Las Flores, San Antonio La Cruz, Nueva Trinidad, Nueva Concepcion, Agua Caliente and Azacualpa of Chalatenango and Conchagua.
 - National Guard Post Commanders of La Palma, San Ignacio, Citala, Tejutepeque, Comasagua and Cancasque.
- c. Chiefs and officials who can be considered instigators, participants or Abettors of possible infiltration by external command should be transferred out of the country as military attaches.
- d. The work of the Political -Military Commission should be accelerated, with the goal that the Armed Forces may maintain public order in accordance with precise norms.

We cannot do less than insist on the fact that the entire nation is feeling an escalation of repression to levels even more serious than in the times of the fascist PCN governments, and dismay spreads throughout the word to the point that there are some countries that are considering termination of diplomatic relations.

R 3544

PL 1800

This repressive situation cannot be ignored by the Government, and even less can it shield itself behind silence, while, throughout the entire country, at the same time as we are combating the ultra-left, actions, threats, outrages and vile murders are being carried out against the less fortunate sectors of the population. It is the obligation of the Government to put a stop to such wrongful behavior, and it is up to the Armed Forces to act in such a way as not to destabilize the Unity of the Government, but so as to consolidate its authority and to be able rationally to achieve the kind of popular support that will isolate the ultra-left and restore social discipline.

Failure to create credibility for the democratic government will cause the [reform] process to shatter, resulting in polarization and the civil war that the nation seeks to avoid.

We hope that the Revolutionary Government Junta, with the firm support of the chiefs and officers of the High Command and of the CCOPEFA, as the Institution designated by all of the officers to keep guard over the [reform] process, will exercise its function as General Command of the Armed Forces out of conviction, and not from threats, and will implement the steps that our Party suggests and other appropriate measures, in order to bring about renewed faith by the people in the Government and in its Army, and a disposition to work together in good Faith, in order to move beyond this crisis of violence, carry out the structural changes and return to a just state of law.

Sincerely,

Dr. Mario Zamora
Miss Dolores Henriquez
Mr. Roberto Viera
Lic. Ruben Zamora
Dr. Julio Samayoa
Lic. Alberto Arene

Lic. Julio A. Rey Prendes
Mr. Francisco Diaz
Mr. Oscar H. Quiros
Ing. Jose Napoleon Duarte
Lic. Oscar Menjivar
Mr. Napoleon Valiente Castillo

R 3545

PL 1801

EX. 42

San Salvador, 31 de enero de 1960

Señores Miembros de la Junta Revolucionaria de Gobierno
Señores Miembros del Alto Mando de la Fuerza Armada
Señores Miembros de la Directiva de COPUSA,
Presenta:



Señores:

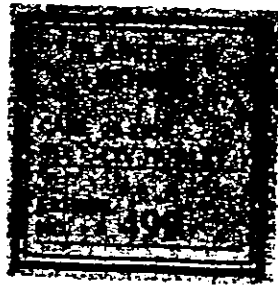
El Partido Demócrata Cristiano, analizando la situación actual, ha llegado a la conclusión que es necesario y urgente hacer el presente planteamiento a la Fuerza Armada y obtener de ella una respuesta clara y concreta al respecto, puesto que en ello va involucrado el éxito del proceso de cambio social que hemos iniciado.

El Pacto Político que suscribimos a principio de este mes, tenía como base la convicción compartida, tanto por la Fuerza Armada como por el Partido Demócrata Cristiano de la necesidad de los cambios estructurales y del respeto a los derechos humanos; si nuestra empresa común es impulsar un proceso revolucionario y democrático, es evidente que esto no pueda lograrse si los derechos humanos son sistemáticamente violados y en el país se produce un clima de represión.

Este planteamiento se refiere específicamente a este último punto, por cuanto él involucra la acción de la Fuerza Armada y el papel que debe jugar en el proceso de cambio. Primero haremos consideraciones de hecho y luego pasaremos a un análisis de los mismos, para finalmente presentar nuestros planteamientos concretos.

I. Los hechos

En este mes, hemos venido comprobando hechos de carácter represivo que constituyen un patrón de comportamiento. No nos referimos a todos ellos, sino a aquellos que nuestro Partido por diversos medios ha podido comprobar; tampoco nos referimos únicamente a actos represivos contra miembros de nuestro Partido, sino contra ciudadanos sin partido y miembros de otras agrupaciones, pues consideramos que los derechos humanos son inherentes a la persona, independientemente que piense de una u otra manera:



R 3526

PL 1782

1. Caso de Chinamequita: este hecho represivo en el que tuvo participación el Comandante Local, ha sido ampliamente documentado, por lo que no nos referimos en detalle al mismo.
2. El caso de la Colonia 22 de Abril; 4 asesinados, presuntamente por la CGR, sin embargo, tanto en las investigaciones realizadas por la Alcaldía Municipal de San Salvador, como las de FRENESCO y la de nuestro Partido, los testimonios coinciden en señalar, que al momento de las capturas, una tanqueta se encontraba dentro de la Colonia.
3. El caso de José H. Kajja y Francisco A. Venturino, universitarios capturados frente a la Embajada de los Estados Unidos; hay testigos que afirman fueron guardias nacionales quienes los capturaron.
4. Testigos nos señalan que en Cojutepaque, en la madrugada del 23, dos personas: padre e hijo, que participaron en la manifestación del 22, fueron violentamente sacados de sus casas por agentes de cuerpos de seguridad y se encuentran desaparecidos.
5. En la región que comprende Ilobasco y Tejutepaque, se ha desatado una represión generalizada especialmente en las zonas rurales; los cateos violentos son usuales; la Guardia Nacional del puesto de Tejutepaque se mantiene en estado de ebriedad y constantemente maltrata a la población, bajándola de los buses y tirándola al suelo.
6. En Conzagua, Departamento de La Libertad, 5 guardias nacionales, capturaron a un regidor demócrata cristiano, lo llevaron dentro del cementerio, lo golpearon con las culatas y saltando encima de él, lo amenazaron de muerte si denunciaba lo ocurrido, todo esto sucedió el 27 de enero.
7. El caso del asesinato de Elías Guzmán Ponce, miembro del PDC, el 23 de enero de este año en Ilobasco, quien se pretexto de un enfrentamiento entre guerrilleros y la Fuerza Armada, fue sacado violentamente de su casa, arrastrado hasta el puesto de la Guardia Nacional y allí fusilado con G-3; se le rotaron sus pertenencias, se destruyeron sus documentos de identidad y finalmente lo fueron a tirar donde de estaban otros tres cadáveres y los colocaron una bandera del FAPU encima.
8. En los municipios de La Palma, San Ignacio y Citulú, los guardias nacionales, frecuentemente se emborrachan por las noches, provocando escándalos e intimidando a la comunidad con descargas de fusiles. Además, el Jefe de Post de la FGN

R 3527

PL 1783

na y Jefe de CRDEM, come y duerme en el puesto de la Guardia Nacional y porta armas del ejército.

9. El asesinato del Alcalde del PDC de Pejutepaque, Hector Manjivar, caso en el que uno de los testigos, señala que entre los hechos reconoció a un Guardia Nacional.
10. En Iloilo miembros de nuestro Partido, denuncian que individuos pertenecientes a CRDEM, PDC y FUNDI, se reanun constantemente con el Director de la Policía Nacional y el Comandante del Puesto de la Guardia Nacional, para preparar y decidir sobre represiones a la población.
11. El 20 de enero, 13 residentes de un mesón en esta ciudad, denuncian que fueron objeto de un cateo de parte de la Guardia Nacional, el cateo se hizo con las luces apagadas, los residentes fueron acusados de subversivos y hubo sustracción de dinero y enseres domésticos, por parte de la Guardia Nacional.
12. En los Municipios de Nueva Concepción, Agua Caliente y Izacualpa de Chalatenango, los respectivos comandantes locales se dedican a amedrentar a la población, especialmente a los miembros del PDC, haciendo gala de desprecio por la Junta Revolucionaria de Gobierno; lo mismo ha sucedido en San Rafael Obrajuelo, Tapalhuzca, Olocuilta, Santa María Cotuna y Mercedes La Ceiba del Departamento de La Paz, casos que ya fueron planteados al Coronel Najano.
13. En Tacuba, Ahuachapán, el Capitán Ciro López, Tercer Jefe de la Guardia Nacional, juntamente con el Comandante Local, se han dado a la tarea de intimidar al pueblo, diciéndoles que si se afiliaban al PDC, los van a meter presos.
14. El 15 de enero por la mañana guardias nacionales uniformados, intentaron capturar a Carmen Gómez (17 años), no lo lograron y regresaron por la tarde vestidos de civil y entonces la capturaron; al salir la población en defensa de la menor, los guardias mataron a Ramón Mejía. Los hechos sucedieron en el Cantón San Francisco Angulo, Tecoluca. La menor está desaparecida.
15. En Arcatzo la represión de la Guardia Nacional, se ha recrudecido de tal manera, que muchos vecinos han optado por abandonar el lugar, como es el caso de dos

R 3528

PL 1784

ancianos, los hermanos Dubón. El Alcalde nombrado por esta Junta, no ha tomado posesión por encontrarse huyendo, debido a amenazas de CRDEN y la Guardia Nacional.

16. En el desvío de Delicias de Concepción, Departamento de Morazan, el 14 de enero, dos guardias nacionales bajaron de un bus y capturaron a Antonio López, Catquista, el cual apareció muerto al día siguiente en la acera de la Alcaidía de Oricala. El cadáver muestra signos de haber sido torturado.
17. El Coronel Jesús Vargas, Comandante Departamental de Cuscatlán, ha provocado reuniones con miembros de CRDEN, en las que señala que la Junta se va a caer pronto y que todos los subversivos, incluyendo los demócratas cristianos van a ser muertos.
18. El Coronel Sergio Tulio Figueroa, Comandante Departamental de Santa Ana, ha manifestado públicamente a las patrullas, que deben combatir al PDC porque es subversivo.
19. El Coronel Aguirre Benavides, Comandante Departamental de Chalatenango, se niega a comunicarse con los actuales Alcalde y Gobernador del Departamento; por el contrario, mantiene estrechas vinculaciones con los representantes del PCM y CRDEN y han desatado una ola represiva en el Departamento, especialmente en Las Vueltas, Arcatao, San José Las Flores, San Antonio La Cruz y Nueva Trinidad; en estos operativos, se han reportado campesinos asesinados, viviendas destruidas y se les han sustraído pertenencias; el Mayor Cienfuegos, 2o. Jefe del Cuartel fue quien comandó la operación de Agua Caliente y en este mismo Municipio, el 30 de enero, el Alcalde Municipal del PDC, Leopoldo Guavara, fue golpeado por el ejército.

Como dijimos anteriormente, los hechos aquí enunciados, han sido informados al PDC, a través de canales del propio Partido, por lo que estamos en capacidad de confirmar lo aquí señalado. El COPEFA fue instituido para vigilar que el proceso iniciado el 15 de octubre no se desviara; consideramos que estos hechos constituyen una clara desviación que está planteando una grave crisis al proceso de cambio y democratización; ésta es una de las razones por las que el PDC se siente en la obligación de señalarlos, para impedir que una situación como la presente lleve al gobierno a una crisis total.

R 3529

PL 1785

II. Análisis

Los casos señalados tienen tres características en común:

- a. Implican a miembros de los cuerpos de seguridad, especialmente de la Guardia Nacional, los comandantes locales y a sectores civiles para-militares, como ORDEN.
- b. Se producen en diversos lugares del país, presentando un carácter generalizado.
- c. Se concentran en el tiempo, es decir, en este mes de enero de 1950, que coincide con el período de la Nueva Junta Revolucionaria de Gobierno.

No descartamos que hechos como los mencionados puedan atribuirse a venganzas personales o al deseo de mantenerse en el poder de algunos individuos, pero, las características que el análisis del conjunto evidencia, nos llevan a la conclusión que estamos en presencia de una estrategia consciente de desestabilización del gobierno, la cual tiene como razón fundamental la de impulsar que los cambios estructurales se realicen, creando para ello, un clima represivo generalizado en el país; es evidente que tal estrategia corresponde a los intereses económicos y políticos de la derecha que ha venido manteniendo el statu-quo por tantos años, ahora se siente amenazada por los cambios sociales que la Proclama y la Plataforma de Gobierno plantean y que este Gobierno está en pañado en realizar.

En vista de lo anterior y teniendo en cuenta que elementos de la Fuerza Armada, se encuentran involucrados en los hechos represivos, se nos presenta el problema de esclarecer la responsabilidad política sobre los mismos, para poder corregirlos; este punto es extremadamente importante, ya que los cambios sociales, en la medida que para ser exitosos implican la participación libre del pueblo en los mismos, no pueden realizarse en un clima de represión.

Al respecto, nos planteamos dos hipótesis:

a. Primera hipótesis.

Si la Fuerza Armada mantiene su unidad jerárquica y si el principio de verticalidad del mando está vigente, los hechos señalados llevan necesariamente a la conclusión de que el Alto Mando de la Fuerza Armada, tiene una estrategia que implica la ola represiva que azota al país. Si esto fuera así,

R 3530

PL 1786

el gobierno se ubicaría dentro de la tesis de "reformas con represión" la cual, no solo es contraria a los principios ideológicos de la Democracia Cristiana y a su práctica política de 20 años de lucha, sino se ha demostrado, en la práctica, que incrementa la represión y no realiza las reformas; el cambio social que proponemos y por el que hemos luchado siempre no es totalitario, sino democrático e implica el apego a las normas democráticas de convivencia social; esto lo ha defendido siempre nuestro Partido y éste es el espíritu del Movimiento del 15 de Octubre. El Partido Demócrata Cristiano señala con firmeza, que este esquema de "reformas con represión" es contrario y viola la esencia, el espíritu y la letra del Pacto Político que la Fuerza Armada ha suscrito con el pueblo y el PDC.

b. Segunda hipótesis

Si en la Fuerza Armada ya no se mantiene la unidad jerárquica y el principio de verticalidad del mando ha sido quebrantado, esto se produce, ya sea por desobediencia de los mandos inferiores o porque hay infiltración de mandos externos a la jerarquía oficial y que son ellos los que ordenan y ejecutan la estrategia de represión anti-democrática.

Una situación tal presentaría el grave peligro de una Fuerza Armada dividida y atentaría contra la necesaria unidad ideológica, programática y estratégica que el gobierno revolucionario-democrático debe mantener; mantendría al gobierno en permanente estado de inseguridad, abierto permanentemente al ataque por la espalda y pondría en peligro la misma supervivencia del ejército. Por estas razones, el Partido Demócrata Cristiano, quiere dejar claro que esta situación es también negatoria del pacto celebrado, ya que un supuesto necesario para la ejecución del mismo, es que la Fuerza Armada como un todo se compromete a cumplirlo.

Sea cual sea la hipótesis correcta, el hecho es que esta situación debe ser corregida con urgencia para poder permitir la realización de la plataforma programática, contenida en el Pacto; pues de lo contrario, ésta quedará en meras palabras, sin ninguna concreción real y el Partido Demócrata Cristiano, si ha aceptado la tarea del Gobierno, es para producir hechos y no palabras.

R 3531

PL 1787

Proponemos las anteriores medidas políticas porque estamos convencidos de la necesidad de desmantelar urgentemente el sistema represivo que la derecha ha implantado en el país por 30 años; asimismo, porque es urgente parar la conspiración que estos elementos están tramando contra el gobierno actual.

Dejamos constancia de que las medidas de ORDEN SOCIAL por las acciones de la ultraderecha no se incluyen en este documento porque:

- a. Son el resultado de la Estrategia Político Militar que la Comisión específica está preparando.
- b. Debe constituirse la unidad ideológica, política y estratégica entre la Fuerza Armada y el PDC, para generar, con hechos concretos, un cambio de la imagen represiva que actualmente proyecta el Gobierno y así lograr que el pueblo apoye, no solo las medidas sociales, sino la política de restablecer la autoridad del estado.

3.2 Cambio Militar

Partiendo de la base que el Alto Mando de la Fuerza Armada, tiene la firme convicción de impulsar el proceso democrático y de cambios sociales pactado, debemos tomar las medidas pertinentes para que esa decisión no sea violada por los mandos medios, los mandos locales y personas extrañas a la Fuerza Armada.

Por esa razón la Junta Revolucionaria y el Alto Mando Militar deben proyectar su decisión a todos los niveles de la Fuerza Armada y especialmente en los cuerpos de seguridad, de tal forma que nadie pueda alegar ignorancia del objetivo de esta posición y hacer u ordenar acciones contrarias al espíritu de crear en toda la Nación una imagen positiva del ejército y del gobierno.

Proponemos:

- a. Que la Junta Revolucionaria de Gobierno, junto con el Alto Mando, convoquen a todos los comandantes departamentales, y por escrito, se les dan instrucciones precisas sobre cómo deben proceder, haciéndoles saber que deberían comunicar tales instrucciones a sus subordinados.

R 3532

PL 1788

dos originales y por escrito y que en caso de que las órdenes sean violadas, serán destituidos. Asimismo, todos los oficiales y clases con mando, deberán firmar de recibido, tales órdenes; el Ministro de Defensa hará del conocimiento de toda la oficialidad el contenido del instructivo.

En los cuerpos de seguridad y en la territorial, proponemos que se hagan las mismas convocatorias y con la presencia del Ministro y Subsecretario de Defensa, se les ordene el cumplimiento del instructivo, cuya copia firmada en señal de conocimiento y para ser transmitido en su caso a los comandantes cantonales.

Entre las normas que debe contener tal instructivo, estarán las siguientes:

1. Prohibición expresa de golpear o maltratar de palabra a ningún detenido.
 2. Prohibición expresa de intervenir para disolver mitines, manifestaciones u otros actos públicos, a no ser con expresa autorización del Alto Mando o del Director General de Cuerpo de Seguridad.
 3. Prohibición expresa de capturar a cualquier persona por el mero hecho de pertenecer a una organización política.
 4. En toda captura deberán estar presentes al menos un agente del orden uniformado.
 5. Todo detenido por razones de orden público político, deberá ser autorizado para hacer una llamada telefónica al momento de entrar al Cuerpo de Seguridad que lo detiene; tal llamada correrá por cuenta del Estado.
 6. Todo detenido deberá ser recibido a los tribunales dentro del término de ley, si hubiere mérito.
 7. En caso de desalojos de fábricas, fincas y otros lugares que hubieran sido tomados, la orden para el mismo, solo podrá ser dada por el Alto Mando.
 8. Todo oficial o clase que envíe información falsa o tergiversada a su superior, será castigado o destituido, según la gravedad del caso.
- b. Dar a conocer las destituciones y cambios ejemplarizantes de aquellos miembros de la Fuerza Armada y de los cuerpos de seguridad que ostentadamente han hecho gala de su actitud represiva y contraria al objetivo democrático del Estado.

R 3533

PL 1789

Específicamente señalamos la necesidad de que las siguientes personas sean dadas de baja:

- Comandante de Puesto de la Guardia Nacional de Taju-tepeque.
 - Director de la Policía Nacional de Ilobasco.
 - Comandante del Puesto de la Guardia Nacional de Ilo-basco.
 - Comandante Departamental de Chalatenango, Cnel. Aguir Benavides.
 - Capitán Cirio López de la Guardia Nacional.
 - Comandante Departamental de Cuscatlán, Jesús Vargas.
 - Mayor Cienfuegos, del Cuartel de Chalatenango.
 - Comandantes locales de los siguientes municipios: Las Vueltas, Amcatzo, San José Las Flores, San Antonio La Cruz, Nueva Trinidad, Nueva Concepción, Agua Caliente y Azacualpa de Chalatenango y Conchagua.
 - Comandantes de puesto de la Guardia Nacional de: La Palma, San Ignacio, Citalá, Taju-tepeque, Comasagua y Cancaques.
- c. Se dará de alta a los jefes y oficiales que puedan ser considerados instigadores, partícipes o propiciadores de la posible infiltración de mandos externos, para ser trasladados como agregados militares fuera del país.
- d. Que el trabajo de la Comisión Político Militar se acelere, con el objeto de que la Fuerza Armada pueda mantener el orden público, de acuerdo a normas precisas.

Es, podemos menos que insistir que toda la nación está sintiendo el recrudecimiento de la represión a niveles inclusive más graves que en épocas de los gobiernos fascistas del PCM y el desprestigio se riega por todo el mundo hasta el grado de que hay algunos países que están considerando el retiro de relaciones diplomáticas.

Esta situación represiva no pueda ser ignorada por el Gobierno y menos escurirse en el silencio, mientras por todo el país, al mismo tiempo que se combate a la ultraderecha se generan acciones, amenazas, vejámenes y asesinatos viles contra sectores humildes de la población. Es obligación del Gobierno poner coto a tanto desmán y es la Fuerza Armada quien debe actuar en este sentido para que no se desest-

R 3534


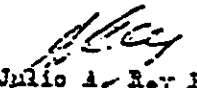
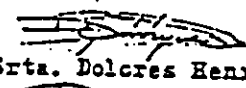
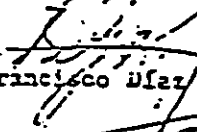

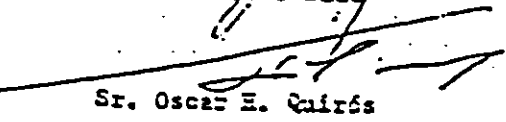
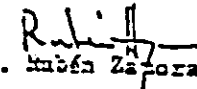
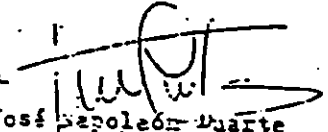

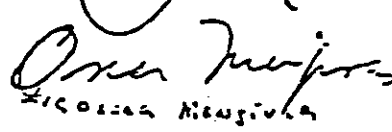
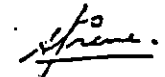
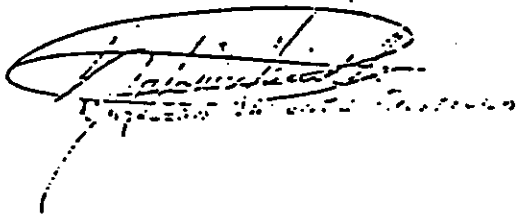
PL 1790

bilice la Unidad del Gobierno, se consolide la autoridad y se pueda con racionalidad, lograr el respaldo popular que aisle a la ultraderecha y restaurar así la disciplina social.

De no lograrse el objetivo de credibilidad al gobierno democrático, se resquebrajará este proceso con las consecuencias de total polarización y de guerra civil que la nación desea evitar.

Esperamos que la Junta Revolucionaria de Gobierno, con el respaldo decidido de los jefes y oficiales del Alto Mando y del CGPESM, como Instituto nombrado por toda la oficialidad para vigilar el proceso, pueda ejercer por convicción y no conminativamente su función de Comandante General de la Fuerza Armada, para implementar medidas que nuestro Partido sugiera y otras que se consideren pertinentes para lograr que el pueblo recupere credibilidad en el Gobierno y su Ejército y se disponga a colaborar con fe en sobrepasar esta crisis de violencia y hacer los cambios estructurales y volver a un justo estado de derecho.

Atentamente,

 Dr. Mario Zamora	 Lic. Julio A. Rey Pradas
 Srta. Dolores Henríquez	 Sr. Francisco Díaz
 Sr. Roberto Viera	 Sr. Oscar E. Quirós
 Lic. Andrés Zamora	 Ing. José Napoleón Duarte
 Sr. Julio Sarmiento	 Oscar Henríquez
 Lic. Alberto Ricart	

R 3535

PL 1791

XXXXXX

60

**REPORT OF THE SPECIAL INVESTIGATIVE COMMISSION
ON POLITICAL PRISONERS AND DISAPPEARED**

[Introductory Explanation

With respect to the findings made by the members of the now terminated Commission on the Political Prisoners and Disappeareds of El Salvador, in the reports submitted to the Government Junta, which are to be published in the Journal "ECA" of the University of Central America, I give the following explanations for the better understanding by the readers.

-The referenced findings of the members of the Commission do not constitute pronouncements of death, as to which the members of the Commission never had the authority, since we were not judicial officials. With regard to these findings, one can distinguish three different situations: 1) Those people whose arrest and disappearance is proven, based on sufficient evidence of death, such as identification of the body; with regard to these cases, we confirm the death. 2) Those people whose arrest is proven and whose disappearance is inferred, based on the fact that they have not been found in the detention facilities and have not been released, but whose death can only be presumed for absence of direct evidence; as for these cases, we make a presumption of death, based on the results of our work. 3) Those others as to which we were unable to collect complete evidence, but whose death we consider reasonable to conclude in view of the particular evidence we had for each case.

San Salvador, January 24, 1980

Roberto Lara Velado]

To the Members of the Honorable Revolutionary Government Junta.

We respectfully inform you that, in fulfillment of Decree No. 9, creating this Special Investigative Commission on Political Prisoners and Disappeareds, we are carrying out an exhaustive investigation and already have concrete information that we now place at your disposal. From this information, we have concluded that there has been an abuse of power by some officials of previous regimes, to such an extent that they have violated the most basic sacred rights in our Magna Carta, such as the right to life and to civic liberty.

Summarizing the referenced information, we can provide the following list of disappeared persons as to whom we have, as of today, been able to gather sufficient evidence; these are:

PLAINTIFF'S EXHIBIT	
CASE 99-8364	
NO. CIV-HURLEY	
EXHIBIT NO.	341

R 1797

61

Arrested by the National Guard

Name	Arrest Date
1. Narciso de Jesus Rodriguez	September 19, 1979
2. Andres Rivera	September 19, 1979
3. Patrocinio Adan Rivera	September 19, 1979
4. Carlo Antonio Madriz Martinez	July 14, 1976
5. Daniel Ambrosio Gonazalez	July 3, 1979
6. Juana Ramos	July 30, 1975
7. Jose Victoriano Arevalo Romero	October 30, 1978
8. Domingo Chavez Martinez	October 4, 1978
9. Jorge Vitelio Martinez	1978
10. Pedro Diaz Barahona	September 7, 1979
11. Lil Milagro Ramirez	November 26, 1976

Arrested by the National Guard and Local Police

1. German flores Zanas	September 17, 1979
2. Victor Manuel Rivera Valencia	September 17, 1979

Arrested by the National Police

1. Eugenio Guardado	August 15, 1979
2. Julio Cesar Fabian Villalobos	March 18, 1977
3. Raul Ernesto Sosa Carranza	October 14, 1979

Arrested by the Treasury Police

1. Cecilio Ramirez Dubon	January 5, 1978
2. Jose Adaid Melara	July 9, 1977

Those persons appearing on the above list are not the only persons to have disappeared, but they are the only ones as to which at this time we have proof of their arrest and disappearance.

We have proof of the arrest of the disappeared persons listed above, as well as proof that as of a few months ago they were still being kept in prisons of the public security forces; also we are informed that there are no criminal cases pending against these persons in the courts of the Republic. According to the information provided by the directors of the respective security forces, these persons are not currently being held by those forces; nor is it known if they have been freed. All of this provides a sufficient

R 1798

62

grounds, in accordance with Art. 488 Pr. Pn., to reach a presumption as to their deaths, and those responsible; in addition, the mere detention of these persons, for a long period of time, without there having been initiated any criminal proceeding, constitutes a public crime pursuant to articles 218, 219 and 428 Pn.

For the purpose of punishing those responsible for those terrible times, to serve as an example to future generations, and to provide the families of the victims of these acts the remedy to which they are entitled, as well as to satisfy the justified popular demand, so that justice will be done, we provide below the following recommendations:

- 1) Immediately proceed, based on the findings obtained thus far, to a legal prosecution of the former Military Commanders of the Governments of Colonel Arturo Armando Molina and General Carlos Humberto Romero, in accordance with the legal norms in effect on the date of the commission of those acts constituting the resulting crimes; as for the following persons, they should be tried in special proceedings: both ex-Presidents, in their capacity as Commanders in Chief of the Salvadoran Armed Forces, and the respective directors general of the National Guard, Treasury Police and National Police holding office during the periods referred to above. Since this Commission is only an investigative body, we believe that the characterization of the particular crimes should be made by the judicial tribunals that shall handle each case, or by the Honorable Junta, when it formulates the charge in the respective pretrial proceeding, if there is one. The evidence that we have gathered, in connection with each case that we have discussed, is at the disposal of the Honorable Junta, for whenever it decides to initiate appropriate pretrial proceedings, in view of the charges against each respective accused, or to the Tribunals that will hear the respective cases, should there not be necessary such pretrial proceedings.
- 2) Prohibit in the future the existence of jails, or even simple provisional detention centers, within the quarters of the Public Security [Forces] or in any other military ["troop"] quarters; because such a circumstance lends itself to every kind of abuse, such as illegal detentions, torture and other things; every person who is arrested must be delivered over to prisons under the jurisdiction of the Ministry of Justice, which must be public and which can be regularly visited by anyone. This implies a) the physical disappearance of the current detention locations as such, and b) corresponding legal reforms.
- 3) There should be immediately initiated proceedings against the person responsible for the arrest and disappearance of the Sacristan Tomas Flores Garcia, who was arrested by the Treasury Police on October 16 of this year in the city of Soyapango and who has still not been located, and, consistent with the evidence we have gathered, we can infer the serious presumption of his death, while in the custody of the Treasury Police. This evidence is at the disposition of the whatever tribunal shall initiate the appropriate proceedings.

R 1799

- 63
- 4) There should be formed a Military Honor Committee, to collaborate with the Special Investigative Commission on Political Prisoners and Disappeareds, for the purpose of intervening, in their capacity as Honored Military figures, in the investigation of cases of possible detentions in the Security Force prisons and the effort to locate persons who have disappeared for political reasons.
 - 5) The families of the persons who have disappeared for political reasons and whose death is either presumed or proven, should be indemnified, in an amount to be determined based on appropriate socio-economic analysis. Similarly, those natural and legal persons who have been materially injured by armed military or paramilitary groups should also be indemnified.
 - 6) The Honorable Junta should promulgate a Decree-Law that will interpret and broaden the Amnesty Decree that has already been issued, in view of the fact that according to its current terms, in the majority of those cases currently pending in the Honorable Supreme Court of Justice, the majority of prisoners would not be legally entitled to benefit from the amnesty for "political crimes" in the strict sense; which result contradicts the Government's intentions, as set forth in the "Whereas" provisions and applicable portions of the Amnesty Decree.
 - 7) We should add that, with the goal of quickly releasing certain persons who have been arrested for political reasons, we have requested that the Honorable Supreme Court of Justice proceed quickly with the applicable proceedings, so that such political prisoners may, in accordance with the Amnesty Decree, receive their freedom as soon as possible.

We do not wish to conclude without affirming our bitter condemnation of the members of the Supreme Courts of Justice who held such positions under the previous regimes discussed herein; for their condemnable ["culpable"] disregard ["negligencia"] of their duties under the Constitution and laws to which they had bound themselves, and the resulting failure to protect the fundamental rights of the people of the Republic.

San Salvador, November 23, 1979

Doctor ROBERTO SUAREZ SUAY

Doctor ROBERTO LARA VELADO

Doctor LUIS ALONSO POSADA

R 1800

Y Y Y Y Y

CONSTITUCION POLITICA Y CODICOS
DE LA
REPUBLICA DE EL SALVADOR

Recopilación efectuada por el Ministerio de
Justicia durante la administración del
Presidente de la República,

CORONEL JULIO ADALBERTO RIVERA

D 600

1967



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CONSTITUCION POLITICA
DE LA
REPUBLICA DE EL SALVADOR

Decretaada
por la Asamblea Constituyente de 1962

y

LEY DE PROCEDIMIENTOS
CONSTITUCIONALES

D 601



DECRETO N. 64.

EL PODER EJECUTIVO DE LA REPUBLICA DE EL SALVADOR.

Vista la edición de la recopilación que contiene la Constitución Política y los Códigos: Civil, de Procedimientos Civiles, de Comercio, de Trabajo, Penal, de Instrucción Criminal y de Justicia Militar, con todas las reformas decretadas desde el año 1917 hasta esta fecha; y cuya revisión fue realizada por el Ministerio de Justicia.

DECRETA:

Art. 1.º - Publíquese oficial la mencionada edición.

Art. 2.º - Solo se tendrán como auténticos los ejemplares de dicha edición que lleven el sello del Ministerio de Justicia.

DADO EN CASA PRESIDENCIAL, San Salvador, a primero de junio de mil novecientos sesenta y siete.

JULIO ADALBERTO RIVERA,
Presidente de la República.

FRANCISCO PEÑA TREJO,
Ministro de Justicia.

Impreso en los Talleres de la
Dirección General de Publicaciones
por el Sistema de Escelcación
Presupuestales N.º 115, San Salvador,
El Salvador, Centenario, 1967.

Se establece la indemnización, conforme a la ley, por daños de carácter moral.

Art. 164.—Ninguna persona puede ser privada de su vida, de su libertad, ni de su propiedad o posesión, sin ser previamente oída y vencida en juicio con arreglo a las leyes; ni puede ser enjuiciada dos veces por la misma causa.

Toda persona tiene derecho al *habeas corpus* ante la Corte Suprema de Justicia o Cámaras de Segunda Instancia que no residan en la capital, cuando cualquier autoridad o individuo restrinja ilegalmente su libertad.

Art. 165.—Sólo podrá practicarse el registro o la pesquisa de la persona para prevenir o averiguar delitos o faltas.

La medida es invariable; únicamente podrá efectuarse el allanamiento en casos de incendio u otros análogos, para la averiguación de delitos y persecución de delincuentes, y para fines sanitarios, en la forma y circunstancias que determine la ley.

Art. 166.—Ningún Poder, autoridad o funcionario podrá dictar órdenes de detención o prisión si no es de conformidad con la ley y estas órdenes delectan su siempre escritas. Cuando un delincuente sea sorprendido infraganti, puede ser detenido por cualquier persona, para entregarlo inmediatamente a la autoridad competente.

La detención para inquirir no pasará de tres días, y el tribunal respectivamente estará obligado a notificar al detenido en persona el motivo de su detención, a recibirle su indagatoria y a decretar su libertad o detención provisional, dentro de dicho término.

Por razones de defensa social, podrán ser sometidos a medidas de seguridad reeducativas o de readaptación, los sujetos que por su actividad antisocial, inhumana o dañosa, revelen un estado peligroso y ofrecen riesgo inminente para la sociedad o para los individuos. Dichas medidas de seguridad deben estar estrictamente reglamentadas por la ley y sometidas a la competencia del Poder Judicial.

Art. 167.—Corresponde únicamente al Poder Judicial la facultad de imponer penas. No obstante, la autoridad administrativa podrá sancionar las contravenciones a las leyes, reglamentos u ordenanzas, con arresto hasta por quince días o con multa, y si ésta no fuere pagada se permitará por arresto, el cual no excederá de treinta días.

Art. 168.—Sólo podrá imponerse la pena de muerte por los delitos de rebelión o desertión en acción de guerra, de traición y de espionaje, y por los delitos de homicidio, asesinato, robo o incendio si se sigue la muerte.

Se prohíbe la prisión por deudas, las penas perpetuas, las infamantes, las proscriptivas y toda especie de tormento.

El Estado organizará los centros penitenciarios, con objeto de corregir a los delincuentes, educarlos, y formarles hábitos de trabajo, procurando su readaptación y la prevención de los delitos.

Art. 169.—Nadie puede ser juzgado sino conforme a leyes pro-

mulgadas con anterioridad al hecho de que se trate, y por los tribunales que previamente haya establecido la ley.

Art. 170.—Un mismo juez no puede serlo en diversas instancias en una misma causa.

Art. 171.—Ningún poder ni autoridad puede avocarse causas pendientes ni abrir juicios fenecidos.

En caso de revisión en materia criminal, el Estado indemnizará, conforme a la ley, a las víctimas de los errores judiciales debidamente comprobados.

Art. 172.—Las leyes no pueden tener efecto retroactivo, salvo en materias de orden público, y en materia penal cuando la nueva ley sea favorable al delincuente.

Art. 173.—Toda persona tiene derecho a disponer libremente de sus bienes conforme a la ley. La propiedad es transmisible en la forma que determinen las leyes. Habrá libre testamentifacción.

Art. 174.—Se garantiza la libertad de constituir conforme a las leyes.

Ninguna persona que tenga la libre administración de sus bienes puede ser privada del derecho de terminar sus asuntos civiles o comerciales por transacción o arbitramento. En cuanto a las que no tengan esa libre administración, la ley determinará los casos en que puedan hacerlo y los requisitos exigibles.

Art. 175.—En casos de guerra, invasión del territorio, rebelión, sedición, catástrofe, epidemia u otra calamidad general, o de graves perturbaciones del orden público, podrán suspenderse las garantías establecidas en los artículos 154, 155 inciso primero, 159 y 160 de esta Constitución, excepto cuando se trate de reuniones o asociaciones con fines culturales o industriales. Tal suspensión podrá afectar la totalidad o parte del territorio de la República, y se hará por medio de decreto del Poder Legislativo o del Poder Ejecutivo, en su caso.

El plazo de suspensión de las garantías constitucionales no excederá de treinta días. Transcurrido este plazo, podrá prolongarse la suspensión, por igual período y mediante nuevo decreto, si continúan las circunstancias que la motivaron. Si no se emite tal decreto, quedarán de pleno derecho restablecidas las garantías suspendidas.

Art. 176.—El Poder Ejecutivo, en Consejo de Ministros, podrá decretar la suspensión de garantías cuando la Asamblea Legislativa se halle en receso. El decreto correspondiente implicará la convocatoria a la Asamblea, para que se reúna dentro de las cuarenta y ocho horas siguientes y para que apruebe o desapruebe dicho decreto.

Art. 177.—Declarada la suspensión de garantías constitucionales, será de la competencia de los tribunales militares, el conocimiento de los delitos de traición, espionaje, rebelión y sedición, y de los demás delitos contra la paz o la independencia del Estado y contra el Derecho de Gentes.

Los juicios que al tiempo de decretarse la suspensión de garantías

estén pendientes ante las autoridades competentes, continuarán bajo el conocimiento de éstas.

Restablecidas las garantías constitucionales, los tribunales militares continuarán conociendo de las causas que se encuentren pendientes ante ellos.

Art. 178.—Cuando desaparezcan las circunstancias que motivaron la suspensión de garantías constitucionales, decretará la Asamblea Legislativa restablecer tales garantías, y si estuviere en seso, correspondiente al Poder Ejecutivo decretar dicho restablecimiento.

TITULO XI

REJIMEN DE DERECHOS SOCIALES

CAPITULO I

FAMILIA

Art. 179.—La familia, como base fundamental de la sociedad, debe ser protegida especialmente por el Estado, el cual dictará las leyes y disposiciones necesarias para su mejoramiento, para fomentar el matrimonio y para la protección y asistencia de la maternidad y de la infancia. El matrimonio es el fundamento legal de la familia y descansa en la igualdad jurídica de los cónyuges.

El Estado protegerá la salud física, mental y moral de los menores y garantizará el derecho de éstos a la educación y a la asistencia. La deficiencia de los menores estará sujeta a un régimen jurídico especial.

Art. 180.—Los hijos nacidos dentro o fuera de matrimonio, y los adoptivos, tienen iguales derechos en cuanto a la educación, a la asistencia y a la protección del padre.

No se consignará en los actos del registro civil ninguna calificación sobre la naturaleza de la filiación, ni se expresará en las partidas de nacimiento el estado civil de los padres.

La ley determinará la forma de investigar la paternidad.

CAPITULO II

TRABAJO Y SEGURIDAD SOCIAL

Art. 181.—El trabajo es una función social, goza de la protección del Estado, y no se considera artículo de comercio.

El Estado equipará todos los recursos que estén a su alcance para proporcionar ocupación al trabajador, manual o intelectual, y para asegurar a él y a su familia las condiciones económicas de una existencia digna.

Se dictarán las disposiciones convenientes para evitar y atenuar la vagancia.

Art. 182.—El trabajo estará regulado por un Código de Trabajo, que tendrá por objeto principal armonizar las relaciones entre el capital y el trabajo, y estará fundado en principios generales que tiendan al mejoramiento de las condiciones de vida de los trabajadores, y especialmente en las siguientes:

1º En una misma empresa o establecimiento y en idénticas circunstancias, a trabajo igual debe corresponder igual remuneración al trabajador, cualquiera que sea su sexo, raza, credo o nacionalidad;

2º Todo trabajador tiene derecho a devengar un salario mínimo, que se fijará periódicamente. Para fijar este salario se atenderá sobre todo al costo de la vida, a la índole de la labor, a los diferentes sistemas de remuneración y a las distintas zonas de producción. Este salario deberá ser suficiente para satisfacer las necesidades normales del hogar del trabajador en el orden material, moral y cultural.

En los trabajos a destajo, por ajuste o precio alzado, es obligatorio asegurar el salario mínimo por jornada de trabajo;

3º El salario y las prestaciones sociales en la cuantía que determine la ley, son inembargables y no se pueden compensar ni retener, salvo por obligaciones alimenticias. También pueden retenerse por obligaciones de seguridad social, cuotas sindicales o impuestos.

Son inembargables los instrumentos de labor de los trabajadores; 4º El salario debe pagarse en moneda de curso legal. El salario y las prestaciones sociales constituyen créditos privilegiados en relación con los demás créditos que puedan existir contra el patrono;

5º Las patrones darán a sus trabajadores una prima por cada año de trabajo. La ley establecerá la forma en que se determinará su cuantía en relación con los salarios;

6º La jornada ordinaria de trabajo efectivo diurno no excederá de ocho horas, y la semana laboral de cuarenta y cuatro horas.

El máximo de horas extraordinarias para cada clase de trabajo será determinado por la ley.

La jornada nocturna y la que se cumpla en tareas peligrosas o insalubres, será inferior a la diurna y estará reglamentada por la ley.

La limitación de la jornada no se aplicará en casos de fuerza mayor. La ley determinará la extensión de las pausas que habrán de interrumpir la jornada cuando, atendiendo a causas biológicas, el ritmo de las tareas así lo exija, y las que debetan mediar entre dos jornadas.

Las horas extraordinarias y el trabajo nocturno serán remunerados con recargo;

7º Todo trabajador tiene derecho a un día de descanso remunerado por cada semana laboral, en la forma que exige la ley.

Los trabajadores que no gocen de descanso en los días indicados anteriormente, tendrán derecho a una remuneración extraordinaria por los servicios que presten en esos días y a un descanso compensatorio;

8º Los trabajadores tendrán derecho a descanso remunerado en los días de asueto que señale la ley; este determinará la clase de labores en

103

**Political Constitution
Of
The Republic of El Salvador**

(1962)

Articles 175 - 178

Art. 175. — In cases of war, invasion of the territory, rebellion, sedition, catastrophe, epidemic or other general calamity, or of serious disturbances of the public order, there may be suspended the guarantees established by articles 154, first paragraph of 158, 159 and 160 of this Constitution, except with regard to meetings or association for cultural or industrial purposes. Such a suspension can cover all or some of the territory of the Republic, and will be mandated by a decree of the Legislative Power or the Executive Power, as the case may be.

A suspension of constitutional guarantees may not continue beyond thirty days. Once such a period has passed, the suspension may be extended for an equal time period by means of a new decree, if the circumstances that motivated the suspension continue. If such a decree is not issued, the guarantees that were suspended shall be fully restored.

Art. 176. — The Executive Power, as the Council of Ministers, may decree a suspension of guarantees when the Legislative Assembly is in recess. Such a decree implies a convocation of the Assembly, to meet within the following forty-eight hours and either to approve or disapprove of the decree.

Art. 177. — When a suspension of constitutional guarantees has been declared, military tribunals shall have within their competence crimes of treason, espionage, rebellion and sedition, and other crimes against the peace or the independence of the State and against the Law of Nations.

Proceedings that are pending under common [civilian] authorities at the time a suspension of guarantees has been declared shall continue to be tried in those fora.

When constitutional guarantees have been reestablished, military tribunals shall continue to have jurisdiction over those cases that are then pending before them.

Art. 178. — When the circumstances that have motivated a suspension of constitutional guarantees have ended, the Legislative Assembly will reestablish those guarantees, and if the Assembly is in recess, the Executive Power shall decree such a reestablishment.

PLAINTIFF'S EXHIBIT	
CASE 99-8364 NO. CIV-HURLEY	
EXHIBIT NO.	580

R 4387

ZZZZ

Army Ordinance
(1934)

.....

Title II

**Attributions and Duties of the Supreme Command
and its Different Organs**

Chapter III

**Ministry of Defense and
Secretariat of the General Command of the Army**

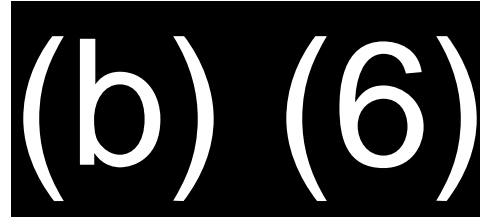
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Art. 139. – The Ministry of Defense will serve as the Secretariat of the General Command of the Army; it will be the organ of communication and of execution of all requirements emanating from the General Command, and it will have the responsibility for administration of the Army.

Art. 140. – The Ministry of Defense is directly responsible to the President of the Republic and the General Commander of the Army, as well as to the Nation, for the state of efficiency maintained by the Armed Institution. Accordingly, with the resources allocated to it by the Department Budget, and counting also on the resources supplied by patriotism, it shall exert itself so that the Army shall be provided with everything necessary to act effectively in peace as well as in war.

R 4388

AAAAAA



CURRICULUM VITAE

Positions

- | | |
|--------------------------|--|
| July 2007—Present | Consultant |
| | Consultancies with Human Rights First; the Organization for Security and Cooperation in Europe (OSCE); and the MacArthur Foundation. |
| February 2007- June 2007 | Senior Advisor, Human Rights First. |
| July 2002-February 2007 | Director of Program/Director of Research, Human Rights First (formerly the Lawyers Committee for Human Rights). |
| July 1994 – June 2002 | Deputy Director of Program, Human Rights Watch. |
| Aug. 1993-July 1994 | Deputy Head of Research, Amnesty International, International Secretariat. |
| May 1991-July 1993 | Assistant Head of Research (Mandate/Policy), Amnesty International. |
| April 1989-April 1991 | Head of the Asia Research Department, Amnesty International. |
| Nov. 1987-Mar. 1989 | Deputy Head of Research (Acting), Amnesty International. |
| Oct. 1974 -Oct. 1987 | Researcher (Central America and Andean Region), Amnesty International, International Secretariat (London) |

Education

Ohio University (Athens); BA in Spanish and Latin American Studies, 1972.
University of Wisconsin (Madison); MA, Ibero-American Studies (major Political Science), 1974.

A handwritten signature in black ink, appearing to be "M. McClintock", written over a horizontal line.

DECLARATION OF MICHAEL McCLINTOCK

In accordance with the provisions of Section 1746 of Title 28 of the United States Code, I Michael McClintock declare as follows:

1. I am a human rights monitor and advocate, and I have been working in this field for approximately forty years. I received a Master's Degree in Ibero-American studies from the University of Wisconsin.
2. From 1974 through 1994, I worked for Amnesty International (AI). AI is a global organization founded in 1961, and dedicated to promoting human rights. AI in the late 1980s and early 1990s had approximately one million members, with national branches in forty-one countries. (The organization now has over three million members in some 150 countries and territories.) Most AI group members then as now work out of their own homes, in coordination with the regional and national offices established in their countries. An International Secretariat in London facilitated and coordinated the work of the organization overall.
3. From 1979 through 1983, I was a researcher on Latin America with special responsibility for Central America. I was assigned to AI's headquarters in London. During that time, AI was particularly concerned with patterns of human rights abuses, in particular torture, "disappearances," and extrajudicial executions – defined as deliberate and unlawful killings committed outside the judicial process by, or with the consent of, public officials – occurring in El Salvador and other Central and South American countries.
4. To address these concerns, AI established a Campaign for the Abolition of Torture. This campaign began around 1976 and was built around a concerted research effort. This effort was founded in large part through the creation of channels of rapid communication between local human rights monitors in El Salvador (and many other countries), AI's international Research Department, and an action structure known as the Urgent Action Network. This network consisted of thousands of individuals, Amnesty International groups, and also affiliated church, and other organizations, who were asked to receive action bulletins and to act immediately upon them. I was involved in the operation of AI's Urgent Action Network from its beginning and I am therefore familiar with its structure and function.
5. The legal aid office of the Catholic Archdiocese of El Salvador was the primary reporter of emergency situations involving torture, "disappearances," and extrajudicial killings in

El Salvador. This office, known initially as Socorro Jurídico, later became known as Tutela Legal. Reporting also came from Protestant churches and independent human rights monitors in El Salvador.

6. The principal human rights reporting agencies in El Salvador utilized a standard protocol, developed in conjunction with AI, when they received a human rights complaint. The protocol required the source of the report to be a family member, witness or personal friend of the victim. Occasionally, victims themselves provided information upon their release on their own experience and on the experiences of others detained with them. The information collected included pertinent details of the complaint, such as the victim's name, a description of the victim's clothing, and a description of what happened—including the time, date, and location of a detention, the official forces involved, and, in cases of unacknowledged detention, what had been done to establish the person's whereabouts and situation.
7. The standard format for information collection in accord with the reporting protocol was a form called a "data questionnaire." This prompted families and others to provide the detailed information that could be most useful in assessing and pursuing a case. The questionnaire provided a framework for both basic information concerning the case and a description of the measures taken to address authorities to seek information, legal remedy, or compensation. In addition, the protocol required the legal aid office to file a habeas corpus petition for every detainee. These questionnaires were generally collated at the Socorro Jurídico /Tutela Legal offices and, in the longer term, passed on to AI.
8. Information provided to Socorro Juridico/Tutela Legal concerning "disappearance" and the risk of torture or summary, extrajudicial execution was considered of the utmost urgency. A decision was taken quickly as to whether immediate action was required, as a rapid intervention to make authorities aware that a detention was known to have occurred was seen as a potential matter of life or death. Usually the immediate action by local monitors—and by AI—took the form of putting questions to the authorities about the legal situation of a detainee believed to be in danger. A working rule at that time was that there was a 24 to 48 hour window of opportunity after unacknowledged detention was carried out within which appeals to authorities were best made. The sooner inquiries were made to authorities, making clear that the facts of a detention were known, and ideally, known in the United States and internationally, the better the prospects that a secret detainee would reappear alive.
9. Rapid communication of the reported incidents, in particular detentions the authorities did not acknowledge, was required between El Salvador and AI's headquarters in London. This was accomplished through use of the high technology of the time – telex

and telephone – and facilitated by the provision of international support by AI and other human rights organizations for the leasing of telex machines and lines.

10. Rapid communication was also required between AI headquarters in London and the Urgent Action Network. This was accomplished by being concise and sending messages through telex-teletype communications. Upon receipt of the reports from El Salvador, a team of staff members at AI headquarters that I coordinated would review them to identify situations of particular urgency. If the reports contained the required details on such cases, my team would condense them into a document known as an Urgent Action Appeal (UA). These UA's followed a strict format consisting of a brief description of the victim or victims, what happened, and the cause for concern, and identifying officials of the government of El Salvador considered responsible for the abuse and/or capable of acting to stop it.
11. The UAs were sent by telex to AI's forty-one national offices, requesting urgent appeals and providing the names and addresses (and sometimes telephone numbers) of the officials to whom appeals should be sent. In many cases, national officers and their Urgent Action Coordinators would notify AI members by telephone, who in turn would notify other AI members. Each of ten recipients would notify ten others and so on— what's known as a telephone tree. In light of the emergency nature of the reports, we strove to have a turn-around time of no more than two hours from AI's receipt of "fear of 'disappearance'" and "fear of torture" reports from El Salvador, to the dissemination of the UAs via telex.
12. Appeals by network members to responsible officials were intended to be sent rapidly. Accordingly, most of AI's national offices ensured, through central coordination, that the AI network members would send telegrams to El Salvadoran government or military officials on the same day they were notified of a UA. Others were asked to send airmail letters or to call the nearest El Salvadoran embassy. These communications from AI members would inform El Salvadoran authorities of the names of the detainees about whom there was a fear of torture, "disappearance," or murder, putting them on notice that the world was aware that particular individuals had been detained on their authority.
13. There was also a structured follow up system. New information generated regular updates to UAs on particular individuals with sometimes three or more being issued in a matter of months. If responses were received to the AI members' appeals, these were incorporated into subsequent UAs and communicated to network members.
14. The sequence of UAs and follow up actions on particular cases during those years shows a clear awareness of these appeals by El Salvador's military and civilian authorities. The

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international community was putting them on notice, and the authorities were responding through form letters to network participants, and in meetings between AI and Salvadoran diplomatic representatives in embassies around the world. In a November 1980 meeting in Washington, for example, Fidel Chavez Mena, the foreign minister of El Salvador, expressed to me his awareness that AI was bombarding El Salvadoran officials with letters and telegrams, and was clearly concerned with the issues we were raising. There was also a change in pattern in what actually happened to the people in unacknowledged detention, the "disappeared" who were the primary focus of our actions: a higher percentage reappeared alive, although often after torture.

15. From January 1980 to June 1983, AI sent approximately 175 UAs to its network members focusing on events in El Salvador. AI determined that its United States-based members alone sent thousands of letters and telegrams to the El Salvadoran government officials listed in the UAs. Numerous letters and telegrams were also sent by AI's European members.
16. Many of these UAs requested that AI network members direct appeals to Defense Minister José Guillermo Garcia (Garcia). The UAs recommended contact with Garcia, because the El Salvadoran government itself identified Garcia as the highest authority over the army and security forces, and because I and others at AI considered him to be in effective command and control of these forces.
17. Copies of thirty-three (33) UAs recommending appeals to Garcia are attached as (Appendix A). As a result of these UAs, AI members sent many hundreds of appeals to Garcia on behalf of El Salvadorans who were reportedly detained by the army or security forces, many of whom remain "disappeared." The acknowledged detainees and the "disappeared" included, among others, leaders and members of opposition political groups, labor leaders, journalists, teachers, students, and physicians.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge and belief.


Michael McClintock

EXECUTED this 18 day of September, 2012.

Declaration of Michael McClintock

APPENDIX A

**URGENT
ACTION**

HISTORICAL FILE
**amnesty
international**

**URGENT
ACTION**

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.
(Amnesty International Statute, Article 1(c))

COUNTRY	EL SALVADOR
DOSSIER	7

Index: AMR 29/01/80
Distr: UA

EXTERNAL (for
general distribution)

- UA 11/80

Mass arrests

22 January 1980

EL SALVADOR: *Campesinos* arrested in Chalatenango
=====

Recent reports say that since 13 January National Guard have been carrying out arrests and killings on a wide scale in Villa Aroatao in the Department of Chalatenango, close to the Honduran border. It is believed that these are reprisals for the reported abduction of one member of the National Guard in the area.

More than 60 *campesinos* (peasants) have reportedly been illegally detained and, as no information has been made available concerning their whereabouts, there are fears for their safety. In the hamlet of La Hoya, in the canton Cerro Grande, on 13 January, four *campesinos* were reportedly killed and 50 detained. In the hamlet of Cerro Grande, six women were reportedly detained. In the hamlet of La Loma, were several are said to have been killed with machetes, two women, Alejandra Menjivar and Mina Ayola, are named amongst those reported detained. Women and children are said to have been wounded or killed during the raid on canton Los Sitios. National Guard reportedly then moved on to cantons San Antonio Mariquin and Santa Anita.

Background

Since the coup of 15 October 1979 which overthrew President Carlos Humberto Romero, tortured and mutilated bodies have continued to appear throughout El Salvador at the rate of two to three bodies a day (under the government of President Romero, sources inside the country reported the discovery of some ten to eleven corpses, victims of political murder, per day). There are reports of more than 200 political killings or disappearances in the six weeks following the coup. These are allegedly mainly the work of members of the security forces or members of the unofficial rightwing paramilitary squad, ORDEN. Following the government decree dissolving ORDEN in mid-November, 1979, ORDEN issued a public statement to press and radio saying that they intended to continue their activities in clandestinity "in order to help the junta carry out the work it is not able to carry out itself".

Further relevant background: "Update on El Salvador", AMR 29/19/79, 14 December.

RECOMMENDED ACTION: Telegrams/express letters, expressing concern at reports of illegal detention and killing of peasants by National Guard in Chalatenango, and urging an immediate, open investigation, and clarification of the situation of those reportedly detained.

Appeals to:

Sres. Miembros de la Junta Revolucionaria de Gobierno,
Palacio Nacional, San Salvador, El Salvador.

Coronel José Guillermo García,
Ministro de Defensa,
Ministerio de Defensa,
Palacio Nacional, San Salvador, El Salvador.

- Please send copies of appeals to the Salvadorean diplomatic representative to your country and to:

CDHES, (unofficial human rights committee)
Avda España 928,
San Salvador, El Salvador.

- Copy appeals or separate letters of inquiry to:

Sr Comandante de la Guardia Nacional,
Ciudad de Chalatenango,
Chalatenango, El Salvador.

Sr Pedro Monje ~~-or-~~ Sr Nicolas Martínez (named in some reports)
Guardia Nacional,
Ciudad de Chalatenango,
Chalatenango, El Salvador

Note:

Article 10 of the 1975 United Nations "Declaration on the protection of all persons from torture and other cruel, inhuman or degrading treatment or punishment" states: "If an investigation under article 8 or article 9 establishes that an act of torture as defined in article 1 appears to have been committed, criminal proceedings shall be instituted against the alleged offender or offenders in accordance with national law. If an allegation of other forms of cruel, inhuman or degrading treatment or punishment is considered to be well founded, the alleged offender or offenders shall be subject to criminal, disciplinary or other appropriate proceedings".

Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action.

Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3, "Everyone has the right to life, liberty and security of person";

Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";

Article 9, "No one shall be subjected to arbitrary arrest, detention or exile".

Information about the alleged connection of any person with an organization which is banned in their country is provided as background only and should not be included in appeals.

In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture".

Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies

URGENT ACTION

HISTORICAL FILE

amnesty international

URGENT ACTION

EXTERNAL (for general distribution) International Secretariat, 10 Southampton Street, London WC2E 7HF, England

Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.
(Amnesty International Statute, Article 1(c))

Index: AMR 29/04/80
Distr: UA

COURT SECTION
DOSSIER 7
11 February 1980

Disappearance

- UA 18/80

EL SALVADOR: Recent detentions
=====

AI has received news of the following detentions. The whereabouts of those detained are unknown and there are fears for their physical safety.

1. Dr Fernando ESPINOZA ALTAMIRANO, medical doctor, member of (legal) *Movimiento Nacional Revolucionario*, arrested in San Salvador on 8 February.
2. María Emma AGUIRRE, Oscar Reciberto GARCIA, Manuel PEÑA MARIN, Rodolfo VASQUEZ, José Eduardo VASQUEZ, Héctor CANALES, all arrested by National Guard on 3 February in Department of La Unión.
3. Students: Francisco Arnulfo VENTURA and José Humberto MEJILLA, arrested by National Guard near United States Embassy in San Salvador on 22 January.
4. Peasants: Jesús Alfaro MENJIVAR and Silencio MEJIA, detained on 20 January.

Background

Since the coup of 15 October 1979 which overthrew President Carlos Humberto Romero, AI has continued to receive allegations of illegal detentions and torture by the official security forces and by unofficial groups, although not on the same scale as under the previous government. However, arrests, disappearances and murder of suspected members of the opposition appear to have intensified in the past two weeks.

The 20,000-strong National Teachers' Association of El Salvador (ANDES) declared a three-day strike from 4 February in protest at the double murder of two teachers on 31 January, reportedly by the unofficial, rightwing paramilitary group, the White Warriors' Union (*Unión Guerrera Blanca*). (It is estimated that 33 teachers were killed for political motives in 1979.)

There have been further attacks on journalists. On 8 February, the house of journalist Guillermo Galván Bonilla was machine-gunned. He is now seeking guarantees from the government for the safety of himself and his family. An engineer, Rene Marroquin, detained in San Salvador on the same day, was found dead a day later.

Catechists (lay preachers) have continued to be a principal target. On 29 January, two women catechists of the parish of Aguilares, María Urciela Martínez and Ana Quorelia Martínez were killed, allegedly by the security forces. It may be recalled that members of the Army shot dead the parish priest of Aguilares, Father Futilio Grande, and two parishoners in March 1977.

See also "Update on El Salvador", AMR 29/19/79, 14 December 1979.

RECOMMENDED ACTION:

- Telegrams/express letters/letters, requesting clarification of the legal situation and whereabouts of those detained and assurances regarding their physical safety.
- If possible, we recommend that UA...

Appeals to:

Sres Miembros de la Junta Revolucionaria de Gobierno,
Palacio Nacional, San Salvador, El Salvador.

Coronel José Guillermo García,
Ministro de Defensa,
Ministerio de Defensa, San Salvador, El Salvador.

In case 3 only:

Sr Comandante,
Comandancia de la Guardia Nacional,
6 Calle Oeste 2-1,
Ciudad de la Unión, Departamento de la Unión,
El Salvador.

Please send copies of appeals to the Salvadorean diplomatic representative to your country, and to:

CDHES,
Avda. España 928, (unofficial human
San Salvador, El Salvador. rights group)

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| <ul style="list-style-type: none"> <input type="checkbox"/> Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action. <input type="checkbox"/> Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights: <ul style="list-style-type: none"> Article 3, "Everyone has the right to life, liberty and security of person"; Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment"; Article 9, "No one shall be subjected to arbitrary arrest, detention or exile". <input type="checkbox"/> The name of Amnesty International can be used unless | <ul style="list-style-type: none"> <input type="checkbox"/> Information about the alleged connection of any person with an organization which is banned in their country is provided as background only and should not be included in appeals. <input type="checkbox"/> In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture". <input type="checkbox"/> Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International Secretariat, or to your national section or Urgent Action |
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URGENT ACTION

HISTORICAL FILE
amnesty international

URGENT ACTION

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

Distri: UA
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DOSSIER 7

Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.
(Amnesty International Statute, Article 1(c))

27 February 1980

- UA 28/80

EL SALVADOR: Juan Angel CHACON and family (1)
Carlos ARGUETA and Guillermo PEREZ BANEJAS (2)
=====

(1) Juan Angel Chacón, Secretary General of the major opposition movement, the Bloque Popular Revolucionario (Popular Revolutionary Bloc, BPR), was reportedly detained with his wife, Luz Helena Vaneras, and their three-month-old daughter, Laura Patricia Chacón, at 8.00 pm on 25 February, at their home in San Salvador, by National Police. Although it is believed that they were taken to National Police headquarters, their arrest has been denied and there are consequently grave fears for their safety.

(2) On the same night, two leaders of the Ligas Populares 28 de Febrero (28 February Popular Leagues), Carlos Argueta and Guillermo Pérez Banejas, were reportedly detained by National Police in the capital San Salvador. Their detentions have not been acknowledged.

Background

Since the coup of 15 October 1979 which overthrew President Carlos Humberto Romero, AI has continued to receive allegations of illegal detentions and torture by the official security forces and by unofficial groups. Arrests, disappearances and murder of suspected members of the opposition appear to have intensified in recent weeks.

The BPR and the Ligas Populares 28 de Febrero are both mass political movements which include trade unionist and peasant membership. Neither is officially banned.

RECOMMENDED ACTION: Telegrams/express letters/letters, *before 7 March 1980*, requesting clarification of their whereabouts and legal situation, and assurances regarding their physical safety. If possible, please appeal on behalf of the two cases separately.

Appeals to:

Sres Miembros de la Junta Revolucionaria de Gobierno,
Palacio Nacional, San Salvador, El Salvador.

Coronel José Guillermo García,
Ministro de Defensa,
Ministerio de Defensa, San Salvador, El Salvador.

Please send copies of appeals to the Salvadorean diplomatic representative to your country and to:

CDHES,
Avda. España 928, (unofficial human rights group)
San Salvador, El Salvador.

**URGENT
ACTION**

**amnesty
international**

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International Secretariat, 10 Southampton Street, London WC2E 7HF, England

EXTERNAL (for general distribution) *Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence. (Amnesty International Statute, Article 1(c)).*

Index: AMR 29/07/80
Dist: UA

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DOS 7

- UA 34/80

Fear of torture

13 March 1980

EL SALVADOR: (1) José Guillermo CASTRO RAMOS
(2) Euclides ESCAMILLA MARTINEZ

José Guillermo Castro Ramos, a 23-year-old student of Economics of the National University in San Salvador, was reportedly detained on 29 February by Customs Police at the port of La Unión as he stepped off the ferry-boat from Costa Rica. It is believed that he was first taken to the Municipal Police office in La Unión and then to the La Unión National Police provincial headquarters.

When Sr Castro's parents went to the La Unión police headquarters, they were told that he had been sent to the National Police headquarters in the capital, San Salvador.

However, on the evening of 12 March, the Director of the National Police still denied that José Castro was in their custody. A writ of *habeas corpus* has not succeeded in locating the prisoner.

In a separate incident, 33-year-old salesman Euclides Escamilla Martínez was reportedly detained by National Guard at 03.30 hours on 4 March, as he drove his car through the town of Soyapango, north of the capital. His car was stopped about one block from the National Guard headquarters in Soyapango and has since remained abandoned there.

The authorities have denied that he is in detention, despite a write of *habeas corpus* issued on his behalf.

As both men may be held in incommunicado detention, there are fears for their safety. Since the coup of 15 October 1979 which overthrew President Carlos Humberto Romero, AI has continued to receive allegations of illegal detention and torture by the security forces.

Arrests, disappearances and murder of suspected members of the opposition appear to have intensified since the beginning of the year, despite announcements of reforms.

RECOMMENDED ACTION: Telegrams/express letters/letters, requesting clarification of the whereabouts of José Guillermo Castro Ramos and Euclides Escamilla Martínez, and assurances regarding their physical safety.

If possible, please appeal separately on behalf of the two individual cases.

We do not advise UA participants to act after 28 March 1980.

Appeals to (in both cases):

Sres Miembros de la Junta
Revolucionaria de Gobierno,
Palacio Nacional,
San Salvador, El Salvador.

- or -

Coronel José Guillermo García,
Ministro de Defensa,
Ministerio de Defensa,
San Salvador, El Salvador.

In case (1) José Castro, appeals may also be sent to:

Sr Jefe de la Policía de Hacienda,
Ciudad de La Unión,
Dpto de La Unión, El Salvador.

- or - Sr Jefe de la Policía Municipal,
Ciudad de La Unión,
Dpto de La Unión, El Salvador.

Sr Jefe de la Policía Nacional,
Calle Circunvalación
salida a San Miguel,
Ciudad de La Unión,
Dpto de La Unión, El Salvador.

- or - Sr Director de la Policía Nacional,
6 Calle Oriente,
San Salvador,
El Salvador.

In case (2) Euclides Escamilla Martínez, appeals may also be sent to:

Sr Comandante de la Guardia Nacional,
Soyapango,
Departamento de San Salvador,
El Salvador.

In both cases, please send copies of appeals to the Salvadorean diplomatic representa
to your country, and to:

CDHES,
Avda. España 928, (unofficial human rights group)
San Salvador, El Salvador.

PLEASE TAKE NO ACTION LATER THAN 28 MARCH 1980.

- | | |
|---|--|
| <ul style="list-style-type: none"> <input type="checkbox"/> Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action. <input type="checkbox"/> Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:
Article 3, "Everyone has the right to life, liberty and security of person";
Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";
Article 9, "No one shall be subjected to arbitrary arrest, detention or exile". <input type="checkbox"/> The name of Amnesty International can be used unless stated otherwise; although, letters written in a private or professional capacity may be more effective | <ul style="list-style-type: none"> <input type="checkbox"/> Information about the alleged connection of any person with an organization which is banned in their country is provided as background only and should not be included in appeals. <input type="checkbox"/> In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture". <input type="checkbox"/> Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International Secretariat, or to your national section or Urgent Action coordinator. Thank the official who has replied, requesting that you be kept informed about the case. |
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URGENT ACTION Amnesty international URGENT ACTION

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

EXTERNAL (for general distribution) *Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.* (Amnesty International Statute, Article 1(c))
Index: AMR 29/14/80
Distr: UA

- UA 56/80

RELEASED

Disappearance

14 April 1980

EL SALVADOR: Concepción VENTURA
José María RIVAS (aged 13)
Ricardo SALGERO
Mario MELENDEZ
Elizabeth RAMOS
Carlos Alberto FUNES

COMMUNICATION
DOSSIER 7

The six were reportedly detained on 10 April by National Police in San Jacinto at a meeting in the market-place. Concepción Ventura, the mother of a 15-day-old baby was allegedly beaten and lost consciousness during the arrest.

The whereabouts of the six are not known and there is concern for their safety. Notwithstanding announcements of reform, arrests, disappearances and murder of suspected members of the opposition have intensified since the beginning of the year and there has been a general escalation in violence since the murder of Archbishop Oscar Arnulfo Romero on 24 March. It has been estimated that some 2,000 people have died in political violence this year, more than half of which number have reportedly died since the beginning of March. Just before his death, Archbishop Romero called for the resignation of Defence Minister Colonel Guillermo García and, in his last sermon, appealed to soldiers to ignore orders to fire on their brethren. In the same week, AI issued a news release (NR 17/80, AMR 29/08/80) calling on the government of El Salvador to halt a campaign of murder and abduction against peasants, launched following an announcement of agrarian reform. The organization's concern was reiterated in a further news release (NR 21/80, AMR 29/12/80) issued immediately following the death of the Archbishop.

"AMNESTY INTERNATIONAL SAYS ARCHBISHOP ROMERO MARTYRED FOR HUMAN RIGHTS

Amnesty International said today (Tuesday 25 March 1980) that the assassinated Roman Catholic Archbishop of San Salvador, Oscar Romero, had been martyred in the cause of human rights. The organization pointed out last week (Monday, 17 March) that the Archbishop had been the target of death threats since the start of a new campaign of political murder and abduction instituted by the Salvadorean Government under a state of siege. Hundreds of peasants have been detained and killed by security and auxiliary forces in the past month.

An Amnesty International spokesman said today, 'In view of the fact that Archbishop Romero was under permanent police surveillance, questions must arise as to how the assassin was able to carry out the murder'.

The organization disclosed that it had sent an urgent communication to the Inter-American Commission on Human Rights (Friday 21 March 1980) calling attention to the dangers threatening Archbishop Romero and other defenders of human rights in El Salvador, and documenting more than 100 recent cases of detention, disappearance and murder of Salvadorean citizens.

RELEASED

It also urged the Commission to seek information from the Government about the bombing of the Archbishop's radio station YSAX on 18 February and the placing of a high-powered explosive device in the sacristy of the San Salvador cathedral on 16 March.

In its statement today, AI stressed the evident dangers facing members of the Church and others who have been associated with the Archbishop in the defence of human rights in El Salvador. It called attention to the destruction by bombing earlier in March of the offices of the Salvadorean Commission on Human Rights, whose members now appear to be at particular risk."

Bishop Rivera y Damas, a close friend of Archbishop Romero, has been appointed Apostolic Administrator of El Salvador and may be the next Archbishop of San Salvador.

RECOMMENDED ACTION: Telegrams/express letters/letters, requesting clarification of the whereabouts and legal situation of Concepción Ventura, José María Rivas, Ricardo Salgado, Mario Meléndez, Elizabeth Ramos, and Carlos Alberto Funes, and assurances regarding their physical safety.

Appeals to:

Sres Miembros de la Junta Revolucionaria de Gobierno,
Palacio Nacional,
San Salvador, El Salvador.

Capitán Oswaldo Marinco,
Presidente, Consejo Permanente de las Fuerzas Armadas (COPEFA),
Segunda Brigada d'Artillería,
Cuartel San Carlos, San Salvador,
El Salvador.

(COPEFA, the Permanent Council of the Armed Forces, was set up by young military who carried out the October 1979 coup (which overthrew President Carlos Humberto Romero), in order to monitor political developments and to see that the Proclamation of 15 October (which announced the release of political prisoners and guaranteed human rights) is carried out.)

Please send copies to the Salvadorean diplomatic representative to your country.

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| <ul style="list-style-type: none"> <input type="checkbox"/> Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action. <input type="checkbox"/> Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights: <ul style="list-style-type: none"> Article 3, "Everyone has the right to life, liberty and security of person"; Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment"; Article 9, "No one shall be subjected to arbitrary arrest, detention or exile". <input type="checkbox"/> The name of Amnesty International can be used unless stated otherwise; although, letters written in a private or professional capacity may be more effective. | <ul style="list-style-type: none"> <input type="checkbox"/> Information about the alleged connection of any person with an organization which is banned in their country is provided as background only and should not be included in appeals. <input type="checkbox"/> In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture". <input type="checkbox"/> Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International Secretariat, or to your national section or Urgent Action coordinator. Thank the official who has replied, requesting that you be kept informed about the case. |
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HISTORICAL FILE

**URGENT
ACTION**

**amnesty
international**

**URGENT
ACTION**

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.

EXTERNAL (for AI members and non-AI members who take part in Urgent Actions)

(Amnesty International Statute, Article 1(c))

AI Index: ACT 61/01/81
Distr: UA

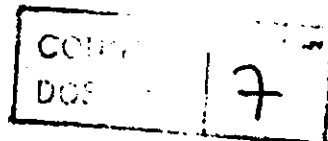
COUNCIL
DOCS
7

UA 56/80 EL SALVADOR: Concepción Ventura, José María Rivas, Ricardo Salgero, Mario Melendez, Elizabeth Ramos, Carlos Alberto Funes (AMR 29/14/80 14 April) - Disappearance

The six were reportedly detained on 10 April by National Police. Concepción Ventura was allegedly beaten.

AI subsequently received reports that the six were released on 15 April 1980

HISTORICAL FILE



EXTERNAL (for general distribution)

AI Index: AMR 29/19/80
Distr: UA

UA 83/80

Disappearance

6 May 1980

EL SALVADOR: René TAMSEN

AI has received reports that René Tamsen, a 28-year-old radio reporter, disappeared from his home in San Salvador on 24 April 1980. It is believed that he has been detained by security forces although the authorities have denied that he has been arrested. There has since been no information about his whereabouts. René Tamsen is a citizen of El Salvador; he is, however, employed by a radio station in the United States - WHUR in Washington DC - and he has a permanent residence there.

In recent months AI has received information that other journalists have been threatened, shot or briefly arrested by the security forces in El Salvador. Several Mexican newspaper reporters have reportedly been briefly "kidnapped", threatened with death and then escorted to the international airport by unidentified gunmen. On 1 April 1980 Dutch television journalists were halted in their van by members of the National Guard in a San Salvador street. Both journalists were wounded by machine gun fire fired by the National Guard after they had allowed the van to drive away. On 13 March 1980 a United Press International journalist, Demetrio Olaciregui, was detained and briefly disappeared before he was expelled from El Salvador to Honduras for cabling "tendentious information". In late July 1979 the premises of the opposition newspaper *La Crónica del Pueblo*, of which José Napoleón González was the editor (see UA 110/79 AMR 29/11/79 7 June 1979), were burned to the ground. In March 1980 the new premises were again destroyed, this time by bombing.

For further background information please see El Salvador: OAS Testimony (AMR 29/13/80 12 April 1980).

RECOMMENDED ACTION: Telegrams/express letters/letters requesting clarification of the whereabouts and legal situation of René Tamsen and asking for assurances regarding his physical safety.

JOURNALISTS in particular are asked to participate.
in this Urgent Action.

APPEALS TO: Sres. Miembros de la Junta Revolucionaria de Gobierno
Palacio Nacional
San Salvador
El Salvador

Capitán Oswaldo Marinco
Presidente, Consejo Permanente de las Fuerzas Armadas (COPEFA)
Segunda Brigada d'Artillería
Cuartel San Carlos
San Salvador
El Salvador

Please send copies of appeals to Salvadorean diplomatic representatives to your own country and also to the Comisión de Derechos Humanos de El Salvador. Av. España no. 928 San

URGENT ACTION

HISTORICAL FILE
amnesty international

URGENT ACTION

International Secretariat, 10 Southampton Street, London W1E 7HF, England

EXTERNAL (for general distribution)

Amnesty International opposes by all appropriate means the suspension and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or threatened violence.
(Amnesty International Statute Article 17)

COUNTRY	SECTION
DOSSIER	7

Further information on UA 83/80 (AMR 29/19/80 6 May 1980)
EL SALVADOR: René TAMSEN

AI Index: AMR 29/20/80
Distr: UA
12 May 1980

AI has received reports that René Tamsen has been seen alive in a San Salvador prison although the authorities continue to deny his detention.

René Tamsen was reportedly abducted by three men in civilian clothes at 9.30 on 24 April while sitting in a San Salvador park. As he was taken away in a car he is said to have shouted "I am a journalist".

Further recommended action: Please continue to request that the whereabouts and legal situation of René Tamsen be made known, and also ask for assurances regarding his physical well-being. In addition to the addresses given on the original Urgent Action, appeals may also be sent to:

Colonel José Guillermo García
Minister of Defence
Casa Presidencial
San Salvador
El Salvador

PLEASE DO NOT TAKE ANY ACTION LATER THAN 26 MAY 1980 (it is likely that we may have more information by then)

**URGENT
ACTION**

HISTORICAL FILE
**amnesty
international**

**URGENT
ACTION**

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

EXTERNAL (for
general distribution)

*Amnesty International opposes by all appropriate means the imposition
and infliction of death penalties and torture or other cruel, inhuman or
degrading treatment or punishment of prisoners or other detained or
restricted persons whether or not they have used or advocated violence.*

Index: AMR 29/21/80
Distr: UA

UA 104/80

(Amnesty International Statute, Article 1(c))
Disappearance/Health Concern

28 May 1980

EL SALVADOR: Professor Lionel MENENDEZ

COMMUNICATION
LOG: 7

Professor Lionel Menendez, one of the leaders of the National Teachers' Association (ANDES), was shot and wounded in a street in San Salvador at 13.00 hours on 21 May 1980. He was subsequently taken to Rosales Hospital where, at 17.45, he was given an anaesthetic in preparation for an operation. Armed men entered the hospital and abducted Professor Menendez from the operating theatre. The hospital had been surrounded by several vehicles belonging to the National Guard as well as agents of the National Police in order to facilitate the abduction of Professor Menendez.

More than 45 teachers have been killed so far this year; there is therefore very grave concern about the safety of Professor Menendez.

In the meantime, doctors in El Salvador have gone on strike in protest against the violation of the independence of the hospitals. The week before the abduction of Professor Menendez two doctors, Doctor Garcia and Doctor Rodriguez, were killed in Cojuteneque, near San Salvador, in the operating theatre of a hospital while they were performing an operation.

Serious violations of human rights continue in El Salvador; it is estimated that some 2,000 people have died so far this year. Arbitrary detentions, "disappearances" and killings of oppositionists or suspected oppositionists persist and violence or threat of violence continue against organisations and individuals that have protested against these human rights violations.

For further background information, please see El Salvador: OAS Testimony (AI Index: AMR 29/13/80, 12 April 1980).

RECOMMENDED ACTION: Telegrams/express letters/letters requesting clarification of the whereabouts and legal situation of Professor Menendez. Please also express serious concern about the physical well-being of Professor Menendez and ask for assurances that he receive immediate and adequate medical care.

APPEALS TO: Sres. Miembros de la Junta
Revolucionaria de Gobierno
Palacio Nacional
San Salvador
El Salvador

Coronel José Guillermo García
Ministro de Defensa
Ministerio de Defensa
Palacio Nacional
San Salvador
El Salvador

Sr. Rodolfo Giron
Ministro de Salud Pública
Ministerio de Salud Pública
Calle Arce 827
San Salvador
El Salvador

MEDICAL PROFESSIONALS in particular are asked to appeal to Sr. Rodolfo Giron on behalf of Professor Menendez

Please send copies of appeals to Salvadoran diplomatic representatives to your country

URGENT ACTION

HISTORICAL FILE

amnesty international

URGENT ACTION

EXTERNAL (for general distribution)

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

Distr: UA

Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.

UA 156/80

EL SALVADOR: Max COLATO
René GALEANO
Juan Antonio POCASANGRE
Piero Antonio ROSALES MATA

3 July 1980
(Amnesty International Statute, Article 1(c))

COMM. DIST. 7

AI has received reports that Max Colato, René Galeano, Juan Antonio Pocasangre and Piero Antonio Rosales Mata were arrested on 27 May 1980 on Calle 29 near the National University in San Salvador. Although the authorities have denied that these four people, who are all students, are in detention, it is believed that they may be detained by the military at the Cuartel San Carlos. Recent reports received by AI indicate that they may be being tortured.

Serious violations of human rights continue in El Salvador and have intensified sharply since the beginning of 1980. Many teachers and students are among those who have either been killed outright or detained and feared killed. On 21 May 1980 one of the leaders of the National Teachers' Association, Professor Lionel Menendez was shot and wounded in San Salvador; he was later abducted by armed men from the operating theatre of a San Salvador hospital. On 26 June 1980 armed forces attacked the National University in San Salvador, where a meeting of some 320 people was taking place, and, according to reports, several arrests including students and teachers were made.

Since early January 1980 at least 2,000 people have been killed or "disappeared" while in the hands of conventional and auxiliary security forces; people have been killed on the presumption that they had associated with political opposition groups, peasant leagues or trade unions.

AI has recently urged the Secretary of State of the USA, Edmund Muskie, to reconsider proposed security assistance, including equipment and training which would strengthen the Salvadorean military in its internal security operations, to El Salvador. AI believes that such assistance could be expected to increase the murder and torture of peasants and suspected opponents of the government of El Salvador.

RECOMMENDED ACTION: Telegrams/express letters/letters requesting clarification of the whereabouts and legal situation of these four students. Please also express concern at reports that they be being ill-treated while in detention and ask for assurances regarding their physical well-being.

APPEALS TO:

Sres. Miembros de la Junta Revolucionaria de Gobierno
Palacio Nacional
San Salvador, El Salvador

Cnel. José Guillermo García
Ministro de Defensa
Ministerio de Defensa
Palacio Nacional
San Salvador, El Salvador

Dr Mario Antonio Solano
Ministro de Justicia
Ministerio de Justicia
San Salvador, El Salvador

COPIES TO:

Comisión de Derechos Humanos de El Salvador
Av. España 928
San Salvador, El Salvador

La Prensa Gráfica
3a Calle Poniente 130
San Salvador, El Salvador

and to Salvadorean diplomatic representatives to your country.

**URGENT
ACTION**

HISTORICAL FILE

**amnesty
international**

**URGENT
ACTION**

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

EXTERNAL (for general distribution) *Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.* Index: AMR 29/60/80
(Amnesty International Statute, Article 1(c)) Distr: UA

UA 259/80

Fear of Torture/Extra-judicial
Killing

13 November 1980

EL SALVADOR: Abdala Antonio HANDAL
=====

COUNCIL
DOSSIER 7

AI has received reports that Abdala Antonio Handal, architect and President of the Chamber of Architecture of El Salvador (*Camara de Arquitectura*) was arrested by uniformed members of the National Guard in San Salvador on 11 November 1980. Sr Handal was arrested during a visit to the *Galeria de Arte Furalas* (an art gallery).

According to reports, Sr Handal's place of detention has not been made known. There is very serious concern for his physical safety.

Thousands of Salvadorians have died since January 1980 following arbitrary arrest and abduction by the security forces. In September 1980 church sources put the number of people killed by the security forces since the beginning of the year as up to 6,000. On 3 October 1980 the press secretary of the El Salvador Human Rights Commission (*Comisión de los Derechos Humanos de El Salvador*), Maria Magdalena Enriquez, was abducted by heavily armed men, identified as uniformed members of the National Police, in San Salvador; her dead body was found a few days later. She had been shot in the head and chest. On 28 October 1980 Felix Ulloa, International President of the World University Service and Rector of the National University in El Salvador, was machined-gunned in San Salvador; he later died in hospital from his wounds.

People have been killed summarily for association or assumed association with political opposition groups, peasant leagues or industrial trade unions. Although government spokesmen claim that "extremist" groups independent of government control are responsible for these murders, AI has received no evidence that such independent groups exist. AI believes that conventional and auxiliary forces are responsible for these abductions and murders, and that the government should be held accountable.

RECOMMENDED ACTION:

Telegrams/express letters, *as soon as possible*, requesting that Abdala Antonio Handal's physical safety be guaranteed, that his whereabouts be made known, and that he be immediately released, unless charged and brought before a court of law.

APPEALS TO:

Cnel. José Guillermo Garcia
Ministro de Defensa y de
Seguridad Publica
Ministerio de Defensa y de
Seguridad Publica
Palacio Nacional
San Salvador

Dr José Ramon Avalos Navarrete
Miembro de la Junta Revolucionaria
de Gobierno
Casa Presidencial
San Salvador
El Salvador

Please try to bring the case of Sr Handal to the attention of architectural association/architects in your country and ask them to appeal on his behalf.

COPIES TO:

- *Diario El Nacional*, Apartado 209, Caracas, Venezuela
- *Diario Novedades*, Av. Morelos y Balderas ZP 1, Mexico DF, Mexico
- Salvadorian diplomatic representatives in your country.

FINAL DATE FOR ACTION: 11 December 1980

Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action.

Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3, "Everyone has the right to life, liberty and security of person";

Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";

Article 9, "No one shall be subjected to arbitrary arrest, detention or exile";

The name of Amnesty International can be used unless stated otherwise; although, letters written in a private or professional capacity may be more effective.

Information about the alleged connection of any person with an organization which is banned in their country is provided as background only and should not be included in appeals.

In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture".

Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International Secretariat, or to your national section or Urgent Action coordinator. Thank the official who has replied, requesting that you be kept informed about the case.

**URGENT
ACTION**

HISTORICAL FILE
**amnesty
international**

**URGENT
ACTION**

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

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(Amnesty International Statute, Article 1(c))

EXTERNAL (for general distribution)

Index: AMR 29/68/80
Distr: UA

- UA 287/80

Fear of extrajudicial
killing

12 December 1980

COMMUNICATION
7

EL SALVADOR: Efrain Antonio HERNANDEZ VASQUEZ

Efrain Antonio Hernandez Vasquez, a 24-year-old married university student leader, was taken by agents of the National Police at 10.45 on the morning of 11 December 1980 in Colonia Centro America on Calle Guatemala in San Salvador.

There is very serious concern for his safety.

During the last year some 8,000 Salvadorians are estimated to have died by violence. Many of these deaths were summary executions carried out by the security services. While human rights abuses have taken place in the context of open conflict between governmental forces and several violent guerrilla organizations, the victims of torture and death at the hands of security forces have not generally been shown to have any direct involvement in armed insurrection. Most of the deaths have occurred after the victims have been seized from their homes or places of work and have been defenceless. Victims have been characterized by their association, or alleged association, with peasant labour or religious organizations, with the trade union movement, with professional associations, or with political parties or other organizations that do not actively support the present government. The government of El Salvador has attributed responsibility for these detentions and killings to "independent", "anti-communist" assassination squads beyond their control. However, this assertion contradicts evidence collated from hundreds of individual cases by AI where there is proof of the responsibility of the regular security forces for serious violations of human rights. It would seem that by continually attributing the detentions, torture and assassination of alleged members of the opposition to groups beyond government control, the government of El Salvador is seeking a means of evading accountability for the extra-legal measures taken by its own security forces.

RECOMMENDED ACTION: Telegrams/express letters/letters expressing concern at the arrest of Efrain Antonio Hernandez Vasquez and requesting that his physical safety be guaranteed. Urge that he be immediately released, unless charged and brought before a court of law.

Appeals to:

Colonel Jose Guillermo Garcia
Ministro de Defensa de Seguridad Publica
San Salvador
El Salvador

FINAL DATE FOR ACTION: 9 January 1980

Note: Appeals from teachers and students are particularly urged.

URGENT ACTION

HISTORICAL FILE
amnesty international

URGENT ACTION

EXTERNAL (FOR general distribution) International Secretariat, 10 Southampton Street, London WC2E 7HF, England Index: AMR 29/72/80

Diatr: UA

Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.

UA 294/80

Fear of extra-judicial killing (Amnesty International Statute, Article 1(c))

30 December 1980

EL SALVADOR: Wilfredo CONTRERAS Mendez Herbert RIVAS Aguilar
Jesus PALACIOS Oscar MARROQUIN
Amilcar HERNÁNDEZ Perez Felipe CORNEJO Azuzena

CONF. DOCS 7

AI has received reports that Wilfredo Contreras Mendez, a 25-year-old student, Herbert Rivas Aguilar, a 17-year-old student, Jesus Palacios, a 15-year-old student and Oscar Marroquin, a 25-year-old worker, were seized at 6.30 in the evening on 17 December 1980 by members of the army and civil police at El Refugio El Despertar. Amilcar Hernández Perez was also seized by members of the army and civil police; he was abducted at 7.00 in the evening on 19 December 1980 in Colonia El Progreso, San Antonio Abad in San Salvador Department.

Felipe Cornejo Azuzena, a 55-year-old carpenter and father of eleven children, who worked in the Christian community in San Antonio Abad, was abducted on 19 December 1980. One of Felipe Cornejo Azuzena's sons, Rafael Amilcar Calderón, had been taken away by the security services on 17 December 1980. Although his family had been told that their son was being held in the San Carlos prison, his dead body was found on 22 December in San Antonio Abad.

There is very serious concern about the safety of Felipe Cornejo Azuzena and the other five people recently abducted.

During 1980 some 8,000 Salvadorians are estimated to have died by violence, many of them summarily executed by the security forces. People have been killed for their association or alleged association with peasant, labour or religious organizations, or with political parties or other organizations which do not actively support the present government. Although human rights abuses have taken place against a background of open conflict between government forces and several violent guerilla organizations, victims of torture and death at the hands of the security forces have not generally been shown to have had any direct involvement in armed guerilla activities. Most of the deaths have occurred after defenceless people have been seized from their homes or places of work.

The government of El Salvador has claimed that "independent", "anti-communist" assassination squads beyond government control are responsible for these abductions and killings. However, evidence collated by AI from hundreds of individual cases proves the responsibility of the regular security services for serious violations of human rights. By continually attributing detentions, torture and killings to groups beyond government control, the government of El Salvador would seem to be seeking a means of evading accountability for the extra-legal measures carried out by its own security forces.

On 3 December 1980 AI sent a message to the General Assembly of the United Nations, pointing to the overwhelming evidence that Salvadorian troops were responsible for the detention and murder of six opposition leaders, members of a coalition of opposition parties.

to condemn the killings as actions which "defied and outraged" the minimum standards of government conduct. The message also stated that government forces had been implicated in the murders of thousands of people during 1980.

RECOMMENDED ACTION: Please organize only one or two appeals per UA group.

Telegrams/Express letters expressing concern at reports that these six people have been abducted by the security services, requesting the government to take immediate action to guarantee their physical safety, and urging their immediate release unless charged and brought before a court of law.

Please also protest against the murder of Rafael Amilcar Calderón while in the custody of the security services.

APPEALS TO:

Ing. José Napoleón Duarte
Presidente
Casa Presidencial
San Salvador, El Salvador
(President)

Colonel José Guillermo García
Ministro de Defensa y de Seguridad
Pública
San Salvador, El Salvador
(Minister of Defence)

Colonel Carlos Eugenio Vides Casanova
Dirección General de la Guardia Nacional
Colonia Atlactl
San Salvador, El Salvador
(Head of National Guard)

Please send copies of appeals to Salvadorian diplomatic representatives in your country.

FINAL DATE FOR ACTION: 10 February 1981

Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action.

Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3, "Everyone has the right to life, liberty and security of person";

Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";

Article 9, "No one shall be subjected to arbitrary arrest, detention or exile".

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Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International Secretariat, or to your national section or Urgent Action coordinator. Thank the official who has replied, requesting that you be kept informed about the case.

URGENT ACTION

HISTORICAL FILE
amnesty international

URGENT ACTION

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.
(Amnesty International Statute, Article 1(c))

CO: 7
DO: 7

EXTERNAL (for general distribution)

AI Index: AMR 29/01/81
Distr: UA

UA 3/81

Fear of Torture/Fear of Extra-judicial killing

12 January 1981

- | | | |
|--------------|-----------------------|---------------------------|
| EL SALVADOR: | Jesus Romero GALDAMEZ | Ricardo Alfonso MARTINEZ |
| | Romeo MOREIRA | Carlos Mauricio HERNANDEZ |
| | Otto Jaime PORTILLO | Alfredo CAMPOS |
| | Encarnación GUJERREZ | Ana Ester VALDEZ |

AI has received reports that on 9 January 1981 between 2 and 5 in the afternoon, the army raided the publications department of the Ministry of Education, in the city of Mejicanos in the department of San Salvador. The Director of publications and general manager of the publications department of the Ministry of Education, Jesus Romero Galdamez, was arrested together with seven other members of the staff, named above.

There is serious concern for the safety of all eight people.

During 1980 some 8,000 Salvadorians are estimated to have died by violence, many of them summarily executed by the security services. People have been killed because of their association or alleged association with peasant, labour or religious organizations, or with political parties or other organizations which do not actively support the present government. Although human rights abuses have taken place against a background of open conflict between government forces and several violent guerilla organizations, victims of torture and death at the hands of the security services have not generally been shown to have had any direct involvement in armed guerilla activities. Most of the deaths have occurred after defenceless people have been seized from their homes or places of work.

The government of El Salvador has claimed that "independent", "anti-communist" assassination squads beyond government control are responsible for these abductions and killings. However, evidence collated by AI from hundreds of individual cases proves the responsibility of the regular security services for serious violations of human rights. By continually attributing detentions, torture and killings to groups beyond government control, the government of El Salvador would seem to be seeking a means of evading accountability for the extra-legal measures carried out by its own security services.

On 3 December 1980 AI sent a message to the General Assembly of the United Nations, pointing to the overwhelming evidence that Salvadorian troops were responsible for the detention and murder of six opposition leaders, members of a coalition of opposition parties, the *Frente Democrático Revolucionario* (FDR), and urging member states to condemn the killings as actions which "defied and outraged" the minimum standards of government conduct. The message also stated that government forces had been implicated in the murders of thousands of people during 1980.

RECOMMENDED ACTION: Telegrams/express letters expressing concern at reports that these eight people have been abducted by the army, requesting the government to take immediate action to guarantee their physical safety, and urging their immediate release unless charged and brought before a court of law.

APPEALS TO:

Ing. José Napoleon Duarte
Presidente
Casa Presidencial
San Salvador, El Salvador
(President)

Colonel José Guillermo García
Ministro de Defensa y de
Seguridad Pública
San Salvador, El Salvador
(Minister of Defence)

Please send copies of appeals to Salvadorian diplomatic representatives in your own country.

APPEALS FROM PUBLISHERS, JOURNALISTS and TEACHERS may be particularly helpful.

FINAL DATE FOR ACTION: 23 February 1981

STOP PRECS: The soldiers involved in the arrest of these eight people belong to the Brigada de Cuartel San Carlos.

Appeals may also be sent to: Colonel Rafael Flores Lima
Jefe de Estado Mayor del Ejército
Calle Concepción
Final Pasaje Merazo
San Salvador, El Salvador
(Army Chief)

- Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action.
- Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:
 - Article 3, "Everyone has the right to life, liberty and security of person";
 - Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";
 - Article 9, "No one shall be subjected to arbitrary arrest, detention or exile".
- The name of Amnesty International can be used unless stated otherwise; although, letters written in a private or

- Information about the alleged connection of any person with an organization which is banned in their country is provided as background only and should not be included in appeals.
- In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture".
- Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International Secretariat, or to your national section or Urgent Action

URGENT ACTION

HISTORICAL FILE
Amnesty international

URGENT ACTION

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

EXTERNAL (for general distribution)

Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence. (Amnesty International Statute, Article 1(c))

Index: AMR 29/02/81
Distr: UA

UA 4/81

Fear of Torture/Fear of Extra-judicial execution

13 January 1981

EL SALVADOR: Nelson ARRIETI

RELEASED

COUNTRY INDEX
DCSER 7

AI has received reports that Nelson Arrieti, a professor of film history at the University of Merida in Venezuela, was abducted by plainclothed members of the security forces at 7.00 pm on 12 January 1980 at the Alameda Hotel in San Salvador. Sr Arrieti, aged 43 and born in Venezuela, had been working as a film director in El Salvador.

AI fears that Sr Arrieti may be killed while in the hands of his abductors.

Some 8,000 Salvadorians are estimated to have died by violence during 1980; many of them are known to have been summarily executed by the security services. People have been killed because of their association, or presumed association, with peasant, labour or religious organizations, or with political parties or other organizations which do not actively support the present government. Although human rights abuses have taken place against a background of open conflict between government forces and several violent guerilla organizations, victims of torture and death at the hands of the security services have not generally been shown to have had any direct involvement in armed guerilla activities. Most of the deaths have occurred after defenceless people have been seized from their homes or places of work.

The government of El Salvador has claimed that "independent", "anti-communist" assassination squads beyond government control are responsible for these abductions and murders. However, evidence collated by AI from hundreds of individual cases proves the responsibility of the regular security services for serious violations of human rights. By continually attributing detentions, torture and killings to groups beyond government control, the government of El Salvador would seem to be seeking a means of evading accountability for the extra-legal measures carried out by its own security services.

On 3 December 1980 AI sent a message to the General Assembly of the United Nations, pointing to the overwhelming evidence that Salvadorian troops were responsible for the detention and murder of six opposition leaders, members of a coalition of opposition parties, the *Frente Democrático Revolucionario (FDR)*, and urging member states to condemn the killings as actions which "shocked and outraged" the minimum standards of government conduct. The message also stated that government forces had been implicated in the murders of thousands of people during 1980.

RECOMMENDED ACTION: *Limited number of appeals per UA group, please.* Telegrams/express letters expressing concern at reports that Nelson Arrieti was abducted by members of the security forces, requesting the government to take immediate action to guarantee his physical safety, and urging his immediate release unless charged and brought before a court of law.

A limited, but not strictly specified, number of appeals is requested; please organize a few appeals per UA group.

APPEALS TO:

Ing. José Napoleon Duarte
Presidente
Casa Presidencial
San Salvador, El Salvador

(President)

Colonel José Guillermo García
Ministro de Defensa y de
Seguridad Pública
San Salvador, El Salvador

(Minister of Defence)

Copies to Salvadorian diplomatic representatives in your country, please.

FINAL DATE FOR ACTION: 24 February 1981

Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action.

Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3, "Everyone has the right to life, liberty and security of person";

Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";

Article 9, "No one shall be subjected to arbitrary arrest, detention or exile".

The name of Amnesty International can be used unless

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In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture".

Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International Secretariat, or to your national section or Urgent Action

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International Secretariat, 10 Southampton Street, London WC2E 7HF, England

INTERNAL (for general distribution)

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(Amnesty International Statute, Article 1(c))

Index: AMR 29/03/81

Dist: UA

UA 8/81

Fear of extra-judicial killing

16 January 1981

EL SALVADOR: Vida CUADRA
Francisco RAMIREZ Avila
and seven others

COMM. 7

AI has received reports that Vida Cuadra, Francisco Ramirez Avila, both journalists on the newspaper *El Independiente*, and seven members of staff from the office of the same newspaper were abducted by the armed forces in the afternoon of 15 January 1981.

The nine people were abducted after the armed forces entered the offices of *El Independiente*, an independent Salvadorian newspaper. There is very serious concern for the safety of these people while in the hands of their abductors.

Some 8,000 Salvadorians are estimated to have died by violence during 1980; many of them are known to have been summarily executed by the security services. People have been killed because of their association, or presumed association, with peasant, labour or religious organizations, or with political parties or other organizations which do not actively support the present government. Although human rights abuses have taken place against a background of open conflict between government forces and several violent guerilla organizations, victims of torture and death at the hands of the security services have not generally been shown to have had any direct involvement in armed guerilla activities. Most of the deaths have occurred after defenceless people have been seized from their homes or places of work.

The government of El Salvador has claimed that "independent", "anti-communist" assassination squads beyond government control are responsible for these abductions and murders. However, evidence collated by AI from hundreds of individual cases proves the responsibility of the regular security services for serious violations of human rights. By continually attributing detentions, torture and killings to groups beyond government control, the government of El Salvador would seem to be seeking a means of evading accountability for the extra-legal measures carried out by its own security services.

RECOMMENDED ACTION: *A limited number of appeals is requested; please organize only a few appeals per UA group.*

Telegrams/express letters expressing concern that Vida Cuadra, Francisco Ramirez Avila and seven other members of staff of the newspaper *El Independiente* have been abducted, requesting the government to take immediate action to guarantee their physical safety, and urging their immediate release unless charged and brought before a court of law.

APPEALS TO:

Ing. José Napoleon Duarte
Presidente
Casa Presidencial
San Salvador, El Salvador

Colonel José Guillermo García
Ministro de Defensa y de
Seguridad Pública
San Salvador

Colonel Rafael Flores Lima
Jefe de Estado Mayor del Ejército
Calle Concepción
Final Pasaje Merazo
San Salvador, El Salvador

(Army chief)

Appeals from JOURNALISTS are requested, if possible.

FINAL DATE FOR ACTION: 27 February 1981

Copies of appeals may be sent to Salvadorian diplomatic representatives in your country.

Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action.

Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3, "Everyone has the right to life, liberty and security of person";

Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";

Article 9, "No one shall be subjected to arbitrary arrest, detention or exile".

The name of Amnesty International can be used unless

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In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture".

Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International Secretariat, or to your national section, if there is one.

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International Secretariat, 10 Southampton Street, London WC2E 7HF, England

EXTERNAL (for general distribution) *Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.* AI Index: AMR 29/16/81
Distr: UA

FOR ACTION ONLY BY THE FOLLOWING NATIONAL SECTIONS
(Amnesty International Statute, Article 1(c))
CANADA (both branches), FRANCE, NETHERLANDS, SWEDEN, USA

COLLECTION DOSSIER 7

UA 42/81 Fear of Torture 24 February 1981

EL SALVADOR: Colonel Arnulfo Adolfo MAJANO **RELEASED**

Colonel Arnulfo Adolfo Majano, aged 44, former member of the government junta of El Salvador, was detained on or about 20 February 1981 and is now in the custody of the Ministry of Defence. According to reports, the Salvadorian authorities have refused to say where he is being held, although they have acknowledged his detention.

AI fears that Colonel Majano may be tortured or otherwise ill-treated while in detention.

Although Colonel Majano led the military coup that overthrew President Carlos Humberto Romero in October 1979, he was removed from the civilian-military junta in December 1980, reportedly at the request of right-wing officers. Before his removal, Colonel Majano was the prime mover behind land and social reforms promised by the junta. He subsequently accused the government of condoning right-wing death squads. In November 1980 he escaped an assassination attempt, and he had been in hiding since his removal from office until his arrest on 20 February.

The human rights situation in El Salvador has deteriorated sharply in recent months. AI fears a further increase in summary executions, torture and abduction by government forces as civil conflict continues between guerrillas and the government. Of some 8,000 Salvadorians estimated to have been killed during 1980, many were the victims of extra-judicial execution by the security forces. Peasants and young people have been the principal victims.

Despite government claims those killed by its forces are guerrillas and guerrilla sympathisers, victims of torture and death at the hands of the security forces have not generally been shown to have any direct involvement in armed guerrilla activity.

RECOMMENDED ACTION: FOR ACTION ONLY BY THE FOLLOWING NATIONAL SECTIONS:
CANADA (both branches), FRANCE, NETHERLANDS, SWEDEN, USA

Telegrams/express letters asking for clarification of the whereabouts and legal situation of Colonel Arnulfo Adolfo Majano and requesting guarantees of his physical safety.

Please organize only a few appeals per UN group. **RELEASED**

APPEALS TO:

Ing. José Napoleón Duarte
Presidente
Casa Presidencial
San Salvador, El Salvador

Colonel José Guillermo Garcia
Ministro de Defensa y de Seguridad
Pública
Ministerio de Defensa y de
Seguridad Pública

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International Secretariat, 10 Southampton Street, London WC2E 7HF, England

COMMUNICATION
DO... 7

EXTERNAL (for general distribution)

Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence. (Amnesty International Statute, Article 1(c))

AI Index: AMR 29/21/81
Distr: UA

30 March 1981

Further information on UA 42/81 (AMR 29/16/81 24 February) - Fear of Torture

EL SALVADOR: Colonel Arnulfo Adolfo MAJANO

Colonel Arnulfo Adolfo Majano, a former member of the government junta of El Salvador, was released on 20 March 1981 after a month under arrest. According to reports, he has now left El Salvador.

Colonel Majano's release was ordered by a military judge who could find no reason for his continued detention

No further action is required on this case.

*This UA was for action only by the following national sections:
CANADA (both branches), FRANCE, NETHERLANDS, SWEDEN, USA*

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International Secretariat, 10 Southampton Street, London WC2E 7HF, England

EXTERNAL (for
general distribution)

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and infliction of death penalties and torture or other cruel, inhuman or
degrading treatment or punishment of prisoners or other detained or
restricted persons whether or not they have used or advocated violence.
(Amnesty International Statute, Article 1(c))*

AI Index: AMR 29/13/81
Distr: UA

UA 53/81

Fear of torture/Fear of extra-judicial killings

6 March 1981

EL SALVADOR: Luis Ernesto OLIVA MUÑOZ
Angela María CULEYA
and their three children

Nelson MEJIA
Suzanna DE MEJIA

COPIES
DOCUMENT 7

Luis Ernesto Oliva Muñoz, aged 27, his wife Angela María Culeya and their three children, aged 6 years, 1 year and three months, were abducted by the National Police in San Salvador on 3 February 1981. The three children were later found alive by a roadside in El Rusol. There has been no news at all about the fate of their parents.

The same day, 3 February, Nelson Mejia and his wife Suzanna de Mejia, were also reported to have "disappeared". AI does not yet have any further details but there are strong reasons to believe that they too were abducted by the Salvadorian security forces.

There is very serious concern for the safety of these two couples.

There has been a further increase in summary executions, torture and abduction by government forces as civil conflict continues between guerillas and the government in El Salvador. Of some 8,000 Salvadorians estimated to have been killed during 1980, many were victims of extra-judicial killing by the security forces. Peasants and young people have been the principle victims. Despite government claims that those killed by its forces are guerrillas and guerrilla sympathisers, victims of torture and death at the hands of the security forces have not generally been shown to have any direct involvement in armed guerrilla activity.

RECOMMENDED ACTION: *A limited number of appeals only is required;
please organize only a few appeals per UA group.*

Telegrams/express letters requesting clarification of the whereabouts and legal situation of both families and requesting guarantees of their physical safety.

APPEALS TO:

Colonel José Guillermo García
Ministro de Defensa y de Seguridad Pública
Ministerio de Defensa y de Seguridad Pública
Casa Presidencial
San Salvador El Salvador

Colonel Carlos López Nuila
Director de la Policía Nacional
6 Calle Oriente
San Salvador, El Salvador

COPIES TO:

Orientación (journal of Archbishopric of San Salvador)
Seminario San José de la Montaña
San Salvador, El Salvador

**URGENT
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HISTORICAL FILE
**amnesty
international**

**URGENT
ACTION**

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.
(Amnesty International Statute, Article 1(c))

EXTERNAL (for
general distribution)

Index: AMR 29/29/81
Distr: UA

UA 96/81

"Disappearance"

28 April 1981

EL SALVADOR: Father Roy BOURGEOIS
=====

COPIES	7
DOSSIER	

Father Roy Bourgeois, a Maryknoll priest, had travelled to El Salvador as a translator for a CBS (American broadcasting company) film crew. On the morning of 26 April 1981 he attended mass given by Archbishop Rivera y Damas, with at least one other crew member. Father Bourgeois left the mass early and returned to the Hotel Camino Real. He left the hotel at 10.30 am saying that he would return in thirty minutes. Nothing has been heard of him since.

Amnesty International fears that he may have been abducted by the Salvadorian security services and that he may be tortured and killed.

Amnesty International has received reports of the abduction of several journalists in El Salvador. On 15 January 1981 nine staff members of the newspaper *El Independiente*, including journalists Vida Cuadra and Francisco Ramirez Avila, were taken from the newspaper's office by troops. Francisco Ramirez Avila is now known to be held in Santa Tecla prison in San Salvador; the whereabouts of the others are still unknown. Foreign journalists have also been abducted. On 28 December 1980 journalist John Sullivan, a United States citizen, disappeared from his hotel in San Salvador and has not been seen since. On 12 January 1981 a Venezuelan film director, Nelson Arrieti, was abducted from his hotel by plainclothed members of the security forces. He was released on 18 January and testified that he had been taken to a military barracks where, during interrogation, he was beaten and given drugs by the security services which made him lose consciousness.

Thousands of Salvadorians have been killed during the past year. The government attributes the deaths to murder by unofficial groups or to fighting between government and guerilla forces. However, Amnesty International has accumulated unequivocal evidence that there is a consistent pattern of killing by the security services of peasants, young people and other victims who have not been involved in guerrilla activities.

RECOMMENDED ACTION:

A limited number of appeals is requested; please send about half the number of appeals that you would normally send.

Telegrams/express letters urging the Salvadorian authorities to explain the abduction of Father Roy Bourgeois, and to do everything possible to ensure his physical safety and his immediate release from detention.

APPEALS TO:

Ing. José Napoleón Duarte
Presidente de la Junta de El Salvador
Casa Presidencial
San Salvador, El Salvador

(President)

OR

Coronel José Guillermo García
Ministro de Defensa y de Seguridad Pública
Ministerio de Defensa y de Seguridad Pública
San Salvador, El Salvador

(Minister of Defence and Public Security)

OR

Dr Fidel Chávez Mena
Ministro de Relaciones Exteriores
Ministerio de Relaciones Exteriores
San Salvador, El Salvador

(Minister of Foreign Affairs)

FINAL DATE FOR ACTION: 19 May 1981

Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action.

Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3, "Everyone has the right to life, liberty and security of person";

Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";

Article 9, "No one shall be subjected to arbitrary arrest, detention or exile".

Information about the alleged connection of any person with an organization which is banned in their country is provided as background only and should not be included in appeals.

In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture".

Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International

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URGENT ACTION

EXTERNAL (for general distribution)

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

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(Amnesty International Statute, Article 1(c))*

AI Index: AMR 29/30/8
Distr: UA

8 May 1981

Further information on UA 96/81 (AMR 29/29/81 23 April) - "Disappearance"

EL SALVADOR: Father Roy Bourgeois
=====

The American Maryknoll priest, Father Roy Bourgeois, whom it was feared had been abducted on 26 April 1981, reappeared on 8 May 1981.

Please take no further action on this case.

COMM.	SEARCHED
DOSSIER	7

URGENT ACTION

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International Secretariat, 10 Southampton Street, London WC2E 7HF, England

EXTERNAL (for general distribution) *Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.* Index: AMR 29/35/81
NOTE: A shortened version of this Urgent Action is attached to the following national elections on 15 May: CANADA (both branches), MEXICO, VENEZUELA and USA
Distr: UA

UA 118/81 Fear of torture/extrajudicial killing 18 May 1981

EL SALVADOR: Anna Marguarita GASTIAZORO
Eleotherio de Jesús CARCAMO
Rafael BARRERA

COI
DOSSIER 7

Anna Marguarita Gastiazoro, Elioetherio de Jesús Carcamo and Rafael Barrera were arrested by security forces on 13 May 1981 at the Institute of Social Studies in San Salvador.

All three are members of the *Movimiento Nacional Revolucionario* (MNR - National Revolutionary Movement). The MNR is a social democrat party and a member of the opposition coalition, *Frente Democrático Revolucionario* (FDR - Revolutionary Democratic Front). According to reports received by Amnesty International, the headquarters of the MNR in San Salvador have also been raided.

There has since been no news of the whereabouts of these three people and there is grave concern for their safety.

On 27 November 1980 six leaders of the FDR were detained by uniformed army and National Police troops in San Salvador. Within 24 hours their mutilated bodies were found in roadside ditches in the outskirts of San Salvador. The government of El Salvador almost immediately denied any responsibility for the arrest and murder of the six leaders and the military operation of 27 November was officially attributed to extremist forces "outside government control", the same explanation adopted by government representatives to account for an estimated 6,000 cases of people seized and murdered in which government forces were implicated. In a message to the General Assembly of the United Nations on 3 December 1980, Amnesty International pointed to the overwhelming evidence that Salvadorian troops were responsible for the detention and murder of the six FDR leaders.

An apparent death list of the names of 133 people, including priests, human rights activists, university rectors and former members of the El Salvador government was published by the Salvadorian army in early April 1981. The Salvadorian army has a long history of summary executions, torture and abduction, and there is evidence that paramilitary squads operate with the complicity of the security forces.

RECOMMENDED ACTION: *A limited number of appeals is requested; please organize about a third of the appeals which would normally be sent.*

Telegrams/express letters urging the authorities to take immediate measures to ensure the physical safety of Anna Marguarita Gastiazoro, Eleotherio de Jesus Carcamo and Rafael Carcamo, to disclose their place of detention and release them immediately.

APPEALS TO: Ing. José Napoleón Duarte
Presidente de la Junta de El Salvador
Casa Presidencial
San Salvador, El Salvador
Coronel José Guillermo García
Ministro de Defensa y de
Seguridad Pública
Ministerio de Defensa y de
Seguridad Pública
San Salvador, El Salvador

FINAL DATE FOR ACTION: 13 June 1981

PLEASE BRING THESE CASES TO THE ATTENTION OF SOCIAL DEMOCRAT PARTIES IN YOUR COUNTRY

**URGENT
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International Secretariat, 10 Southampton Street, London WC2E 7HF, England

EXTERNAL (for general distribution) *Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman, or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence. (Amnesty International Statute, Article 1(c))*

Index: AMR 20/36/81
Distr: UA

22 May 1981

Further information on UA 118/81 (AMR 29/36/81 18 May) - Fear of torture/ extrajudicial killing

EL SALVADOR: Anna Margarita Gastiazoro
Eleotherio de Jesús Carcamo
Rafael Barrera

COPIES	7
DOSSIER	

Amnesty International has now received reports that Anna Margarita Gastiazoro has been seen in the headquarters of the National Guard in San Salvador, although the National Guard have denied that they are holding her. There has, however, been no further news of the other two members of the *Movimiento Nacional Revolucionario* (MNR - the social democrat National Revolutionary Movement) who were arrested with Anna Gastiazoro by the security forces on 13 May 1981 in San Salvador. Concern for their safety continues.

Further recommended action: Appeals on behalf of Anna Margarita Gastiazoro should also be sent to the Director of the National Guard urging him, in his capacity as Director, to ensure the physical safety of Anna Margarita Gastiazoro.

Colonel Carlos Eugenio Vides Casanova
Director General de la Guardia Nacional
Colonia Atlactl
San Salvador, El Salvador

Copies of appeals may be sent to President Duarte and also to the American Ambassador in El Salvador:

Ing. José Napoleón Duarte
Presidente de la Junta de El Salvador
Casa Presidencial
San Salvador, El Salvador

Mr Dean Hinton
Embajada de los Estados Unidos de America
25 Avenida Norte 1230
San Salvador, El Salvador

Covering letters to President Duarte should note that he has frequently stated that his government is endeavouring to protect human rights and request that he does everything possible to ensure the physical safety of Anna Margarita Gastiazoro.

Covering letters to the American Ambassador in El Salvador should note that President Reagan and Secretary of State Alexander Haig have stated that it is United States policy to encourage respect for human rights in El Salvador and request that he use his influence as Ambassador to El Salvador to ensure that the physical safety of

**URGENT
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international**

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ACTION**

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

EXTERNAL (for
general distribution)

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degrading treatment or punishment of prisoners or other detained or
restricted persons whether or not they have used or advocated violence.
(Amnesty International Statute, Article 1(c))*

Index: AMR 29/42/81
Distr: UA

16 June 1981
CO
DOE 7
Torture/Extra-judicial

Further information on UA 259/80 (AMR 29/60/80 13 November) - Fear of killing

EL SALVADOR: Abdala Antonio HANDAL

On 11 November 1980 Abdala Antonio Handal, architect and President of the Chamber of Architecture of El Salvador (*Camera de Arquitectura*) was arrested by uniformed members of the National Guard in San Salvador. Amnesty International feared that he may have been tortured and killed by his abductors.

Amnesty International has now received reports which indicate that Sr. Handal is still alive. He is, however, believed to be in a poor state of health, apparently as a result of torture by the Salvadorian security forces.

Further recommended action: Please renew appeals on behalf of Abdala Antonio Handal. Please request clarification of his whereabouts and legal situation, and ask for assurances that he is being humanely treated and is receiving any medical treatment that may be necessary.

Appeals to:

Cnel. José Guillermo García
Ministro de Defensa y de Seguridad Pública
Ministerio de Defensa y de Seguridad Pública
Palacio Nacional
San Salvador, El Salvador

Cnel. Carlos Eugenio Vides Casanova
Director General de la Guardia Nacional
Colonia Atlactl
San Salvador, El Salvador

Please send copies of appeals to Salvadorian diplomatic representatives in your country.

FINAL DATE FOR ACTION: 16 August 1981

URGENT ACTION

HISTORICAL FILE
amnesty international

URGENT ACTION

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

EXTERNAL (for general distribution)

Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.
(Amnesty International Statute, Article 1(c))

Index: AMR 29/55/81
Distr: UA

SEARCHED	INDEXED
SERIALIZED	FILED
7	

UA 191/81

"Disappearance"

11 August 1981

EL SALVADOR: Rafael Armando PINEDA (aged 23)
 Renē Antonio VIDAL GARCIA (aged 24)
 Augustin AGONAY HERNANDEZ
 Nicolas Dagoberto MORALES (aged 36)
 Augustin HERNANDEZ (aged 26)
 José Sebastian OISA SOLIS

Amnesty International has received reports that the six men named above have been seized in the capital, San Salvador:

Rafael Armando Pineda on 20 July 1981
 Renē Antonio Vidal García on 31 July 1981
 Augustin Agonay Hernandez on 5 August 1981
 Nicolas Dagoberto Morales on 8 August
 Augustin Hernandez on 9 August 1981
 José Sebastian Oisa Solis on 9 August 1981

Amnesty International does not yet have any further information about these cases but it is feared that they have been abducted by the Salvadorian security forces and that their lives may be in grave danger.

Background information

Human rights violations on a massive scale in El Salvador continue to be brought to the attention of Amnesty International. Amnesty International is aware that these violations have occurred at a time of escalating civil conflict between guerrilla groups and the Salvadorian authorities and is also aware of reports of human rights violations having been committed by non-governmental forces. However, there is a systematic pattern of human rights violations, including torture, "disappearance" and cold-blooded murder, being carried out by the Salvadorian security forces, and directed against people who are not involved in guerrilla activities. Testimonies received by Amnesty International implicate all branches of the Salvadorian security forces in gross abuses of human rights.

In a letter dated 6 May 1981 Amnesty International called on the United States Secretary of State, Alexander Haig, to take steps to ensure that the USA did not give El Salvador's government military aid which would be used for murder, torture and other abuses. The letter cited case after case of abduction, murder and torture by troops and police of non-violent opponents, human rights workers, priests, teachers, students, journalists, medical workers and others.

.../...

RECOMMENDED ACTION:

Telegrams/express letters/letters expressing concern about the arrest of these people and urging the authorities to do everything possible to ensure their physical safety. Please request an explanation of their arrest and urge that they be released immediately unless charged and brought before a court of law.

APPEALS TO:

Coronel José Guillermo García
Ministro de Defensa y de Seguridad Pública
Ministerio de Defensa y de Seguridad Pública
Casa Presidencial
San Salvador, El Salvador

Coronel Jaime Abdul Gutierrez
Vice-Presidente de la Junta de El Salvador
Casa Presidencial
San Salvador, El Salvador

Please send copies of appeals to Salvadorian diplomatic representatives in your country.

PLEASE SEND APPEALS AS SOON AS POSSIBLE. Appeals may continue until 11 September 1981.

Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action.

Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3, "Everyone has the right to life, liberty and security of person";

Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";

Article 9, "No one shall be subjected to arbitrary arrest, detention or exile".

The name of Amnesty International can be used unless

Information about the alleged connection of any person with an organization which is banned in their country is provided as background only and should not be included in appeals.

In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture".

Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International Secretariat, or to your national section or Urgent Action

URGENT ACTION

HISTORICAL FILE
amnesty international

URGENT ACTION

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

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(Amnesty International Statute, Article 1(c))

COMMUNICATION
DOSSIER 7

Index: AMR 29/73/81
Distr: UA

UA 249/81

"Disappearance"/Health Concern

15 October 1981

EL SALVADOR: José Orlando CASTELLÓN, aged 22

José Orlando Castellón was found on 13 October, together with two dead bodies, by the roadside of El Troncal de Norte (leading from San Salvador to Apopa). All three had been shot but Sr. Castellón was the only survivor and was taken to the ROSALES hospital in an ambulance (No. 14) of the Red Cross. Sr. Castellón was captured a few days earlier by members of the security forces. (It is unclear at present whether the army or other security units were involved in his detention.) AI has received reports that his condition is serious, although he is not in immediate danger.

National and international journalists who have tried to obtain a testimony from Sr. Castellón at the Rosales hospital have been prevented from seeing him by members of the security forces.

AI has received information on other cases in the past where wounded people, or doctors treating them, have been abducted from hospital. On 21 May 1980 Professor Lionel MENEDEZ was taken to the Rosales hospital after being shot, where he was given an anaesthetic in preparation for an operation. He was abducted from the operating theatre by armed men while the hospital was reportedly surrounded by vehicles belonging to the National Guard and National Police. Professor Menendez's whereabouts remain unknown. On 28 August 1980 Dr. Fernando Arturo Melendez and his assistant Dr. José Elisio Orellana were arrested together with two patients they were treating for shot wounds in the Santa Eugenia private clinic, San Miguelito, San Salvador. The two patients were eventually located in the Rosales hospital, but the whereabouts of the two doctors remain unknown. (UA 104/80 AMR 29/21/80; UA 199/80 AMR 29/44/80 and AMR 29/46/80)

Human rights violations on a massive scale in El Salvador continue to be brought to the attention of Amnesty International. Amnesty International is aware that these violations of human rights have occurred at a time of escalating civil conflict between guerrilla groups and the Salvadorian authorities and is also aware of reports of human rights violations having been committed by non-governmental forces. However, there is a systematic pattern of human rights violations, including torture, "disappearances" and cold-blooded murder, being carried out by the Salvadorian security forces, and directed against people not involved in guerrilla activities. Testimonies received by Amnesty International implicate all branches of the Salvadorian security forces in gross abuses of human rights.

In a letter dated 6 May 1981 Amnesty International called on the United States Secretary of State, Alexander Haig, to take steps to ensure that the USA did not give El Salvador's government military aid which would be used

for murder, torture and other abuses. The letter cited case after case of abduction, murder and torture by troops and police of non-violent opponents, human rights workers, priests, teachers, students, journalists, medical workers and others.

RECOMMENDED ACTION:

Telegrams/express letters/letters expressing serious concern for the safety of Sr. Castellón in view of previous incidents of abductions at the Rosales and other hospitals. Request that the authorities undertake every possible step to ensure that his physical safety be guaranteed while he is in hospital.

MEDICAL PROFESSIONALS/DOCTORS are particularly urged to participate. If possible, please arrange for one important doctor per section to contact the Rosales hospital direct in order to enquire about the situation of this patient. (Tel: San Salvador 23.38.66)

JOURNALISTS could also be asked to appeal for journalists in the country to be allowed access to the patient in the interest of freedom of information.

APPEALS TO:

Dr José Ramón AVALOS NAVARRETE (Min. of Health)
Ministro de Salud Pública
Ministerio de Salud Pública
San Salvador, El Salvador

Coronel José Guillermo García
Ministro de Defensa y Seguridad Pública
Ministerio de Defensa y Seguridad Pública
Casa Presidencial
San Salvador, El Salvador

COPIES TO:

Comité Nacional de Defensa de los Pacientes, Trabajadores y Instituciones de Salud
Decanato Facultad de Medicina
Universidad de El Salvador, San Salvador, El Salvador
(Committee for defence of patients, workers & health institutions)

Orientación (newspaper of Archbishopric)
Arzobispado de San Salvador
Seminario San Jose de la Montaña, San Salvador, El Salvador

and to El Salvador diplomatic representatives in your country.

DO NOT USE AI'S NAME IN APPEALS

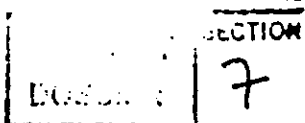
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|---|---|
| <p><input type="checkbox"/> Please PLEASE SEND APPEALS AS SOON AS POSSIBLE Urgent Action cases. Carefully read the Recommended Action.</p> <p><input type="checkbox"/> Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:</p> <p>Article 3, "Everyone has the right to life, liberty and security of person";</p> <p>Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";</p> <p>Article 9, "No one shall be subjected to arbitrary arrest, detention or exile".</p> <p><input type="checkbox"/> The name of Amnesty International can be used unless</p> | <p><input type="checkbox"/> In the time, control, or jurisdiction of any person with an organization which is banned in their country is provided as background only and should not be included in appeals.</p> <p><input type="checkbox"/> In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture".</p> <p><input type="checkbox"/> Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International Secretariat or to your national...</p> |
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URGENT ACTION Amnesty international URGENT ACTION

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

EXTERNAL (for general distribution) *Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence.* (Amnesty International Statute, Article 1(c))

Index: AMR 29/82/81
Distr: UA



4 December 1981

Further information on UA 170/81 (AMR 29/49/81 13 July) - "Disappearance"

EL SALVADOR: Edgar Mauricio VALLEJO

Edgar Mauricio Vallejo, aged 23, a writer who is well-known throughout Central America, was seized by masked men in plain clothes in the Plaza del Sol in San Salvador on 4 July 1981. He was driven away in a jeep without number plates. His detention has still not been acknowledged by the Salvadorian authorities.

Sr. Vallejo taught at the faculty of humanities of the National University of San Salvador until it was closed in June 1980. His poems and stories have been published in the magazine EDUCA (*Editorial Universitaria Centroamericana*) which is published by the *Conferencia Universitaria Centroamericana* in Costa Rica.

Many Urgent Action participants who sent copies of their appeals to EDUCA have received the following reply from EDUCA's director:

"Dear Sir

We have received a copy of the letter which you sent to the Salvadorian authorities requesting the release of the writer Edgar Mauricio Vallejo.

Despite international pressure on behalf of Mauricio, the Salvadorian authorities have still refused to explain his whereabouts. We consider it important that you continue to ask your friends and institutions in your country to send appeals which may help to secure his release.

I should like to take this opportunity to send you a leaflet which describes the situation in which Salvadorian refugees live in Honduras and which Mauricio helped to write.

I should also like to express our appreciation of your actions on behalf of Mauricio, and Mauricio's wife and family will receive a copy of your letter.

Sincerely,
Sebastian Vaquerano
Director, EDUCA "

Enclosed with the letter was a leaflet describing the plight of Salvadorian refugees in Honduras.

Some Urgent Action participants have received a further letter from EDUCA saying that a released prisoner had seen Edgar Mauricio Vallejo in custody in "El Zapote" prison in San Salvador. Amnesty International therefore believes that the Salvadorian authorities should continue to be requested to acknowledge his detention.

Further recommended action:

Please continue to send appeals to the Salvadorian authorities expressing concern that the detention of Edgar Mauricio Vallejo has not been acknowledged and his

be given and that, in the absence of charges against him, he be immediately released.

APPEALS TO:

Coronel Jose Guillermo García
Ministro de Defensa y de Seguridad Pública
Ministerio de Defensa y de Seguridad Pública
Casa Presidencial
San Salvador, El Salvador

Ing. José Napoleon Duarte
Presidente
Casa Presidencial
San Salvador, El Salvador

As before, please organize some appeals from JOURNALISTS and WRITERS in your country.

Appeals may continue until 4 January 1982.

- | | |
|--|--|
| <ul style="list-style-type: none"><input type="checkbox"/> Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action.<input type="checkbox"/> Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:<ul style="list-style-type: none">Article 3, "Everyone has the right to life, liberty and security of person".Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment".Article 9, "No one shall be subjected to arbitrary arrest, detention or exile".<input type="checkbox"/> The name of Amnesty International can be used unless | <ul style="list-style-type: none"><input type="checkbox"/> Information about the alleged connection of any person with an organization which is banned in their country is provided as background only and should not be included in appeals.<input type="checkbox"/> In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture".<input type="checkbox"/> Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International Secretariat, or to your national section or Urgent Action |
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URGENT ACTION

HISTORICAL FILE

amnesty international

URGENT ACTION

EXTERNAL (for general distribution) International Secretariat, 10 Southampton Street, London WC2E 7HF, England

AI Index: AMR 29/86/81

Distri: UA

Amnesty International opposes by all appropriate means the imposition and infliction of death penalties and torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence. (Amnesty International Statute, Article 1(c))

COLLECTED	SECTION
DO NOT	7

UA 307/81

"Disappearance"

18 December 1981

EL SALVADOR: Dr Carlos Armando VARGAS

Dr Carlos Armando Vargas, a medical doctor, was arrested on 16 December 1981 by members of the security forces in plain clothes as he was leaving the "Pasteur" clinic in San Salvador where he worked.

There is very serious concern for his safety. In the past, Amnesty International has received reports that medical personnel have been abducted and murdered, apparently for having given treatment to the wounded, including those not involved in guerrilla activities. People have been removed from hospital and then killed, apparently merely because they sought medical treatment after having been wounded during the continuing civil conflict in El Salvador. First aid workers have also been abducted as they tried to transport medical supplies to victims of the current hostilities.

Background information

Human rights violations on a massive scale in El Salvador continue to be brought to the attention of Amnesty International. Amnesty International is aware that these violations of human rights have occurred at a time of escalating civil conflict between guerrilla groups and the Salvadorian authorities and is also aware of reports of abuses having been committed by non-governmental forces. However, there is a systematic pattern of human rights violations, including torture, "disappearances" and cold-blooded murder, being carried out by the Salvadorian security forces, and directed against people not involved in guerrilla activities. Testimonies received by Amnesty International implicate all branches of the Salvadorian security forces in gross abuses of human rights.

Talks on the human rights situation in El Salvador were held between Amnesty International and officials of the United States administration in Washington DC on 9 October 1981. The talks followed an exchange of correspondence earlier in the year about the effects of US military aid to El Salvador on human rights there between Amnesty International and the US Secretary of State, Alexander Haig, and the Deputy Secretary of State, William Clark Jr.

RECOMMENDED ACTION:

Telegrams/express letters expressing concern about the detention of Dr Carlos Armando Vargas, urging that his physical safety be guaranteed, and requesting clarification of his whereabouts and legal situation.

APPEALS TO:

Dr José Ramon Avalos Navarrete
Ministro de Salud Pública
Ministerio de Salud Pública

Coronel José Guillermo García
Ministro de Defensa y Seguridad Pública
Ministerio de Defensa y Seguridad Pública

COPIES TO:

Comité Nacional de Defensa de los Pacientes, Trabajadores y
Instituciones de Salud
Decanato Facultad de Medicina
Universidad de El Salvador, San Salvador, El Salvador

(Committee for defence of patients, workers and health institutions)

Orientación

Arzobispado de San Salvador
Seminario San Jose de la Montaña
San Salvador, El Salvador

(newspaper of the Archbishopric)

and to Salvadorian diplomatic representatives in your country.

Appeals from MEDICAL PROFESSIONALS in particular are requested.

PLEASE SEND APPEALS IN A PERSONAL OR PROFESSIONAL CAPACITY; DO NOT USE
AMNESTY INTERNATIONAL'S NAME.

Please send appeals as soon as possible. Appeals may continue until
18 January 1982.

STOP PRESS

Amnesty International has just received reports that Dr Carlos Armando
Vargas is being held by the Treasury Police (*Policía de Hacienda*)
although this has been denied by the authorities.

Please also send appeals to the Chief of the Treasury Police:

Coronel Francisco Morán
Jefe de la Policía de Hacienda
Calle Concepción
San Salvador, El Salvador

- Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action.
- Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:
 - Article 3, "Everyone has the right to life, liberty and security of person";
 - Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";
 - Article 9, "No one shall be subjected to arbitrary arrest, detention or exile".
- The name of Amnesty International can be used unless

- Information about the alleged connection of any person with an organization which is banned in their country is provided as background only and should not be included in appeals.
- In Urgent Action cases, where Amnesty International has to act rapidly to prevent the possible ill-treatment of prisoners, appeals are issued when the circumstances of a person's arrest or disappearance make such treatment likely. Do not make direct accusations and, unless otherwise instructed, do not use the word "torture".
- Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International

URGENT ACTION amnesty international URGENT ACTION

International Secretariat, 10 Southampton Street, London WC2E 7HF, England

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SECTION 7

UA 132/82

"Disappearance"

25 May 1982

HISTORICAL FILE

EL SALVADOR: Juan Francisco RAMIREZ and one other person (at present unnamed)

=====

Amnesty International is gravely concerned about the safety of Juan Francisco Ramirez, aged 27, who is the director of the Green Cross relief agency (a private, non-sectarian relief agency), and a relative of his.

Juan Francisco Ramirez and his relative were abducted by six gunmen who raided his house in San Salvador at midnight on 20 May 1982. The gunmen also took an unknown amount of money and numerous business papers from the house.

Amnesty International believes that Sr. Juan Francisco Ramirez and his relative may have been seized by the Salvadorian security forces or by paramilitary agents working closely with the security forces. The willingness of the Green Cross to attempt to assist victims of the current hostilities in all areas of the country regardless of their political affiliations has made it a target of government attack in the past. The abduction of Sr. Ramirez is the second attack on a Green Cross official in seven weeks. On 2 April 1982 a Green Cross paramedic was killed by unidentified gunmen.

Background information

The security forces in El Salvador have been carrying out a systematic and widespread program of torture, "disappearances", and individual and mass killings of men, women and children. The victims have included not only people suspected of opposition to the authorities, but thousands who were simply in areas targeted for security operations, whose death or mutilation seems to have been completely arbitrary. Testimonies received daily by Amnesty International implicate all branches of the Salvadorian security forces in such violations of human rights - both military and police units as well as paramilitary squads acting with their explicit or implicit warrant - and the violations have occurred on such a scale that there can be no question that they constitute a gross and consistent pattern of human rights abuses.

Amnesty International has repeatedly drawn attention to human rights violations in El Salvador carried out under the juntas in power since General Humberto Romero was overthrown in October 1979. Amnesty International has repeatedly appealed to the authorities to investigate and account for the arbitrary detention or the "disappearance" or murder of priests, trade union leaders, church workers, teachers, academics, peasant families and community workers as well as the "disappearance" and killing of patients abducted from hospital sickbeds by security agents. In no single instance have the Salvadorian authorities issued a satisfactory response.

Following the elections for a constituent assembly on 28 March 1982

there are indications that the process of negotiation is not yet complete between the various legally recognised political parties to form a government. There may be future changes in the cabinet and other political and military appointments. However, reports of human rights violations involving the official security forces have continued unabated.

RECOMMENDED ACTION:

Telegrams/express letters expressing grave concern about the abduction of Juan Francisco Ramirez and his relative and urging that their physical safety be guaranteed. Urge that they be released immediately.

APPEALS TO:

Sr. Roberto d'Aubuisson
Presidente de la Asamblea Constituyente
San Salvador, El Salvador
(President of the Constituent Assmebly)

*Telegrams to: Sr. d'Aubuisson,
Presidente Asamblea Constituyente,
San Salvador*

Dr. Fernando Berrios Escobar
Ministro de Salud Pública
Ministerio de Salud Pública
San Salvador, El Salvador
(Minister of Health)

*Telegrams to: Dr. Berrios Escobar,
Ministro de Salud Pública, San
Salvador*

COPIES TO:

General José Guillermo García
Ministro de Defensa y Seguridad Publica
Ministerio de Defensa y Seguridad Publica
Casa Presidencial
San Salvador, El Salvador
(Minister of Defence and Public Safety)

Monseñor Arturo Rivera y Damas
Seminario San Jose de la Montana
San Salvador, El Salvador
(Acting Archbishop)

and to Salvadorian diplomatic representatives in your country.

PLEASE SEND APPEALS AS SOON AS POSSIBLE. Check with the International Secretariat if sending appeals after 25 June 1982.

Please take immediate action as soon as you receive this Urgent Action appeal. Carefully read the Recommended Action.

Letters and telegrams should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to the relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3, "Everyone has the right to life, liberty and security of person";

Article 5, "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment";

Article 9, "No one shall be subjected to arbitrary arrest, detention or exile".

The name of Amnesty International can be used unless

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Send at least one telegram or express letter immediately. Other letters can be sent afterwards to the addresses listed. Copies of letters should be sent to the relevant diplomatic representatives in your country. Copies of any replies received should be sent immediately to the International Secretariat or to your national section of Amnesty International.

URGENT amnesty international URGENT ACTION

COUN DOSSIER

International Secretariat • 10 Southampton Street • London WC2E 7HF • United Kingdom • Telephone: 01-836 7788 • Telex: 28502

EXTERNAL (for general distribution)

AI Index: AMR 29/78/82
Distr: UA

UA 201/82

"Disappearance"

24 August 1982

EL SALVADOR: América Fernanda PERDOMO *also*: María Helena MARTINEZ DE RECINOS, her 13-year-old daughter and her maid
Saúl VILLALTA

América Fernanda Perdomo, aged 24 and the public relations officer of the *Comisión de Derechos Humanos de El Salvador* (CDHES - El Salvador Human Rights Commission) was arrested on the afternoon of 20 August 1982 in the suburb of Ciudad Satélite, San Salvador. She was arrested together with Saúl Villalta, a member of the executive committee of the *Frente Democrático Revolucionario* (FDR - the Democratic Revolutionary Front), a coalition of opposition parties formed in April 1980. According to reports, América Perdomo was meeting Sr. Villalta on behalf of the CDHES to discuss the release of military personnel being held by guerrillas belonging to the *Frente Farabundo Martí de Liberación Nacional* (FMLN), the Farabundo Marti National Liberation Front. The FMLN is a coalition of groups which is conducting military opposition to the Salvadorian government. (There are links between some of the groups that make up the FMLN and those that make up the FDR.)

The two were also reported to have been discussing a multi-party, multi-national agreement to free political prisoners. CDHES has stated that the meeting was held for purely humanitarian reasons. América Perdomo and Saúl Villalta are alleged to have been arrested by the *Policía de Hacienda* (Treasury Police). Although the Treasury Police have denied holding the two, unofficial sources report that they are being held at the headquarters of the Treasury Police in San Salvador.

Amnesty International is seriously concerned about the safety of América Perdomo and Saúl Villalta.

Background information

Amnesty International has been following the human rights situation in El Salvador closely for a number of years, and has concluded that the security forces have been regularly involved in a systematic and widespread program of torture, "disappearance", and individual and mass killings of men, women and children. The victims have included not only people suspected of opposition to the authorities, but thousands who were simply resident in areas targeted for security operations, whose murder or mutilation seems to have been completely arbitrary. Victims of arbitrary detention, "disappearance" and murder have included priests, trade unionists, church workers, human rights activists, teachers, academics, peasant families, community workers and medical personnel, as well as patients abducted from their sickbeds or murdered in hospital by security agents.

Following the elections for a constituent assembly held on 28 March 1982, reports of human rights violations involving the official security forces have continued unabated. The violations are occurring in a context

Amnesty International is an independent worldwide movement working for the international protection of human rights. It seeks the release of men and women detained anywhere because of their beliefs, colour, sex, ethnic origin, language or religious creed, provided they have not used or advocated violence. These are termed *prisoners of conscience*. .../...

of continued conflict between the government and opposition forces, but reports received by Amnesty International indicate that non-combatants from all sectors of Salvadorian society continue to be victims of such violations, including arbitrary detention, "disappearance", and extra-judicial executions at the hands of the official military and police services, who act on occasion in conjunction with clandestine paramilitary squads who have their explicit or implicit warrant. As in previous years, in no single instance since the elections have the Salvadorian authorities issued a satisfactory response to enquiries about these violations.

RECOMMENDED ACTION:

Telegrams/express letters/airmail letters requesting clarification of the whereabouts and legal situation of América Fernanda Perdomo and Saúl Villalta and urging that their physical integrity be respected.

APPEALS TO:

Sr. Alvaro Magaña Borja
Presidente de la República
Casa Presidencial
San Salvador, El Salvador
(President)

Telegrams to: Presidente Magaña, San Salvador, El Salvador

Coronel Francisco Morán
Jefe de la Policía de Hacienda
Calle Concepción
San Salvador, El Salvador
(Head of Treasury Police)

Telegrams to: Coronel Morán, Policía de Hacienda, Calle Concepción, San Salvador, El Salvador

COPIES TO:

General José Guillermo García
Ministerio de Defensa y Seguridad Pública
Ministerio de Defensa y Seguridad Pública
Casa Presidencial
San Salvador, El Salvador
(Minister of Defence)

Comisión de Derechos Humanos de El Salvador
Av. las Américas y Calle San José
Urb. Isidro Menéndez, Edif. ACUS
San Salvador, El Salvador

and to Salvadorian diplomatic representatives in your country.

PLEASE SEND APPEALS AS SOON AS POSSIBLE. Check with the International Secretariat if sending appeals after 25 August 1982.

STOP PRESS

STOP PRESS

STOP PRESS

The following people were also arrested by the Treasury Police on 20 August 1982 in Ciudad Satélite:

- María Helena MARTINEZ de RECINOS, representative of the *Comité de Madres* (Mothers' Committee) and wife of trade-unionist Hector Bernabé Recinos who was arrested in August 1980 and is still in detention.

- the daughter of María Helena Martínez de Recinos, who is aged 13

- Sra. Martínez de Recinos' maid.

Please include these three people in appeals.

- Please take action as soon as you receive this Urgent Action appeal. Carefully read the recommended action. If possible, send a telegram or express letter immediately to one or more of the addresses given. Other letters can be sent afterwards.

- Telegrams and letters should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3 - "Everyone has the right to life, liberty and security of person."

Article 5 - "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or

- The name of Amnesty International may be used, although letters written in a private or personal capacity are often more effective.

- Copies of appeals should be sent to relevant diplomatic representatives in your country.

- In Urgent Action cases, Amnesty International has to act rapidly to prevent the ill-treatment of prisoners. An appeal is issued when Amnesty International believes it has received reliable and accurate information in such cases. It is not always possible to verify all details independently and in some instances the situation outlined in the appeal may change. Urgent Action participants are always notified of any significant new information.

- Copies of any replies received from government author-

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EXTERNAL (for
general distribution)

AI Index: AMR 29/82/82
Distr: UA

HISTORICAL FILE

UA 219/82

"Disappearance"

14 September 1982

EL SALVADOR: Dr Juan Lempira ALAS
Dr Juan Atlacatl ALAS

RELEASED

Amnesty International is seriously concerned about the safety of twin brothers Juan Lempira Alas and Juan Atlacatl Alas, aged 32, who are reported to have been taken from their home in Colonia 10 de septiembre in San Salvador during the night on or about 11 September 1982. Their abduction, carried out by men in olive green uniforms, was witnessed by neighbours. The detention of these two men has not been acknowledged by the authorities and their present whereabouts are unknown.

Juan Lempira Alas and Juan Atlacatl Alas, both doctors, graduated from medical school at the University of San Salvador in 1980. They are both currently working at the Zacatecoluca hospital, Zacatecoluca in the province of La Paz. At the time of their abduction, they had been visiting their home in San Salvador.

Background information

Amnesty International has been following the human rights situation in El Salvador closely for a number of years, and has concluded that the security forces have been regularly involved in a systematic and widespread program of torture, "disappearance", and individual and mass killings of men, women and children. The victims have included not only people suspected of opposition to the authorities, but thousands who were simply resident in areas targeted for security operations, whose murder or mutilation seems to have been completely arbitrary. Victims of arbitrary detention, "disappearance" and murder have included priests, trade unionists, church workers, teachers, academics, peasant families, community workers and medical personnel, as well as patients abducted from their sickbeds or murdered in hospital by security agents.

Medical personnel in El Salvador have been among the specific targets of repression by the official security forces, apparently for having treated the wounded, including non-combatant civilians. First aid workers have also been abducted as they tried to transport medical supplies to victims of the current hostilities in El Salvador.

Following the elections for a constituent assembly held on 28 March 1982, reports of human rights violations involving the official security forces have continued unabated. Violations of human rights are occurring in a context of continued conflict between the government and opposition forces, but reports received by Amnesty International indicate that non-combatants from all sectors of Salvadorian society continue to be the victims of such violations, including arbitrary detention, "disappearance", and extrajudicial killings at the hands of the official military and police services, who act on occasion in conjunction with clandestine paramilitary squads who have their explicit or implicit warrant. As in previous years, in no

Amnesty International is an independent worldwide movement working for the international protection of human rights. It seeks the release of men and women detained anywhere because of their beliefs, colour, sex, ethnic origin, language or religious creed, provided they have not used or advocated violence. These are termed *prisoners of conscience*. It works for *fair and prompt trials for all political prisoners*

single instance since the elections have the Salvadorian authorities issued a satisfactory response to enquiries concerning these violations.

RECOMMENDED ACTION:

Telegrams/express letters/letters expressing concern about the detention of Dr Juan Lempira Alas and Dr Juan Atlacatl Alas, apparently by the official security forces, urging that their physical safety be guaranteed, and requesting clarification of their whereabouts and legal situation. Urge that they be released unless charged and brought before a court.

Please send appeals in a personal or professional capacity.

Please organize appeals from MEDICAL PROFESSIONALS.

APPEALS TO:

S.E. Alvaro Magaña Borja
Presidente de la República
Casa Presidencial
San Salvador, El Salvador

*Telegrams to: Presidente Magaña Borja,
San Salvador, El Salvador*

Sr. Roberto D'Aubuisson
Presidente de la Asamblea Constituyente
San Salvador, El Salvador

(President of Constituent Assembly)

*Telegrams to: Sr. D'Aubuisson, Presidente
Asamblea Constituyente, San Salvador,
El Salvador*

General José Guillermo García
Ministro de Defensa y Seguridad Pública
Ministerio de Defensa y Seguridad Pública
Casa Presidencial
San Salvador, El Salvador

(Minister of Defence)

*Telegrams to: Ministro de Defensa
García, San Salvador, El Salvador*

Dr Fernando Berrios Escobar
Ministro de Salud Pública
Ministerio de Salud Pública
San Salvador, El Salvador

(Minister of Health)

*Telegrams to: Ministro de Salud
Berrios Escobar, San Salvador
El Salvador*

COPIES TO:

Comité Nacional de Defensa de los Pacientes,
Trabajadores y Instituciones de Salud
Decanato Facultad de Medicina
Universidad Nacional de El Salvador
San Salvador, El Salvador

*(Committee for defence of patients,
health workers and health centres)*

Sr. Director
Hospital Zacatecoluca
Zacatecoluca
Departamento de La Paz
El Salvador

*(Director of Zacatecoluca
Hospital)*

and to Salvadorian diplomatic representatives in your country.

PLEASE SEND APPEALS AS SOON AS POSSIBLE. Check with the International Secretariat if sending appeals after 14 October 1982.

- Please take action as soon as you receive this Urgent Action appeal. Carefully read the recommended action. If possible, send a telegram or express letter immediately to one or more of the addresses given. Other letters can be sent afterwards.

- Telegrams and letters should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3 - "Everyone has the right to life, liberty and security of person."

Article 5 - "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

- The name of Amnesty International may be used, although letters written in a private or personal capacity are often more effective.

- Copies of appeals should be sent to relevant diplomatic representatives in your country.

- In Urgent Action cases, Amnesty International has to act rapidly to prevent the ill-treatment of prisoners. An appeal is issued when Amnesty International believes it has received reliable and accurate information in such cases. It is not always possible to verify all details independently and in some instances the situation outlined in the appeal may change. Urgent Action participants are always notified of any significant new information.

- Copies of any replies received from government authorities should be sent immediately to your national section.

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SECTION I

**URGENT
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EXTERNAL (for general distribution)

AI Index: AMR 29/87/82
Distr: UA

HISTORICAL FILE

UA 248/82

"Disappearance"/Torture/Legal Concern

21 October 1982

EL SALVADOR: Mauricio DOMENECH (or DOMINIQUE)

Mauricio Domenech (or Dominique) was reportedly detained by members of the Salvadorian security forces in San Salvador on the afternoon of 19 October 1982. His present whereabouts are unknown, and his detention has not been acknowledged. Amnesty International is seriously concerned about his safety.

Mauricio Domenech (or Dominique) is aged 40, married, and a director of CELCO, a business company. He is a graduate in political science. He is a member of the executive committee of the *Movimiento Nacional Revolucionario* (MNR), National Revolutionary Movement, a social democratic political party that is affiliated to the Socialist International and remains legal in El Salvador.

Background

Amnesty International has been following the human rights situation in El Salvador closely for a number of years, and has concluded that the security forces have been regularly involved in a systematic and widespread program of torture, "disappearance", and individual and mass killings of men, women and children. The victims have included not only people suspected of opposition to the authorities, but thousands who were simply resident in areas targeted for security operations, whose murder or mutilation seems to have been completely arbitrary. Victims of arbitrary detention, "disappearance" and murder have included priests, trade unionists, church workers, human rights activists, teachers, academics, peasant families, community workers and medical personnel, as well as patients abducted from their sickbeds or murdered in hospital by security agents.

Following the elections for a constituent assembly held on 28 March 1982, reports of human rights violations involving the official security forces have continued unabated. The violations are occurring in a context of continued conflict between the government and opposition forces, but reports received by AI indicate that non-combatants from all sectors of Salvadorian society continue to be victims of such violations, including arbitrary detention, "disappearance", and extrajudicial execution at the hands of the official military and police services, who act on occasion in conjunction with clandestine paramilitary squads who have their explicit or implicit warrant. As in previous years, in no single instance since the elections have the Salvadorian authorities issued a satisfactory response to enquiries about these violations.

.../...

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RECOMMENDED ACTION:

Telegrams/express letters/letters expressing concern about reports of the abduction of Mauricio Domenech (or Dominique) and urging that he be humanely treated while in detention. Request clarification of his whereabouts and legal situation and urge that he be charged or immediately released.

APPEALS TO:

Sr. Alvaro Magaña Borja
Presidente de la República
Casa Presidencial
San Salvador, El Salvador

*Telegrams to: Presidente Magaña,
San Salvador, El Salvador*

General José Guillermo García
Ministro de Defensa y Seguridad Pública
Ministerio de Defensa y Seguridad Pública
Casa Presidencial
San Salvador, El Salvador

*Telegrams to: Gen. García, Ministerio Defensa
y Seguridad Pública, San Salvador, El Salvador*

COPIES TO:

Dr Fidel Chávez Mena
Ministro de Relaciones Exteriores
Ministerio de Relaciones Exteriores
Calle Santa Tecla
San Salvador, El Salvador
(Minister of Foreign Affairs)

Oficina de Tutela Legal del Arzobispado
Comisión Arquidiocesano de Justicia y Paz
Apdo. 2253
San Salvador, El Salvador
*(a new group working with the archbishopric of
San Salvador on human rights-related questions)*

and to diplomatic representatives of El Salvador in your country.

PLEASE SEND APPEALS AS SOON AS POSSIBLE. Check with the International Secretariat if sending appeals after 2 December 1982.

- Please take action as soon as you receive this Urgent Action appeal. Carefully read the recommended action. If possible, send a telegram or express letter immediately to one or more of the addresses given. Other letters can be sent afterwards.

- Telegrams and letters should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3 -- "Everyone has the right to life, liberty and security of person."

Article 5 -- "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment"

- The name of Amnesty International may be used, although letters written in a private or personal capacity are often more effective.

- Copies of appeals should be sent to relevant diplomatic representatives in your country.

- In Urgent Action cases, Amnesty International has to act rapidly to prevent the ill-treatment of prisoners. An appeal is issued when Amnesty International believes it has received reliable and accurate information in such cases. It is not always possible to verify all details independently and in some instances the situation outlined in the appeal may change. Urgent Action participants are always notified of any significant new information.

- Copies of any replies received from government authorities should be sent immediately to your national secretariat.

URGENT ACTION amnesty international URGENT ACTION

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EXTERNAL (for
general distribution)

AI Index: AMR 29/89/82
Distr: UA

HISTORICAL FILE

UA 252/82 Fear of Torture/Extrajudicial execution 26 October 1982

EL SALVADOR: Luis Antonio MENJIVAR Jorge HERRERA
David Elias GUADRON VALENCIA Carlos MENJIVAR
Pedro RAMIREZ ESQUIVEL Héctor FERNANDEZ
Pablo RAMIREZ CORNEJO Daniel (or David) AVALOS
Raúl Antonio CASTRO PALOMARES Berta Alicia CASTRO
Vicente ORTIZ

Amnesty International has received reports that several labour and opposition leaders have recently been arrested in different parts of the capital, San Salvador.

The following people were arrested on 18 October 1982:

- Luis Antonio Menjivar: leader of the *Movimiento Popular Social Cristiano* (MPSC), Popular Social Christian Movement
- David Elias Guadrón Valencia: labour leader and member of the *Movimiento Nacional Revolucionario* (MNR), National Revolutionary Movement, a social democrat political party
- Jorge Herrera: labour leader and member of the MNR

All three men are members of the executive committee of the *Frente Democrático Revolucionario* (FDR), Democratic Revolutionary Front, a coalition of opposition parties, formed in April 1980.

Others arrested at about the same time are:

- Carlos Menjivar: member of the FDR
- Pedro Ramírez Esquivel: member of the *Federación Nacional de Sindicatos de Trabajadores de El Salvador* (FENASTRAS), National Federation of Salvadorian Workers
- Héctor Fernandez: member of FENASTRAS
- Pablo Ramirez Cornejo: metal worker, member of FENASTRAS
- Daniel (or David) Avalos: worker in dairy products factory, member of FENASTRAS
- Raúl Antonio Castro Palomares: sugar worker, member of the *Federación Unitaria Sindical de El Salvador* (FUSS), Federation of Salvadorian Unions
- Berta Alicia Castro: head of Textile Workers Union
- Vicente Ortiz: head of Dockworkers Union

The present whereabouts of all these people are unknown and there is serious concern for their safety.

On 24 October 1982, in a sermon in the Metropolitan Cathedral in San Salvador, Father Jesus Delgado accused the Salvadorian security forces of being responsible for the abduction of these opposition and labour leaders, and asked for clarification of their whereabouts.

In November 1980, six FDR leaders, including Secretary General and former Minister of Agriculture under the first post-Romero government, Enrique Alvarez, were kidnapped as they were about to hold a news conference. An estimated 200 men in army and National Police uniforms surrounded the area while men in plain clothes arrested the six FDR leaders. Their bullet-ridden bodies, showing signs of torture, strangulation and dismemberment, were later found.

On 19 October 1982 Mauricio Domenech, a member of the executive committee of the MNR, was reported to have been detained by members of the Salvadorian security services (see UA 248/82) and on 20 October 1982 Professor Carlos Molina was also reported to have been detained (See UA 250/82). Both men were members of the executive committee of the FDR.

Background information

Following the elections for a constituent assembly held on 28 March 1982, reports of human rights violations involving the official security forces have continued unabated. The violations are occurring in a context of continued conflict between the government and opposition forces, but reports received by Amnesty International indicate that non-combatants from all sectors of Salvadorian society continue to be victims of such violations, including arbitrary detention, "disappearance", and extrajudicial execution at the hands of the official and military police services, who act on occasion in conjunction with clandestine paramilitary squads who have their explicit or implicit warrant. As in previous years, in no single instance since the elections have the Salvadorian authorities issued a satisfactory response to inquiries about these violations.

RECOMMENDED ACTION:

Telegrams/express letters/airmail letters expressing concern about the reported detention of these labour and opposition leaders and urging that they be humanely treated while in detention. Request clarification of their whereabouts and legal situation, including details of charges, if any, and urge that they be immediately released unless charged and brought before a court of law.

Please organize some appeals from TRADE UNIONISTS and members of...
POLITICAL PARTIES.

Urgent Action coordinators are asked to try and ensure, if possible, that all names are included in some appeals.

- Please take action as soon as you receive this Urgent Action appeal. Carefully read the recommended action. If possible, send a telegram or express letter immediately to one or more of the addresses given. Other letters can be sent afterwards.
- Telegrams and letters should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3 -- "Everyone has the right to life, liberty and security of person."

Article 5 -- "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

Article 9 -- "No one shall be subjected to arbitrary

- The name of Amnesty International may be used, although letters written in a private or personal capacity are often more effective.
- Copies of appeals should be sent to relevant diplomatic representatives in your country.
- In Urgent Action cases, Amnesty International has to act rapidly to prevent the ill-treatment of prisoners. An appeal is issued when Amnesty International believes it has received reliable and accurate information in such cases. It is not always possible to verify all details independently and in some instances the situation outlined in the appeal may change. Urgent Action participants are always notified of any significant new information.
- Copies of any replies received from government authorities should be sent immediately to your national section Urgent Action coordinator or direct to the International Secretary.

APPEALS TO:

Sr. Roberto D'Aubuisson
Presidente de la Asamblea Constituyente
San Salvador, El Salvador

*Telegrams to: Sr. D'Aubuisson,
Presidente Asamblea Constituyente,
San Salvador, El Salvador*

General José Guillermo García
Ministro de Defensa y Seguridad Pública
Ministerio de Defensa y Seguridad
Pública

Casa Presidencial
San Salvador, El Salvador

*Telegrams to: Ministro de Defensa
García, San Salvador, El Salvador*

*For appeals on behalf of labour leaders/
trade unionists:*

Dr Julio Alfredo Samayoa
Ministro de Trabajo
Ministerio de Trabajo
2 Avenida Norte
San Salvador, El Salvador

*Telegrams to: Ministro de
Trabajo Samayoa, San Salvador,
El Salvador*

COPIES TO:

Comisión Arquidiocesano de Justicia y Paz
Arzobispado de San Salvador
Urbanización Isidro Menendez
Calle San José
Avenida Las Américas
Apartado Postal 22 53
San Salvador, El Salvador

Conferencia Episcopal de El Salvador
1 CP 3412
San Salvador, El Salvador

(Salvadorian Bishop's Conference)

(Archdiocese Justice and Peace Commission)

and to Salvadorian diplomatic representatives in your country.

PLEASE SEND APPEALS AS SOON AS POSSIBLE. Check with the International Secretariat if sending appeals after 7 December 1982.

STOP PRESS:

Amnesty International has received reports that eight members of the opposition were to be tried by a military court on 25 October 1982, charged with "terrorist acts against the state". It is not yet known, however, which of the people named above may have been brought to trial. Please send appeals as recommended above.

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EXTERNAL (for
general distribution)

AI Index: AMR 29/90/82
Distr: UA

HISTORICAL FILE

28 October 1982

Further information on UA 248/82 (AMR 29/87/82 21 October) - "Disappearance"/
Fear of Torture

EL SALVADOR: Mauricio DOMENECH

Amnesty International has received reports that the arrest on 19 October 1982 of Mauricio Domenech, a member of the executive committee of the social democratic political party *Movimiento Nacional Revolucionario* (MNR), has now been acknowledged by the Salvadorian authorities. However, it is not yet known where he is being held. Mauricio Domenech is reported to have been charged with conspiracy and sabotage against the state under Decree Law 507, and is currently being held under investigation, before being brought before a military tribunal.

The MNR is a member of the coalition of opposition parties, *Frente Democrático Revolucionario* (FDR), Democratic Revolutionary Front.

Further recommended action:

Letters should continue on behalf of Mauricio Domenech. Letters should:

- ask for details of Mauricio Domenech's place of detention, and the charges against him
- urge that he be given a fair trial in accordance with internationally recognised legal standards
- request assurances that he is being humanely treated in detention

Appeals should be sent to:

Sr. Roberto D'Aubuisson
Presidente de la Asamblea Constituyente
San Salvador, El Salvador
(President of Constituent Assembly)

General José Guillermo Garcia
Ministro de Defensa y Seguridad
Pública
Ministerio de Defensa y Seguridad
Pública
Casa Presidencial
San Salvador, El Salvador
(Minister of Defence)

Copies may be sent to:

Dr Arturo Méndez Azahar
Ministro de Justicia
Ministerio de Justicia
San Salvador, El Salvador
(Minister of Justice)

Check with the International Secretariat of sending appeals after 2 December 1982.

Amnesty International is an independent worldwide movement working for the international protection of human rights. It seeks the release of men and women detained anywhere because of their beliefs, colour, sex, ethnic origin, language or religious creed, provided they

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EXTERNAL (for
general distribution)

AI Index: AMR 29/91/82
Distr: UA

HISTORICAL FILE

28 October 1982

Further information on UA 250/82 (AMR 29/88/82 22 October) - Fear of Torture/
Extrajudicial execution

EL SALVADOR: Professor Carlos MOLINA
=====

Amnesty International has received reports that the arrest of Professor Carlos Molina on 20 October 1982 has been acknowledged by the Salvadorian authorities. However, it is not yet known where he is being held. Professor Molina is reported to have been charged with conspiracy and sabotage against the state under Decree Law 507, and is currently being held under investigation, before being brought before a military tribunal.

Professor Carlos Molina is Head of the School of Economics at the National University of El Salvador and is also a professor at the Jesuit university Universidad Centroamericana "José Simeon Cañas". He is also a member of the *Movimiento Independiente de Profesionales y Tecnicos Salvadoreños* (MITPES), the Independent Movement of Salvadorian Professionals and Technicians. The MITPES is a member of the coalition of opposition parties, the *Frente Democrático Revolucionario* (FDR), Democratic Revolutionary Front.

Further recommended action:

Letters should continue on behalf of Professor Carlos Molina.
Letters should:

- ask for details of Professor Molina's place of detention, and the charges against him
- urge that he be given a fair trial in accordance with internationally recognised legal standards
- request assurances that he is being humanely treated in detention

Appeals should be sent to:

Sr. Roberto D'Aubuisson
Presidente de la Asamblea Constituyente
San Salvador, El Salvador
(President of Constituent Assembly)

General José Guillermo Garcia
Ministro de Defensa y Seguridad
Pública
Ministerio de Defensa y Seguridad
Pública
Casa Presidencial
San Salvador, El Salvador
(Minister of Defence)

Copies may be sent to:

Dr Arturo Méndez Azahar
Ministro de Justicia
Ministerio de Justicia
San Salvador, El Salvador

(Minister of Justice)

Check with the International Secretariat if sending appeals after
2 December 1982.

Amnesty International is an independent worldwide movement working for the international protection of human rights. It seeks the release of men and women detained anywhere because of their beliefs, colour, sex, ethnic origin, language or religious creed, provided they

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EXTERNAL (for general distribution)

AI Index: AMR 29/92/82
Distr: UA

HISTORICAL FILE

3. November 1982

Further information on UA 252/82 (AMR 29/89/82 26 October) - Fear of Torture/
Extrajudicial execution

EL SALVADOR: 11 arrests
=====

Amnesty International has received reliable reports that the following people have been acknowledged by the Salvadorian authorities to be in detention:

- Luis Antonio MENJIVAR (reportedly held at the National Police Headquarters)
- David Elias GUADRON VALENCIA (as above)
- Pedro RAMIREZ ESQUIVEL (reportedly held in La Esperanza prison, Mariona)
- Pablo RAMIREZ CORNEJO (as above)
- Raúl Antonio CASTRO PALOMARES (as above)
- Jorge HERRERA (reportedly held at the National Police Headquarters)
- Daniel (or David) AVALOS (reportedly held in La Esperanza prison, Mariona)

There is no further news on the whereabouts of Vicente Ortiz, Carlos Menjivar, Héctor Fernandez and Berta Alicia Castro.

Further recommended action:

For those that have been acknowledged, please send appeals requesting that their physical safety be guaranteed while in detention. Request details of the charges against them and urge that they be given a fair trial in accordance with internationally recognized legal standards.

For those that remain "disappeared", please continue to appeal expressing concern about the reported detention of these labour and opposition leaders and urging that they be humanely treated while in detention. Request clarification of their whereabouts and legal situation, including details of charges, if any, and urge that they be immediately released unless charged and brought before a court of law.

Appeals to:

For all cases:

General José Guillermo García
 Ministro de Defensa y Seguridad Pública
 Ministerio de Defensa y Seguridad Pública
 Casa Presidencial
 San Salvador, El Salvador
 (Minister of Defence and Public Security)

Don Alvaro Alfredo Magaña Borja
 Presidente de la República de El Salvador
 Casa Presidencial
 San Salvador, El Salvador
 (President and Commander-in-Chief of the Armed Forces)

.../...

For those reportedly held at National Police Headquarters:

Cor. Reynaldo López Nuila
Director de la Policía Nacional
Cuartel General de la Policía Nacional
6 Calle Oriente
San Salvador, El Salvador
(Head of National Police)

COPIES TO:

For all cases:

Dr Arturo Méndez Azahar
Ministro de Justicia
Ministerio de Justicia
San Salvador, El Salvador

For those held in La Esperanza prison:

Sr. Director
Centro Penitenciario La Esperanza
Calle a
Cantón Mariona
Mejicanos
San Salvador, El Salvador

and to Salvadorian diplomatic representatives in your country.

- Please take action as soon as you receive this Urgent Action appeal. Carefully read the recommended action. If possible, send a telegram or express letter immediately to one or more of the addresses given. Other letters can be sent afterwards.

Telegrams and letters should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:

Article 3 - "Everyone has the right to life, liberty and security of person."

Article 5 - "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

Article 9 - "No one shall be subjected to arbitrary

- The name of Amnesty International may be used, although letters written in a private or personal capacity are often more effective.

- Copies of appeals should be sent to relevant diplomatic representatives in your country.

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- Copies of any replies received from government authorities should be sent immediately to your national section Urgent Action coordinator or direct to the International Secretariat. If appropriate, thank the official who has

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EXTERNAL (for general distribution)

AI Index: AMR 29/01/83
Distr: UA

HISTORICAL FILE

11 February 1983

Further information on UA 190/82 (AMR 29/71/82 16 August, AMR 29/93/82 9 November) - Torture/"Disappearance"/ Legal Concern

EL SALVADOR: Maximiliano CASTRO NAVAS
Héctor LOPEZ RIVAS
Gabriel ARGUETA
Jorge Benjamín RODRIGUEZ DUENAS
Marta Imelda DIMAS
Alejandro MARTINEZ

As a result of an enquiry from a member of the American Federation of Government Employees, a letter dated 20 December 1982 was received by Senator Carl Levin of the US Senate from the US Department of State stating that the following four trade unionists arrested on 11 August 1982 were later released: Maximiliano Castro Navas, Héctor López Rivas, Gabriel Argueta and Jorge Rodríguez Duenas. (This report has not yet been confirmed.)

As of 20 October 1982, Alejandro Martínez was reported to be held in La Esperanza prison, Mariona, San Salvador, and Marta Imelda Dimas was being held in the women's prison in Ilopango. Neither of them has been brought to trial. The letter adds that the US Embassy in San Salvador was going to initiate written enquiries to the Salvadorian Minister of Defence on both cases.

The six trade unionists were arrested on 11 August 1982 by members of the Treasury Police. They are accused of storing and printing communist propaganda in the offices of the *Sindicato Nacional de la Industria del Transporte*, National Union of Transport Workers, to which they belonged.

Further recommended action:

No further action is requested for the time being on behalf of the four trade unionists reported to have been released.

Please continue to send appeals on behalf of Alejandro Martínez and Marta Imelda Dimas requesting clarification of the charges against them and what stage the investigation of their cases has reached. Urge that they be given a fair trial in accordance with internationally recognized legal norms, and that they be humanely treated while in detention.

Appeals to:

General José Guillermo García (Minister of Defence and Public Security)
Ministro de Defensa y Seguridad Pública
Ministerio de Defensa y Seguridad Pública
Casa Presidencial
San Salvador, El Salvador

.../...

**URGENT
ACTION**

**amnesty
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International Secretariat • 10 Southampton Street • London WC2E 7HF • United Kingdom • Telephone: 01-836 7788 • Telex: 28502

EXTERNAL (for
general distribution)

AI Index: AMR 29/05/83
Distr: UA/SC

UA 50/83

Fear of torture/extrajudicial execution 3 March 1983

EL SALVADOR: Jorge Benjamín RODRIGUEZ DUENAS
=====

Jorge Benjamín Rodríguez Dueñas, a member of the *Sindicato Nacional de la Industria del Transporte*, was abducted on 19 February 1983 in Soyapango by heavily armed men in plain clothes. It is not known whether his arrest has been officially acknowledged and there are fears for his safety.

Jorge Rodríguez Dueñas had been previously arrested on 11 August 1982, together with other members of the *Sindicato Nacional de la Industria del Transporte* (National Union of Transport Workers). Their detention was subsequently acknowledged by the *Policía de Hacienda* (Treasury Police); they were accused of storing and printing communist propaganda in the offices of the *Sindicato Nacional de la Industria del Transporte*. Four of the six trade unionists arrested were later released, including Jorge Benjamín Rodríguez Dueñas. Two are still held in detention. (See UA 190/82 AMR 29/71/82 16 August, AMR 29/93/82 9 November, AMR 29/01/83 11 February.)

Background information

During 1982 Amnesty International continued to receive regular, often daily, reports identifying El Salvador's regular security and military units as responsible for the torture, "disappearance" and individual and mass killings of non-combatant civilians from all sectors of society. Testimonies received by Amnesty International indicate that all branches of the Salvadorian security forces have been implicated in human rights violations on a large scale. Many victims of these abuses are characterized by their association, or alleged association, with peasant, labour or religious organizations, with the trade union movement, with professional organizations, with human rights organizations, with refugee and relief organizations or with political parties. Other victims have included non-combatant civilians living in areas targeted for security operations because the authorities suspected local inhabitants of sympathising with guerrilla forces.

Amnesty International has repeatedly appealed to the Salvadorian authorities to investigate and account for the thousands of detentions, "disappearances" and killings that have taken place since 1979. The government has, however, consistently failed to bring those responsible to justice. Amnesty International considers that the authorities have not once responded satisfactorily to international expressions of concern about human rights abuses.

.../...

Amnesty International is an independent worldwide movement working for the international protection of human rights. It seeks the release of men and women detained anywhere because of their beliefs, colour, race, religion or political opinions.

RECOMMENDED ACTION:

Telegrams/express letters/letters expressing serious concern about the reported abduction of Jorge Rodríguez Duenas and urging that he be humanely treated while in detention. Request clarification of his whereabouts and legal situation and urge that, unless formally charged and brought before a court, he be immediately released.

Please organize some appeals from TRADE UNIONISTS.

APPEALS TO:

S.E. Alvaro Magaña Borja
Presidente de la República
Casa Presidencial
San Salvador, El Salvador
*Telegrams to: Presidente Magaña
Borja, San Salvador, El Salvador*

General José Guillermo García
Ministro de Defensa y Seguridad Pública
Ministerio de Defensa y Seguridad Pública
Casa Presidencial
San Salvador, El Salvador

Dr Julio Alfredo Samayoa
Ministro de Trabajo
Ministerio de Trabajo
2 Avenida Norte
San Salvador, El Salvador
(Minister of Labour)

*Telegrams to: Ministro Trabajo Samayoa,
San Salvador, El Salvador*

Copies of appeals may be sent to Salvadorian diplomatic representatives in your country.

PLEASE SEND APPEALS AS SOON AS POSSIBLE. Check with the International Secretariat if sending appeals after 13 April 1983.

- Please take action as soon as you receive this Urgent Action appeal. Carefully read the recommended action. If possible, send a telegram or express letter immediately to one or more of the addresses given. Other letters can be sent afterwards.
- Telegrams and letters should be brief and courteous. Stress that your concern for human rights is not in any way politically partisan. Refer to relevant provisions in international law, such as the United Nations Universal Declaration of Human Rights:
 - Article 3 "Everyone has the right to life, liberty and security of person."
 - Article 5 "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."
- The name of Amnesty International may be used, although letters written in a private or personal capacity are often more effective.
- Copies of appeals should be sent to relevant diplomatic representatives in your country.
- In Urgent Action cases, Amnesty International has to act rapidly to prevent the ill-treatment of prisoners. An appeal is issued when Amnesty International believes it has received reliable and accurate information in such cases. It is not always possible to verify all details independently and in some instances the situation outlined in the appeal may change. Urgent Action participants are always notified of any significant new information.
- Copies of any replies received from government authorities should be sent immediately to your national section Urgent Action coordinator or direct to the International

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EXHIBIT
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21 JUN 86

TO CONVERS

12/17/85 130000 000000
IN SAN SALVADOR 3336 UNCLASSIFIED
UNCLASSIFIED
SAN SA 03336 C3 OF C3 142150Z
ACI:OM MCRS-CC
INFO LOG-CC AFS-CC 4-C1 ARA-CC MA-CR /CSC
-----C2175 142157Z 85

PLAINTIFF'S
EXHIBIT
CASE 99-8364
NO. CIV-HURLEY
EXHIBIT
NO. 556

1 142149Z JUN 86
FM AMEMBASSY SAN SALVADOR
TO SECSTATE WASHDC 3647
JACLAS SECTION C3 OF C3 SAN SALVADOR 03336
+ PASS
E.O. 12856: N/A
TAGS: PMLM, ES
SUBJECT: CONGRESSIONAL CORRESPONDENCE:
- RESPONSE TO REP CONVERS' LETTER

Classified Pursuant to 11 FEB 82
JCS 175A
BY 175A

TO:
CONGRESSMAN JOHN CONVERS, JR.
HOUSE OF REPRESENTATIVES
WASHINGTON, DC, 20515
DEAR CONGRESSMAN CONVERS:
A NUMBER OF AMERICANS HAVE WRITTEN TO THIS EMBASSY
ENCLOSING A NEWSLETTER WHICH APPEARED SEVERAL MONTHS AGO
(IT IS DATED) OVER YOUR SIGNATURE, DISCUSSING THE
SITUATION IN CENTRAL AMERICA AND SOLICITING FUNDS ON
BEHALF OF AN ORGANIZATION CALLED "N.E.S.T.". THE
NEWSLETTER CONTAINS SO MANY SERIOUS DISTORTIONS AND
INACCURACIES THAT IT WOULD BE DIFFICULT TO LIST THEM
ALL. I AM, HOWEVER, DISMAYED TO SEE SUCH A
DISTINGUISHED CONGRESSMAN AS YOURSELF LEND HIS NAME AND
REPUTATION TO SUCH BLATANT FALSEHOODS.
TO GIVE JUST A FEW EXAMPLES:

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PAGE 02 SAN SA 03336 C3 OF C3 142150Z
- THE NEWSLETTER ASSERTS THAT 50,000 PEOPLE HAVE BEEN
KILLED LARGELY BY MILITARY AND RIGHT WING BATH SQUADS
"OVER THE PAST FIVE YEARS". IN FACT, THE OVERWHELMING
MAJORITY OF PEOPLE KILLED IN EL SALVADOR DURING THIS
COUNTRY'S INTERNAL CONFLICT WERE KILLED FROM 1978-85
SINCE THE U.S. BECAME ACTIVELY INVOLVED IN PRESSURING
FOR REPORTS THE NUMBERS OF PEOPLE KILLED HAS HALVED
SHARPLY THAT DURING EACH OF THE PAST TWO YEARS DEATHS
RESULTING FROM POLITICALLY-MOTIVATED VIOLENCE NUMBERED
ONLY SEVERAL HUNDRED -- CONTRASTED WITH FIGURES OF OVER
10,000 DEATHS PER MONTH DURING THE EARLIER PERIOD. I
REALIZE THAT ANY NUMBER OF POLITICALLY-MOTIVATED
KILLINGS IS TOO LARGE, BUT IT IS BABY RISKING TO
SUGGEST THAT WHAT OCCURRED DURING THE 1978-85 PERIOD IS
STILL GOING ON TODAY. IT OBVIOUSLY IS NOT.
- THE NEWSLETTER ASSERTS THAT "HUMAN SUFFERING" IN EL
SALVADOR "HAS BEEN HOLED IN LARGE PART BY THE "ONE THOUSAND
1.7 BILLION DOLLARS IN U.S. AID" TO THIS COUNTRY. IT

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12/19/85 131--2 PAPER: 76

26 SAN SALVADOR 4316

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FACT. AS I KNOW YOU MUST BE AWARE, 24 PER CENT OF THE UNHELMING MAJORITY OF U.S. AID HAS BEEN ECONOMIC ASSISTANCE DIRECTED TOWARD HEALTH CARE, EDUCATION, THE RECONSTRUCTION OF ROADS AND BRIDGES DESTROYED BY THE GUERRILLAS, MATERNAL CARE, REBUILDING SCHOOL ROOMS DAMAGED OR DESTROYED BY THE GUERRILLAS, AGRICULTURE ASSISTANCE, HOUSING PROGRAMS, LAND REFORM, TRAINING COURSES FOR PUBLIC SERVANTS, AND THE PROVISION OF FOOD AND COMMODITIES SUCH AS MILK, COOKING OIL, CORN, TALLO, AND OTHER SUCH PRODUCTS, TO THE PEOPLE OF EL SALVADOR. THE "HUMAN SUFFERING" HAS NOT BEEN HOLDED BY U.S. AID TO EL SALVADOR, BUT RATHER BEEN ALLEVIATED BY IT.

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PAGE 03 SAN SA 0316 C1 OF 03 142156Z
- THE NEWSLETTER SAYS THAT "THE CHIEF VICTIMS ARE EL SALVADOR'S CIVILIANS" THAT IS TRUE, BUT WHEREAS IN THE EARLY YEARS OF THE FIGHTING THEY MAY HAVE BEEN VICTIMIZED BY SALVADORAN MILITARY AND SECURITY FORCES, NOW THEY ARE CLEARLY AND DEMONSTRABLY THE VICTIMS OF GUERRILLA FORCES WHO HAVE MADE NO SECRET OF THEIR INTENTION TO DESTROY AS MUCH OF THE CIVILIAN ECONOMY AS

POSSIBLE IN ORDER TO IMPRESS UPON THE PEOPLE THAT THEY -- THE GUERRILLAS -- WILL NOT GIVE UP THEIR ATTEMPT TO TAKE OVER THIS COUNTRY. THERE IS A VERY GOOD, VERY QUICK, AND VERY EFFECTIVE WAY FOR THE KILLING OF CIVILIANS AND DESTRUCTION OF THE CIVILIAN ECONOMY TO STOP -- AND THAT IS FOR THE GUERRILLAS TO STOP TRYING TO TAKE THIS COUNTRY OVER BY FORCE OF ARMS AND FOR INFLUENTIAL OUTSIDERS, SUCH AS YOURSELF, TO LEND THEIR SUPPORT TO SUCH A CALL. THE ALTERNATIVE IS TO ASK AND EXPECT A DEMOCRATICALLY-ELECTED GOVERNMENT, CHOSEN BY 1.5 MILLION SALVADORANS OUT OF A POPULATION OF AROUND 3 MILLION SALVADORANS TO SURRENDER TO APPROXIMATELY 5,000 ARMED GUERRILLAS. I ASSUME NEITHER YOU NOR ANY OTHER RESPONSIBLE PUBLIC OFFICIAL WOULD SO ADVOCATE. CERTAINLY WE DID NOT DO SO TO THE "WEATHERMEN" INTERNATIONAL IN THE 1960'S AND 1970'S IN THE U.S.
- YOUR NEWSLETTER ALLEGES THE USE OF "ANTI-PERSONNEL BOMBS, WHITE PHOSPHORUS, OR EVEN NAPALM OR WHATEVER IT IS BELOW" AS YOU MAY NOT BE AWARE, THE SALVADORAN ARMED FORCES DO NOT USE PLECHETTE OR CEU ANTI-PERSONNEL BOMBS; THE ONLY WHITE PHOSPHORUS IN THEIR INVENTORY IS CONTAINED IN FLARES AND "MARKING" ROUNDS, BOTH OF WHICH

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FM SAN SALVADOR 0336

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SA. CI SAN SA 0336 02 OF 03 142157Z

ACTION WCRE-CC

INFO LOG-CC COPY-CL 105-CC W-CL 101-CC 104-CC /CII 1

-----021764 142204Z /66 38

9 142149Z JUN 68

FM AMEMBASSY SAN SALVADOR

TO SECSTATE WASHDC 3648

UNCLAS SECTION 02 OF 03 SAN SALVADOR 0336

W PASS

E.O. 12333: N/A

TAGS: PHUN, ES

SUBJECT: CONGRESSIONAL CORRESPONDENCE:

ARE UNLIT FOR ANTI-PERSONAL USE; AND THERE HAS NEVER BEEN ANY CREDIBLE EVIDENCE TO SUGGEST THAT NAPALM HAS EVER BEEN USED IN EL SALVADOR. A HARVARD UNIVERSITY MEDICAL SCHOOL TEAM SPENT SEVERAL MONTHS IN EL SALVADOR SPECIFICALLY TRYING TO PROVE THE OPPOSITE AND WAS UNABLE TO DO SO DESPITE EXTENSIVE INTERVIEWS AND EXHAUSTIVE INVESTIGATION. ALLEGATIONS ABOUT THE USE OF NAPALM HAVE BEEN IN THE REPERTORY OF GROUPS OPPOSED TO U.S. POLICY IN EL SALVADOR ALL ALONG; THEY HAVE NEVER BEEN SHOWN TO BE TRUE, AND I AM DISMAYED TO SEE THAT SO RESPECTED A CONGRESSMAN AS YOURSELF WOULD LEND HIS NAME TO THE REPETITION OF SUCH BLATANT FALSEHOODS.

- THE NEWSLETTER GOES ON TO SPEAK OF "SEARCH AND DESTROY MISSIONS...ORDERED BY U.S. ADVISORS"; THIS IS ARRANT NONSENSE. NEVER IN THE SIX-YEAR HISTORY OF THE U.S. MILITARY PROGRAM TO EL SALVADOR, DURING WHICH OUR ROLE HAS BEEN CONFINED EXCLUSIVELY TO THAT OF "TRAINING", HAVE U.S. TRAINERS (NOT "ADVISORS", AS YOUR NEWSLETTER ASSERTS) GIVEN ANY ORDERS TO SALVADORAN FORCES TO DO ANYTHING. OUR ROLE IN THIS COUNTRY IS NOT ONE OF "ORDERING" SALVADORAN MILITARY ACTION.

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PAGE 02 SAN SA 0336 02 OF 03 142157Z

- YOUR NEWSLETTER ASSERTS THAT "PEOPLE FLEE TO AVOID THE WRATH OF THE MILITARY"; PERHAPS SEVERAL YEARS AGO PEOPLE FLED FROM A DIFFERENT SALVADORAN MILITARY. THAT IS DEMONSTRABLY NOT THE CASE AT THIS TIME; SALVADORANS FLEEING MILITARY ACTIVITY TODAY ALMOST INVARIABLY MOVE DELIBERATELY TOWARD AREAS WHERE THERE IS A STRONG ENOUGH SALVADORAN ARMED FORCES PRESENCE TO BE ABLE TO GUARANTEE THEIR SAFETY AND SECURITY. EVEN THE MOST CASUAL OBSERVER OF THE SITUATION IN EL SALVADOR CANNOT FAIL TO NOTE THAT THE DISPLACED POPULATION OF THIS COUNTRY HAS ALMOST EXCLUSIVELY MOVED TO AREAS CLOSE TO SALVADORAN MILITARY CONCENTRATIONS. THE RECENT MILITARY OPERATION (OPERATION PHOENIX) ON MOUNT GUAZAPA, 20 MILES NORTHWEST OF SAN SALVADOR, IS AS GOOD AN EXAMPLE AS ANY WHEN THE

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GUERRILLAS AND THEIR CIVILIAN CADRES WERE RETOVED FROM THE MOUNTAIN AND SECURITY RE-ESTABLISHED. MORE THAN A SAND FORMER RESIDENTS OF THE AREA HURRIED TO MOVE BACK IN AND ARE NOW RESUMING THE FARMING WHICH THEY ABANDONED SIX YEARS AGO WHEN THE FMLN GUERRILLAS TOOK CONTROL OF THE AREA.

SEVERAL WEEKS AGO, THIS EMBASSY WAS PRIVILEGED TO BE ABLE TO MEET WITH MS. CARLOTTA SCOTT, ADMINISTRATIVE ASSISTANT TO CONGRESSMAN BELLMUS, WHO ALSO CARRIED A LETTER OF INTRODUCTION FROM YOU. WE BELIEVE SHE LEFT SAN SALVADOR WITH AN UNDERSTANDING AND APPRECIATION OF THE COMPLEXITY OF THE SITUATION HERE AND THE FACT THAT TODAY'S EL SALVADOR IS NOT THE SAME AS IT USED TO BE. NOR IS IT WHAT IS FREQUENTLY PORTRAYED BY PEOPLE AND ORGANIZATIONS IN THE U.S. WITH A POLITICAL -- NOT A HUMAN RIGHTS -- AGENDA. THE SITUATION IN THIS COUNTRY IS COMPLEX, BUT IT IS NOT INCOMPREHENSIBLE, AND IT IS

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PAGE 03

SAN SA 0030 02 OF 03 1421572

ALSO NOT ONE THAT THE U.S. CANNOT AND SHOULD NOT BE PROUD TO HAVE HELPED WORK TO RESHAPE. NO COUNTRY OR GOVERNMENT OR PEOPLE HAVE WORKED HARDER THAN OUR OWN TO HELP FORCE THE ADOPTION OF VITALLY-NEEDED MILITARY, ECONOMIC, POLITICAL, AND SOCIAL REFORMS IN EL SALVADOR. WE SHOULD BE PLEASED WITH THE CHANGES THAT HAVE TAKEN PLACE IN THIS COUNTRY AS A RESULT, EVEN WHILE WE CONTINUE TO PRESS FOR MORE PROGRESS. EL SALVADOR TODAY, LARGELY AS A RESULT OF U.S. AND OTHER PRESSURES FOR REFORM, IS NOW LIVING UNDER CONSTITUTIONAL RULE (1983), THE FIRST DEMOCRATICALLY-ELECTED CIVILIAN PRESIDENT IN OVER 50 YEARS (1984), WITH A FULLY-FLEDGED MULTIPARTY NATIONAL ASSEMBLY (1985). THIS IS MANIFESTLY THE MOST DEMOCRATIC, REPRESENTATIVE, AND LEGITIMATE GOVERNMENT EL SALVADOR HAS PROBABLY EVER HAD. FIVE THOUSAND ARMED GUERRILLAS IN THE HILLS AND A HANDFUL OF POLITICAL FIGURES LIVING IN GOLDEN EXILE OUTSIDE EL SALVADOR ARE HARDLY AN ATTRACTIVE ALTERNATIVE.

IN CLOSING, LET ME SAY THAT I WOULD BE DELIGHTED TO HAVE YOU COME FOR A VISIT TO THIS COUNTRY SO THAT YOU CAN SEE FOR YOURSELF THE REALITY OF WHAT IS GOING ON HERE. I WOULD BE GLAD TO HAVE YOU AS A GUEST IN MY RESIDENCE. I CAN ASSURE YOU THAT I WILL PUT THE ENTIRE FACILITIES OF THIS EMBASSY AT YOUR DISPOSAL. I BELIEVE YOU WILL SEE THAT WHAT IS ACTUALLY TAKING PLACE IN THIS COUNTRY IS NOT WHAT WAS PORTRAYED BY THOSE WHO WROTE THE NEWSLETTER WHICH APPEARED OVER YOUR SIGNATURE. ANY TIME I PERSONALLY OR WE IN THIS EMBASSY CAN BE OF ASSISTANCE TO YOU, PLEASE DO NOT HESITATE TO LET ME KNOW.

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1981/10/14

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P 242832Z OCT 81

Report of David & Mercedes
DEPARTMENT OF DEFENSE
JOINT CHIEFS OF STAFF MESSAGE CENTER

Cathy 18

D DIA WASH DC//J08-3E2/J51-48/R55-1

INFO USCINCSO QUARRY HTS PW//SCJ2 CDR JCSC FT BRAGG NC//J-2//
CDR 470TH MI GP FT CLAYTON PW//IAGPP-PB
CDR 193RD INF BDE (PAR) FT CLAYTON PW//AFZU-05
CCOJTF KEY WEST FL//J-2
MACDS INTEL CEN SCOTT AFB IL//JW

CINCLANT MORTOLE AMEMBASSY MANAGUA
COMUSARJAC AHS VA//JAX-TA-C

BT
SECTION 1 OF 2

THE FOLLOWING MESSAGE WAS SENT TO THE ABOVE ADDRESSES ON 25 APR WITH DTG OF 252000Z APR 81. THIS MESSAGE IS BEING REPEATED DUE TO CLAIMED NON-RECEIPT BY ACTION ADDRESSEE

QUOTE
SUBJ: IN EL SALVADOR/STATUS OF THE NEW ATACATL BATTALION (U)
THIS IS AN INFO REPORT, NOT FINALLY EVALUATED INTEL
1. (U) CTRY: EL SALVADOR (ES)
2. (U) IN NO:
3. (U) TITLE: STATUS OF THE NW ATACATL BATTALION
4. (U) DATE OF INFO: 010425

[REDACTED]

B. SUMMARY: (ENTIRE TEXT)
A. THE "QUICK REACTION ATACATL BATTALION" OF THE SALVADORAN ARMY HAS BEEN ESTABLISHED AND IT IS IN THE PROCESS OF ORGANIZING ITSELF. AT PRESENT, THIS UNIT IS UNIQUE IN THE ARMY FOR THE FOLLOWING REASONS:
- IT WILL BE THE LARGEST UNIT IN THE ARMY.
- IT IS A VOLUNTEER FORCE DRAWN FROM SOLDIERS AND CIVILIAN WHO HAVE COMPLETED THEIR OBLIGATORY MILITARY SERVICE.
- IT IS MADE UP OF TROOPS FROM ALL OVER THE NATIONAL RATHER THAN FROM JUST ONE REGION.
FOR THE ABOVE REASONS, THE COMMANDER OF THE ATACATL BATTALION WILL EVENTUALLY BECOME A REPLY POINT TO THE MILITARY-INDUSTRIAL COMPLEX OF EL SALVADOR.

B. AS OF 23 APRIL 1981, THE STATUS OF THE BATTALION IS AS FOLLOWS:
(1) LOCATION: THE BATTALION IS STATIONED IN THE VICINITY OF SITIO DEL RIMO LA LIBERTAD DEPARTMENT.
(2) PERSONNEL: THE BATTALION CURRENTLY IS AT FULL STRENGTH EXCEPT FOR COMPANY GRADE OFFICERS. BECAUSE THE TROOPS ARE SECOND TERM ENLISTEES THEY ARE SLIGHTLY OLDER THAN THE AVERAGE SALVADORAN SOLDIER. THEIR MORALE AND HEALTH ARE GOOD EVENTUALLY, TROOPS OF THE BATTALION WILL UTILIZE A BROWN BERT TO DISTINGUISH THEM FROM THE REMAINDER OF TROOPS

ACTION 08-3E2(1) DIA(1) (U, G, T, O, F)
INFO WIDS(*) J3:IMCC(*) J5(2) R0JTF:LO(1) SECDEF:(*)
SECDEF(7) USDP(18) ASD:PAR(1) DI-1(1) NMIC(*)
RTS-28(*) RCM-281(8) RSS-1(1) SWS(1) J51-48(*)
DC-4(1) AT(1) AAT-1(1) AIS(1) DIO(1) DE(1) DB-1G(1)
DB-3E(2) DR-4A(1) DB-6(1) DB-1E(1) DT-1(1)
+CSA WASHINGTON DC
+CNO WASHINGTON DC
+CSAF WASHINGTON DC
+CIA WASHINGTON DC
+SECSTATE WASHINGTON DC
+CIC CC WASHINGTON DC
+DIRNSA FT GEORGE G MEADE MD

ARMED FORCES. THE COMMANDER OF THE BATTALION IS LT COL DOMINGO JOSE ((MONTERROSA)). (SEE IN [REDACTED] CONCERNING HIS APPOINTMENT.)
(3) ORGANIZATION:

[REDACTED]
ONE HEADQUARTERS AND SERVICES COMPANY [REDACTED] AND ONE MECHANIZED RECONNAISSANCE SQUADRON [REDACTED]. THESE UNITS ARE ALL FORMED; HOWEVER, THEY HAVE ONLY RIBINAL EQUIPMENT ON HAND. (SEE BELOW).

(B) THE MECHANIZED UNIT AND THE COMBAT SUPPORT COMPANY CURRENTLY ARE PERFORMING AS LIGHT INFANTRY. IF THEIR EQUIPMENT ARRIVES, THEY WILL BEGIN TRAINING IN THEIR COMBAT SPECIALTIES. TO DATE, IT HAS NOT BEEN DECIDED WHAT TYPE OF VEHICLE WILL BE UTILIZED IN THE MECHANIZED RECONNAISSANCE SQUADRON.
(C) INITIALLY, IT WAS PLANNED TO GIVE THE BATTALION FOUR ORGANIC HELICOPTERS (UH-1H). SUBSEQUENTLY, THE ARMED FORCES GENERAL STAFF THOUGHT IT WOULD BETTER TO STATION FOUR HELICOPTERS AT THE BATTALION, BUT TO ROTATE THEM, THIS ALLOWING MAINTENANCE TO BE UNDERTAKEN AT THE AIR FORCE BASE AT SILOPANGO [REDACTED]. THE FINAL DECISION HAS NOT BEEN MADE ON THIS SUBJECT.
(D) THE BATTALION STAFF WAS MODELED ON THE STANDARD STAFF OF A DEPARTMENTAL COMMAND WHICH HAS PROVEN INADEQUATE DUE TO THE FACT THAT THE S-1/S-4 AND S-2/S-3 ARE COMBINED. A LARGER STAFF IS REQUIRED BECAUSE OF THE SIZE OF THE UNIT AND THE COMPLEXITIES OF ITS ORGANIZATION.

(4) OPERATIONS:
(1) THE BATTALION IS SUBORDINATED DIRECTLY UNDER THE CHIEF OF THE ARMED FORCES GENERAL STAFF; ITS MISSION WILL BE TO PERFORM AS A COUNTERGUERRILLA REACTION FORCE IN ANY SECTOR OF THE COUNTRY. [REDACTED] THE UNIT HAS BEEN TASKED TO SEND SEPARATE RIFLE COMPANIES TO DIFFICULT INSURGENCY AREAS TO ALIGNMENT HARD PRESSED DEPARTMENTAL COMMANDS.
(2) THE BATTALION HAS NOT BEEN ATTACKED BY GUERRILLAS; HOWEVER, CONTINGENCY PLANS FOR PERIMETER DEFENSE HAVE BEEN MADE. THIS EFFORT HAS BEEN COORDINATED WITH THE NEIGHBORING CAVALRY REGIMENT.
(3) INTELLIGENCE:

[REDACTED]

Cathy

SECTIONAL(1) TOTAL COPIES REQUIRED 44

MCN=81287/03814 TOR=81287/2321Z TAD=81287/2327Z CDSN=MAK332
PAGE 1 OF 1
141531Z OCT 81
CEFT 01 OF 02

DEPARTMENT OF DEFENSE
JOINT CHIEFS OF STAFF MESSAGE CENTER

OTTCZYUW RUEKALA7738 2872088
IMMEDIATE/PRIORITY
O P 141531Z OCT 81

TO DIA WASH DC//DB-3E2/J53-48/R55-1

INFO USCINCSO QUARRY MTS PW//SCJ2 CDR JSOC FT BRAGG WC//J-2//
CDR 478TH MI GP FT CLAYTON PW//IACPP-P8
CDR183NDI/RFIDE(PAN) FT CLAYTON PW//AFZU-05
CDLJTF KEY WEST FL//J-2
MACOS INTEL CEN SCOTT AFB IL//INW

CINCLANT NORFOLK AMEMBASSY MANAGUA
COMUSAITAC AMS VA//LAX-1A-C

BT

SECTION 2 OF 2

(8) EQUIPMENT

ALL TROOPS ARE ARMED WITH THE M-16; THE ENTIRE UNIT ONLY HAS
60MM MORTARS. THERE ARE NO MACHINGUNS OR 81MM MORTARS IN THE
BATTALION. THERE IS NO ORGANIC TROOP TRANSPORT IN THE UNIT;
HOWEVER:

THE "QUICK REACTION ATACATL BATTALION"
IS A LIGHT INFANTRY UNIT THAT CAN ONLY MOVE ON FOOT UNLESS VEHICLES
ARE DISPATCHED FROM ANOTHER ORGANIZATION TO THE BATTALION.

(7) COMMUNICATIONS:

THE COMMANDER OF THE BATTALION COMMUNICATES WITH THE ARMED FORCES
GENERAL STAFF BY UTILIZING A MOTOROLA HT-600, UHF FM, HAND-OLD
RADIO. NO OTHER SYSTEM CURRENTLY EXISTS EXCEPT COMMERCIAL TELEPHONE.
THE PLAN FOR INTERNAL COMMUNICATIONS IS THAT BATTALION HEADQUARTERS
WILL COMMUNICATE WITH ITS COMPANIES BY URC-77 AND THE COMPANIES
WILL COMMUNICATE WITH THEIR PLATOONS BY PRC-77 THERE ARE PRC-77
AND VMC-64 PRESENTLY IN THE UNIT.

(8) INSTALLATIONS:

THE UNIT IS GARRISONED AT THE FORMER "ESCUELA NORMAL DE MAESTRAS
ALBERTO MASFERRE". THE BUILDINGS AND GROUNDS ARE IN SATISFACTORY
CONDITION; HOWEVER, PROBLEMS NEED CORRECTION IN THE FOLLOWING AREAS:

- WATER SUPPLY
- ELECTRICITY
- SANITATION
- REFRIGERATION

9A. (U) DETAILS: NONE

9B. THIS REPORT UPDATES IS

SUBJ: CREATION OF A NEW BATTALION.

10. (U) PROJ NO: N/A

11. (U) COLL MGMT CODES: NONE

12. (U) SPEC INST: N/A

13. (U)

14. (U)

15. (U) REQ EVAL: NO REL TO: NONE

16. (U) ENCL: N/A

17. (U) DIST BY ORIG: N/A

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Victims of the massacre

David Blundy, left, reveals the horrifying story of a day El Salvador went on a 'cleaning' operation



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LOLITA GUARDADO was awoken at about 4am by a strange noise. There was the usual sound of the persistent drizzle pouring through the roof of closely packed palm leaves and through the walls of mud and sticks.

But outside, across the Sumpul river, she could hear men shouting. Groups of peasants gathered anxiously in the grey dawn to watch as Honduran soldiers formed a line on the far bank and ran to and fro, carrying stones from the riverbed. They built a low wall. Only later that day, after her family, friends and neighbours had been slaughtered, did she fully understand why they were there.

Lolita, her husband Genaro and their eight children are Salvadorean peasants. They lived, along with about 1,500 others, in Las Aradas, a settlement which lies a few yards inside the Salvadorean border on the banks of the Sumpul, the frontier with Honduras.

There were few comforts. Lolita was considered fortunate because at least she had a hut. Most of the others lived under trees, with sheets of plastic to protect them from the rain. There was no electricity, no clean water, no medicine, barely enough food and no road. But Las Aradas, they believed, had one virtue. It was so remote that they were safe from the violence between the left and the right that wracks El Salvador. They had fled from their houses and land—away from the soldiers, the national guard, the secret police, the right-wing death squads and left-wing guerrillas to this haven.

That morning a group of 300 peasant refugees, mostly women and children, had arrived after a three-day trek through the Salvador mountains. Few of them would survive the day.

As Margarita Lopez, a bright and pretty 16-year-old was preparing tortillas for the new refugees, 300 Salvadorean soldiers from Chalatenango army base were already taking up position behind the nearest hills. Beside them, merging into the forest, were two olive-green helicopter gunships, each with machineguns and bombs. On the other side of the Sumpul, 150 Honduran soldiers stood behind their stone wall.

El Salvador and Honduras, although technically still at war after 11 years, were about to carry out their first joint military

venture. The Salvadoreans call it an "operacion de limpieza"—a cleaning operation.

The decision to carry out the attack was made, according to Honduran sources, at a joint meeting between Honduran and Salvadorean military commanders at El Poy, a town on the border about 13 miles from Las Aradas.

The motive was clear. In the border area are the camps of the left-wing guerrillas, against whom the Salvadorean ruling junta has been fighting a bloody civil war. It is also one of the main channels for arms shipments from Nicaragua and Cuba. The Hondurans were keen to help because they feared both the war spilling over into their territory and their neighbour falling into communist hands.

The only flaw in the plan was that Las Aradas was not a guerrilla base. It seems not a shot was fired in defence by the people there. But for the Salvadorean military mind, the distinction between peasant and guerrilla is academic: they are, indeed, often one and the same.

Also, the guerrillas need peasant support if they are to achieve popular insurrection and more immediately they need the peasants to provide food and shelter when necessary. For the Salvadoreans this made the peasants a fair military target.

The "cleaning" began at about 10 am on May 14 last year. Margarita remembers a deafening explosion of gunfire which would continue for the next six hours: "the bullets came in fistfuls. They went through the walls of houses, people were falling and cattle

were dying. The bullets were everywhere."

Genaro Guardado heard the thud of bombs falling outside his hut. With his 17-year-old daughter, Ernestina, he grabbed five children, all under 12, who were standing outside, and ran. Rosabel Sibrian, a 22-year-old, saw the gunships buzzing low over the trees and heard the rattle of their machineguns. Then he saw soldiers standing round his friend, Amanda Rodriguez: "She begged them not to kill her. They all opened fire. They shot her 11-year-old son."

The troops had surrounded the settlement. The obvious escape route was across the river into Honduras—that was when the peasants learnt the function of the Honduran soldiers.

The peasants "ran to the river in flocks," said Genaro. It was the beginning of the rainy season and the river was flowing deep and fast. Margarita ran into the water and found it came up to her neck: "Children were drowning. The Salvadorean soldiers stood on the bank and fired at us. My two friends were killed next to me."

As Genaro jumped into the water with about 70 people, his daughter Ernestina was shot dead in the back of the head. First he walked, pulling the five children, across to the other bank. He left them there and went back for Ernestina's body. Then, carrying the body, he walked up the bank towards the Honduran soldiers: "They grabbed Ernestina and threw her into the river. Then they pushed us back into the river. We pleaded with them. Begged them. They just pushed us. They didn't

fire their rifles, but they wouldn't let us through."

He returned to the Salvadorean side, to face the guns. "The Salvadoreans fired from the hip and kept their guns low. I suppose they didn't want to shoot the Honduran soldiers. But they fired into the river." Those who survived the crossing were herded together by the Salvadorean soldiers, who tied their hands and made them lie, face down on the ground. "They beat us with their rifle butts. They kept asking, 'Where do you keep the guns? Who are the guerrillas?'"

"They took groups to one side and machine-gunned them. I had my children with me. Then a soldier cut my bonds. I don't know why he did that. But I ran with my children. Only three others survived."

Rosabel Sibrian, who hid between some rocks, says the main slaughter took place on the river bank, near Las Aradas: "There were 50 soldiers and they gathered a big group together. Then they shot them. The people were screaming. Those who would not die were beaten on the heads with rifle butts."

He says, and this is corroborated by other eye-witnesses, that the soldiers were aided by members of Orden, a paramilitary right-wing group, distinctive in their black shirts with skull-and-crossbones insignia. "Some soldiers and Orden people gathered children and babies together," said Sibrian. "I saw them throw children into the air and then slash them with long machetes. They cut their heads off and slit their bodies in two." One soldier told the mother of a child: "We are killing the children of subversion."

Sibrian tried to run downstream, carrying his baby son. Soldiers chased him and a bullet smashed into Sibrian's leg: "I couldn't run with my baby any more. I left him beside a small ditch, then rolled away and crawled through the bushes. I thought the soldiers would kill him." But, in one of the few acts of humanity carried out by the Salvadorean army that day, they did not. "They picked him up very gently and carried him away. Later I heard they bought him milk in a local town. I think he is in a children's camp. I am trying to find him," said Sibrian.

Lolita was not so fortunate.

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NEXT PAGE

Father Earl
Gallagher

He noticed the banks of the Sumpul river looked strangely black. When he got closer he saw why. They were covered in a thick carpet of buzzards



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Just after the first bombs dropped at 10 am, she had lost sight of her husband. So, with her brother-in-law, Angel, and three of her children, she made her way slowly upstream, hiding for long periods in the bushes until soldiers and paramilitary men had passed. She went for a mile along the Sumpul until the cordon of Honduran soldiers on the opposite bank had ended. Then at about 4 pm she started to cross the river.

She walked over the rocks and had just reached the water when she heard rapid firing behind her and felt "a burning pain" all over her body. She fell backwards into the Sumpul. Her body lay in the water, her head resting on a rock. She had been hit by 15 bullets, in an arc from her thigh across the small of her back. One bullet passed through her hand. Two of her children lay dying in the water beside her. One died quickly—a bullet had passed through his armpit into his chest; the other, shot in the testicles, did not. "He lasted half an hour," said Lolita. "I couldn't move. I couldn't comfort him." Her brother-in-law was dead, too. She lay with her surviving child—three-year-old Ovidio, clasped to her breast. He had been hit in the leg and the scalp.

"Ovidio kept crying and shouting. He called out 'Uncle Angel, Uncle Angel! Come. Come see my mother. Her leg is bleeding into the water.'" He kept talking to his two brothers long after they were dead. He shouted at them: "Why don't you talk to me?"

After dark, Lolita says that occasionally soldiers walked along the bank. She tried to hold Ovidio still and keep him quiet: "The baby cried with pain, but I told him to be silent. I heard a soldier say: 'Hit them. Hit them again.' But another soldier said: 'I have hit them already. Let's not shoot again. They will just die.'"

"I had a terrible thirst. The water was full of blood. It was the blood of my children. But I kept drinking water, drinking water."

That night she felt an object bump against her in the river. Then it floated off downstream. It was, she says, the head of a child. The next morning a Honduran fisherman pulled in his nets. They contained the bodies of three dismembered children.

Lolita lay in the river until after dawn, when a group of four Honduran men saw Ovidio moving. They crossed the river and put Lolita in a hammock, then carried her to a Honduran's home. It was another 15 days before she received hospital treatment.

For the peasants, the behaviour of the army at Las Aradas was not new, just a little more extreme than usual. The Salvadorean soldiers have a single tactic to discourage

Three hundred peasant refugees had arrived that morning. Few of them would survive the day

peasant support for guerrillas—terror. Lolita and her husband had fled to Las Aradas after soldiers had decapitated some of their neighbours. The heads had been left nearby by the side of the road to ram the lesson home. Most refugees have stories of such appalling brutality it is difficult to believe that it became almost a way of life.

Officially they were all victims of a massacre that never happened. The government of El Salvador has denied that any killings took place at the Sumpul river on May 14. On June 25, the military leader of Honduras, President Policarpo Paz Garcia, said on national radio that the massacre did not happen. One of his army chiefs, however, Colonel Ruben Montoya, head of the third military region, denied that the Honduran army had taken part, while admitting that the incident took place: "The Honduran troops did not help in the killings of civilians."

At first the American embassy in Tegucigalpa, the Honduran capital, told reporters that there was no evidence to support claims of a massacre. But like the government, the Americans later changed their line, admitting "something happened" at the Sumpul river that day.

At noon the day after the massacre, a Roman Catholic priest from the Capuchin order walked over the hills towards the Sumpul. If he had not, then the massacre might have become just peasant folklore. Father Earl Gallagher, 35, comes from Brooklyn, New York City. He has worked in Honduras for four years. Because of his prematurely grey hair and prowess at climbing the hills, he is known by the

peasants as "the old billy goat." He noticed that the river banks looked strangely black. When he got closer he saw why. They were covered in a thick carpet of buzzards. In the village of Talquinta he met his first survivor, a 10-year-old boy with bullet wounds in his mouth, thigh and shoulder.

"I heard that Salvadorean troops were coming back to kill the survivors," said Gallagher. "I felt I had to make it public and perhaps that would help them." It did not help the little boy. A month later he fled from the Honduran army back to El Salvador, where he was killed.

Gallagher returned with a camera and tape-recorder and took down the stories of dozens of survivors. He could not visit the Sumpul itself because it was still patrolled by members of Orden, who shot intruders. Meanwhile, dogs and buzzards picked the bodies clean.

On June 24, Gallagher's report condemning the massacre and the role of the soldiers of both El Salvador and Honduras was published as a joint declaration by the priests of Santa Rosa de Copan.

Gallagher immediately received death threats over El Salvador Radio. He was threatened with expulsion and condemned by the Honduran government. The then minister of foreign affairs, Eliseo Perez Cadalso, said on July 1: "The church declaration responds to a well-orchestrated campaign with the purpose of destabilising the convivial and highly democratic climate in which the people of Honduras live."

Gallagher's report reached Washington, where the only

person who paid attention was Senator Edward Kennedy. He had it placed on the congressional record on September 24, and said: "I am deeply concerned by reports of increasing hardship, and often death that face innocent men, women and children who try to escape the escalating violence in El Salvador."

But the world paid scant attention, inured perhaps by the daily stories of violence in Latin America. The Sumpul massacre was mentioned in a few newspapers which ran part of Gallagher's report. It was almost completely ignored by the American press at the time. "Our thing was: it happened. Come and have a look. And nobody did," said Gallagher.

The misery for the Sumpul survivors and the 29,000 refugees who have fled El Salvador for Honduras did not end on May 14. "They live in fear," Gallagher said last week. "Their only hope is international attention."

He and other priests have compiled a list of incidents against refugees since the massacre. It runs into several pages, a litany of murder, rape and cruelty.

Hundreds of refugees have been handed to Salvadorean troops to face certain death. In the Honduran town of Santa Rosa last week an 18-year-old girl described her life in El Salvador. She lived near the Honduran border with her husband until soldiers took him away and shot him. She moved in with her four brothers. Last year, Salvadorean national guards took them out of the house and sprayed them with liquid from cans they carried. "Their skin went black. Their eyes melted," she said. Her brothers were pushed into a cornfield and killed with machetes.

Last week we spoke to Lolita, who now lives with her husband and five remaining children in an adobe hut deep in the Honduran hillsides. Life for her is not convivial. She is afraid, and for good reason. The Honduran government has refused, at the urging of El Salvador, to grant Lolita or the other refugees "refugee status." This means their movements are tightly restricted and they cannot find work. They are constantly treated with expulsion.

There are also signs that the Honduran government is growing more repressive. A week ago a colleague of Gallagher's, Father Fausto Milla, was arrested by security men. He was blindfolded and interrogated for three days. He had just returned from a human rights conference in Mexico City where he presented the testimony of Lolita and other Sumpul survivors.

The day we saw Lolita, she had been visited by a Honduran security man, who threatened her with expulsion back to El Salvador. "They may as well kill me here," she said. "It's easier."

Photographs by Louise Gubb

Survivor: Lolita Gu

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Massacre survivor Margarita Lopez



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Photographs by
Louise Gubb



Survivor: Lolita Guardado displays the scars from some of her 15 bullet wounds

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