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November 30, 1989

The Honorable James A. Baker III
Secretary of State
Department of State
2201 C Street, N.W.
7th Floor
Washington, DC 20520

Dear Secretary Baker:

We are writing to express our serious concerns about the current investigation of the November 16 murder of six Jesuit priests and two women at the Central American University (UCA) in San Salvador. The Lawyers Committee has closely monitored human rights and the administration of justice in El Salvador for ten years. The Committee represents the families of the four U.S. Churchwomen who were murdered in El Salvador in December 1980. Earlier this year we published a book-length report on human rights and the administration of justice in El Salvador, a copy of which we enclose.

The author of that report, Martha Doggett, was in El Salvador from November 2-22. While in the country, Ms. Doggett, who coordinates the Committee's program on Latin America and the Caribbean, had an opportunity to interview a number of people with information about the killing of the priests, including persons who had access to the eyewitness to the attack. These interviews and other information we have reviewed lead us to conclude that members of the Salvadoran Armed Forces are implicated in the murders. This conclusion rests on strong circumstantial evidence.

First, the area surrounding the university campus had been controlled by the military since Saturday November 11, when the FMLN offensive began. Early that evening fighting broke out at the Torre Democratico, roughly one block from the Pastoral Center where the priests were killed. In a chronology of events surrounding the murders, the Central American Province of the Society of Jesus reports that soldiers arrived at the UCA within ten minutes of the outbreak of fighting on the evening of November 11 and "controlled the situation."

On Monday, November 13 Father Ignacio Ellacuria, the UCA Rector, returned from a visit abroad and entered the campus by the main gate, which had been guarded by the Armed Forces since Saturday evening. Soldiers questioned the rector and he was only allowed to enter after he told them he lived on the campus. At approximately 7:00 pm that evening, uniformed members of the Salvadoran Armed Forces arrived at the Pastoral Center, where the Jesuits were living, and conducted a thorough search of the premises. Unlike earlier raids of the university, the soldiers took no interest in books, files, or other written materials, instead focusing exclusively "on the place and the people," according to a source familiar with the raid who was interviewed by the Lawyers Committee. The source added that the soldiers took notes. Though Father Ellacuria invited the soldiers to return to the campus during daylight hours to search the rest of the institution, the men seemed only interested in the Pastoral Center and did not return to the UCA the following day.

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On Wednesday, November 15 the military continued to patrol the area surrounding the UCA. That morning an officer told one Jesuit that in the afternoon or evening there would be "a lot of movement." It should be noted that since Sunday, November 12, San Salvador had been under a 6:00 pm to 6:00 am curfew. Areas of the city where the heaviest combat occurred were under a 24-hour curfew.

Some time between 2:00 and 3:00 am on November 16, uniformed soldiers entered the campus by the back gate and opened fire on the Pastoral Center, according to the eyewitness. During an attack which lasted from 30 to 45 minutes, the soldiers dragged the six Jesuits out onto the lawn, forced them to lie face down, and killed them, five of them with a shot to the head. Two of the priests were then moved back into the house, according to a reconstruction of the events by those with knowledge of the autopsy and who examined the scene shortly after the shootings. A cook and her daughter were also shot and killed in the room where the two slept. While the exact sequence of events is not known, the assassins also ransacked and burned an office in the Pastoral Center and sprayed parked cars with gunfire. The length of the assault and the amount of firepower used indicate that the killers did not fear detection or interruption by members of the Armed Forces guarding the area during the curfew.

Now some two weeks after the killings it is clear that the investigation is already floundering. Judge Ricardo A. Zamora, San Salvador's Fourth Penal Judge, has to date recorded only two testimonies. As you know, under the Salvadoran civil law system an investigating judge is responsible for gathering evidence in the case. Judge Zamora told an associate of the Lawyers Committee last week that given his already enormous caseload and the difficulties posed by the war, it would be very difficult for him to devote substantial effort to the case.

Especially disturbing to the Lawyers Committee are the pronouncements of El Salvador's Attorney General (Fiscal General), Mauricio Eduardo Colorado, whose office is responsible for prosecuting the case. On November 18, the Attorney General wrote a letter to Pope John Paul II suggesting that those members of the Salvadoran Bishops Conference who "persist in keeping alive this questionable ideology 'church of the poor'" be sent out of El Salvador. Stating that he was not acting in an official capacity but as a Catholic layman, Mr. Colorado said that while he intended to investigate the Jesuit slayings, it was better to head off the need for future investigations. In suggesting that clergy who support "a tendency called 'the popular church'" were in danger, Mr. Colorado inferred that forces of the Right were responsible for the Jesuit killings. Yet in a subsequent press conference the Attorney General said he had uncovered an FMLN plot to assassinate priests and that Archbishop Rivera y Damas and Auxiliary Bishop Rosa Chavez were next on the list.

In the two weeks since the Jesuit priests were killed there have been a number of official pronouncements made in San Salvador and Washington about the murders and official efforts to investigate these horrible crimes. President Cristiani has on several occasions pledged to prosecute all of those responsible to the full extent of Salvadoran law. He has said that "If there are people involved who turn out to be members of the Armed Forces then the weight of the law must fall on them."¹

While we welcome these public assurances by President Cristiani, we are concerned that the effect of his statements has been seriously undermined by contradictory statements made by other senior Salvadoran officials. Twice last week Salvadoran Foreign Minister Jose Manuel Pacas Castro told interviewers from U.S. television networks that in his opinion the Jesuits were killed by members of the Salvadoran left.²

¹Richard Boudreaux and Marjorie Miller, "Six Jesuit Priests Slain in El Salvador," *Los Angeles Times*, November 17, 1989.

²PBS, MacNeil-Lehrer, November 17, 1989; Face the Nation, CBS, Sunday November 26, 1989.

Further, Attorney General Colorado told reporters last Friday that his office had not determined whether any government troops were near the university campus when the priests were killed. Given extensive eyewitness testimony to conditions on the campus during the period preceding the killings and information gathered by Ms. Doggett in San Salvador, we believe that Mr. Colorado's statement indicates a serious disregard for the facts. Further, he said that no one in his office had questioned any soldiers.

As you know, Mr. Colorado is responsible for prosecuting this case. His comments suggest a shocking lack of commitment to the type of aggressive, professional investigation that is so urgently needed. At his news conference, Mr. Colorado said that his office had received no information to support charges that the Salvadoran Army was involved in the murders of the priests. He concluded, "From what we know now, it would be reckless to say it had been the Army."³

According to one news report following the press conference, a "high-level (U.S.) embassy official said [that] Colorado was blocking the investigation of the November 16 assassination...."⁴ The same article quoted an unnamed U.S. embassy official in San Salvador as warning: "There are a group of second-tier officials who are saying things that aren't in sync with what Cristiani is saying. You aren't really seeing any effort to desmentir (retract) what they said."⁵

We find the Attorney General's comments particularly troubling. It is clear that successful prosecution of this case will not be possible without his wholehearted support and involvement. We are interested in learning if Ambassador Walker or any other senior embassy officials have met with the Attorney General since Friday to discuss his remarks. We would be interested in your assessment of his handling of the case thus far, and how he plans to conduct the investigation in the weeks and months ahead. Has Mr. Colorado assigned one or more deputy prosecutors to handle the case? Are they from the group of prosecutors in his office assigned to handle human rights cases?

The human rights department within the Attorney General's office is funded in part by AID's Administration of Justice program. We are concerned by views toward the work of this department expressed by Mr. Colorado in an interview with Ms. Doggett on the day the FMLN offensive began. His remarks suggested a diminishing focus on human rights. He said the department had adopted a "wider concept of human rights violations. There are no precise norms. We think any crime violates human rights." In our view, this attitude does not reflect the kind of commitment necessary to vigorously pursue a serious human rights case like the Jesuit killings.

Mr. Colorado, an attorney with no previous experience in government or demonstrated commitment to human or civil liberties, also expressed especially strong and negative views of the Special Investigative Unit (SIU), the U.S.-funded investigative body that has been involved in the Jesuit case. Mr. Colorado emphasized that the composition of the SIU poses a serious obstacle to justice. As you know, SIU investigators are drawn from the Salvadoran Security Forces, which have historically been implicated in serious rights violations themselves. Since the unit is charged with investigating the most sensitive human rights cases--in which military men and powerful civilians are often implicated--it is, in effect, charged with investigating its own personnel and allies, thus, the chances of a serious, independent investigation conducted by the SIU in this case are slim. Are Mr. Colorado's obviously negative feelings toward the SIU causing any difficulties in coordinating the investigation of this case? We are interested in learning what actions have been taken thus far by the SIU. Is their work being directed by civilian authorities within the justice system and coordinated

³Mark Fazlollah, "Officials: Salvador Situation Worsens," *Philadelphia Inquirer*, November 26, 1989.

⁴Id.

⁵Id.

with the work of the Attorney General's office and of Judge Zamora? We are interested in knowing how fingerprint and ballistics testing and other technical assistance that has been provided by the United States and other foreign governments has been incorporated into this process.

We are also interested in learning whether an investigation has been ordered by Army Chief of Staff Rene Emilio Ponce or the chief of any other unit of the Salvadoran Armed Forces. It is our understanding that under Salvadoran law, in order to prosecute a member of the Armed Forces who has committed a criminal act against a civilian, the Armed Forces themselves must bring the case to civilian authorities by removing soldiers from active duty and relinquishing jurisdiction over them. This would suggest that the military must conduct its own internal investigation in order to identify potential suspects, as was the case in the San Francisco (San Sebastian) massacre of September 1988 and in the 1980 Churchwomen's case. In our view, compelling evidence of military involvement in the Jesuit killings mandates such a military inquiry. If such an investigation has commenced, we are interested in learning who within the Salvadoran Armed Forces is responsible for this investigation. Have Ambassador Walker or other embassy officials met with Col. Ponce or others involved in the military's investigation? How long do they estimate this investigation will take to complete?

Further, we would like information concerning which units were assigned to the area surrounding the Central American University on November 15-16. Given the nature of military command structures, it is our understanding that this kind of information should be readily available.

Finally, we would like to know whether the U.S. government has any information supporting Mr. Colorado's assertion that there may not have been any soldiers around the campus that day and night, or any evidence supporting Foreign Minister Pacas' assertion that the FMLN may have been implicated in the killings. We would like to know the State Department response to these assertions and whether your concerns have been conveyed to the appropriate Salvadoran officials.

Over the last ten years the Lawyers Committee has monitored and documented the inability of the Salvadoran justice system to achieve accountability for even the most outrageous criminal acts. Frustration in Washington with the lack of prosecutions of human rights violators within the military was among those factors motivating AID's Administration of Justice program attempting to reform El Salvador's justice sector. In our study of El Salvador's justice system we trace the path of some 20 human rights cases, and concluded that despite the commitment of extensive U.S. resources, the Salvadoran justice system is no more capable of prosecuting military offenders than before the AID program began. In our view, AID's efforts to create parallel structures such as the Special Investigative Unit have weakened rather than strengthened existing institutions. If progress is to be made in beginning to improve the appalling record of the last decade, it is critical that utmost priority be given to investigating and prosecuting cases like the killing of the Jesuits.

In light of the obvious difficulties with this case and the recent indications of a lack of commitment by Salvadoran authorities to conduct a thorough and expeditious investigation, we ask you to consider sending a senior U.S. team to El Salvador to evaluate the current state of the investigative process. Such a team would follow the precedent of the Rogers-Bowdler mission that visited El Salvador following the killing of the four Churchwomen in 1980. We would strongly recommend that such a delegation be appointed and charged with producing a public report upon return.

Given the escalation in political violence in El Salvador, successful prosecution of all those responsible for ordering and carrying out these brutal murders must be given the highest priority.

We eagerly await your reply, and appreciate your attention to this important matter.

Sincerely,



Michael Posner
Executive Director

Enclosure

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