
Lawyers Committee for Human Rights



THE AMERICAS

**UPDATE ON INVESTIGATION OF THE MURDER
OF SIX JESUIT PRIESTS IN EL SALVADOR**

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The Murder

In the early morning hours of November 16, 1989, six Jesuit priests and two women were murdered at San Salvador's Central American University José Simeón Cañas (UCA). The killings took place on the fifth day of an urban offensive launched by the Farabundo Martí Front for National Liberation (FMLN). Because the murders occurred during curfew hours in a zone totally under Army control and because eyewitness testimony placed uniformed soldiers on the campus and the surrounding neighborhood, suspicion immediately focused on the Salvadoran Armed Forces. The university, known as the UCA, lies within a few blocks of several of the military's most important installations and two residential neighborhoods where many officers and their families live.¹

History of Threats Against the Jesuits

Last November's brutal attack against El Salvador's Jesuit community was not the first. Since the early 1970s, Jesuits have regularly been subjected to a vitriolic campaign of public attacks, which at times has erupted into violence. On March 12, 1977 Father Rutilio Grande, S.J., was murdered along with two laymen in Aguilares. In 1977, the entire community was threatened with death if they failed to leave the country within a month. Flyers distributed throughout the country read, "Be a patriot. Kill a priest." Jesuit residences and the UCA campus have been bombed 14 times since 1977. The UCA printing press was bombed twice during 1989; one attack caused \$70,000 in material damages. On July 3, 1989, a rightist organization linked to ARENA issued an open letter to President Cristiani calling for the arrest of and "summary justice" for Fathers Segundo Montes and Ignacio Ellacuría, two of the Jesuits murdered on November 16.

The Arrests

On January 19, provisional detention was ordered for nine active duty military men, four of them officers. Seven men belong to the elite U.S.-trained Atlacatl

¹Within blocks of the UCA are the following military installations: High Command Headquarters, Ministry of Defense, Military Academy, Directorate of National Intelligence (DNI), the San Benito Battalion of the National Police and two military residential neighborhoods, Colonia Arce and Colonia Palermo. The Security Forces also maintain constant surveillance from the upper floors of the Torre Democracia, a high-rise glass office tower at one corner of the campus. All these installations were within the special security zone set up on the afternoon of November 13 that was commanded by Col. Benavides. Col. Benavides, the head of the Military Academy, is now charged with the murders.

Battalion. Two officers were at the time of the murder assigned to El Salvador's Military Academy. The Academy director, Col. Guillermo Benavides, is the highest ranking Salvadoran officer ever detained in connection with a human rights crime. One of the defendants reportedly fled his unit in late December and will be tried in absentia.

The initial investigation of the crime was conducted by the Special Investigative Unit (SIU), a U.S.-funded and trained investigative body set up to probe sensitive human rights crimes. In the Jesuit case, the SIU's major contribution to the investigation consisted of ballistics tests which placed some members of the Atlacatl commando charged with the crime on the murder scene. Further, the SIU conducted early interviews in which members of the Atlacatl contradicted themselves and confused key aspects of their activities in the days surrounding the crime, thereby helping to narrow the pool of suspects.

An Honor Commission of the Army also played an early role in identifying the suspects. The Honor Commission represented a spectrum of the officer corps. Originally, it was reported that the Honor Commission received the SIU file, which by that point had focused on the 47 members of the Atlacatl commando, including seven of those now charged with the murder. In April, the Moakley report² cited conversations with two of the Honor Commission's ranking officers, both of whom denied the Commission had carried out its own inquiry. According to one of them, the Honor Commission sought simply to "motivate the soldiers to tell the truth."

It is now clear that the Commission played little constructive role. The lack of clarity about the Honor Commission's performance raises a number of unanswered questions. Given that neither the Honor Commission nor the Special Investigative Unit acknowledges choosing the nine defendants from the larger pool of suspects, the question remains, who did? On what basis were they chosen? The answers to these questions could shed light on the key issue of who gave the order to kill the Jesuits and when. The Honor Commission's report leaves no doubt that its members do not place any responsibility for the crime on the Armed Forces, limiting criminal responsibility to the nine men named in the report. The Commission clearly sought to minimize damage to the institution.

The Issue of Higher Orders

On the evening of November 15, 1989, some 24 top officers gathered at High Command headquarters to discuss how to turn the tide of the guerrilla offensive in the Army's favor. Among the decisions taken was to step up the use of the air war.

²Shortly after the November 1989 murders, Speaker Thomas Foley of the House of Representatives appointed a congressional task force to monitor progress in the investigation. Chaired by Congressman Joseph Moakley (D-MA), the task force issued a report on April 30, 1990, entitled, Interim Report of the Speaker's Task Force on El Salvador.

There was early speculation that the killing of the Jesuits was also raised at that meeting or that Col. Benavides could have misunderstood an order to move against the "ringleaders" of the FMLN.

Information has also surfaced about other meetings allegedly held on November 15 at which the murder order could have been given to Col Benavides. In an interview with *60 Minutes* broadcast on April 22, retired Col. Sigifredo Ochoa Pérez, once a top Army field commander and now a ranking official of the ruling ARENA party, charged that a small group of officers met late on the evening of November 15 and during this meeting Col. Benavides was given a direct order to kill the Jesuits.

An anonymous group of junior officers issued a letter on May 3 which supports Col. Ochoa's assertion that Col. Benavides was acting on higher orders when he allegedly ordered the Jesuits' murder. The officers say that Col. Benavides' superior that night was Col. Zepeda, the hard-line Vice Minister of Defense, in whose office meetings were held at 3:00 p.m and 5:00 p.m on the afternoon of November 15.

The Judicial Investigation

In keeping with El Salvador's civil law system, responsibility for the investigation of the murder lies with a "criminal judge of first instance," in this case Judge Ricardo A. Zamora of San Salvador's Fourth Penal Court. Judge Zamora has worked on the case virtually from the beginning, and has presided over an investigatory process which consists largely of interviews of witnesses called to give their "declarations." Defense attorneys and prosecutors representing the Attorney General's office have also been present at these sessions. This stage of the proceedings can last for a year or more, particularly in politically sensitive cases. Many notorious human rights cases remain in limbo and have never reached the trial stage.

This slow process has been made even more cumbersome by virtue of the numbers of witnesses involved and the glaring lack of cooperation on the part of military witnesses. Some 300 soldiers surrounded the UCA campus on the night of the murders while over 50 entered the walled complex. Scores of troops have been summoned to the court to be interviewed and cross-examined. Many Jesuits and other UCA neighbors have also been questioned, as well as political figures such as President Alfredo Cristiani and retired Col. Sigifredo Ochoa Pérez.

Over the last ten months, a pattern of behavior has emerged that demonstrates a lack of cooperation by members of the Salvadoran Armed Forces. Military witnesses often fail initially to answer the judge's summons. Most who testify are highly uncooperative and fail to recall even basic events surrounding the killings. Many military witnesses have provided contradictory testimony. Despite increased activity by the court, virtually no progress has been made in examining the question of

whether Col. Benavides was acting on higher orders. Nor has new evidence been added to the cases against those already charged.

To date, charges have been brought by Judge Zamora against four soldiers in relation to the cover-up of the crime. Lt. Col. Carlos Camilo Hernández has been charged with "destruction of evidence." Three men -- Sgt. Oscar Armando Solórzano Esquivel; Héctor Antonio Guerrero Maravilla; and Rufino Barrientos Ramos -- have been charged with perjury.

Events surrounding the arrest of Sgt. Oscar Armando Solórzano Esquivel illustrate the license with which soldiers apparently feel they may operate. Testifying before the judge for the second time on August 24, Solórzano Esquivel contradicted key aspects of earlier testimony. Judge Zamora ordered his immediate detention on charges of "false testimony" or perjury. Accompanied by fellow members of the Atlacatl Battalion -- six of whose members are in detention for allegedly murdering the Jesuits -- Solórzano fled the courtroom, escaping in a vehicle whose motor was running. Recorded by Salvadoran news cameras, the incident figured prominently on nightly news and in the press the following day. Embarrassed by the publicity, the military apprehended Solórzano Esquivel and brought him before the judge on August 28.

Problems and Obstacles in the Investigation

The Cadets: Illustrating the obstacles facing prosecution in the case, four cadets who the military said were on duty at the Military Academy on the night of the killings testified that in fact they were not on duty that night. Several months passed before Judge Zamora was able to cite those men who actually were on duty on November 15-16 and record their testimony. Those who admitted to being on duty failed to provide any useful information.

All of the first group of cadets named were second year students. Since generally only third year students at the Academy are assigned to serve as Commander of the Guard, the error should have been easily detected. It is striking that no one in a position to know about the error came forward to state that the wrong names had been provided. Considerable attention was given in the U.S. and Salvadoran press to the fact that the soldiers were sent abroad. It was only when the four cadets were sent back to El Salvador and told Judge Zamora that they were not on duty that the story began to unravel. As a result, over two months passed before the guards who were actually on duty the night of the murders appeared before the court.

Destruction of Evidence: On May 29, it was reported that all the logbooks kept during 1989 at the Military Academy had been burned, allegedly on the orders of a lieutenant colonel who had not previously been linked to the crime. Lt. Col. Carlos Camilo Hernández, who was then a major acting as deputy director of the Academy, reportedly ordered the destruction of this potentially important evidence between December 1 and 15, 1989.

According to Lt. Yussy Mendoza, a defendant in the case, some 70 registries were burned which would include records of who entered and exited the Academy as well as other kinds of information recorded during those days, such as weapons issued, vehicle movements, and personnel assignments. While Lt. Mendoza asserted that the records were burned according to standard operating procedures, then Defense Minister Larios officially informed Judge Zamora on June 14 that there is no standing order to burn logbooks kept by the Academy.

Lt. Col. Carlos Camilo Hernández was charged on June 26 with having ordered the burning of the logbooks. Claiming he had received threats, Lt. Col. Hernández' defense attorney resigned in mid-July. Released on bail for this minor offense, Lt. Col. Hernández returned to active duty and was injured when he triggered a guerrilla land mine in Chalatenango in August.

On July 24, Col. Ricardo Casanova Sandoval, the new director of the Military Academy, informed Judge Zamora that 16 logbooks from November and December 1989 that had been presumed burned had been located in the Academy archives. To our knowledge, none of these registries has yet been turned over to the judge. Another logbook, Col. Benavides' book of orders, was delivered to the judge in June. Suspecting that it may have been altered, Judge Zamora requested technical assistance from the FBI.

The Role of President Alfredo Cristiani

On numerous occasions, Salvadoran president Alfredo Cristiani has discouraged public speculation on the case. He has urged those with relevant information to present such information directly to the judge. He has also repeatedly expressed his commitment to pursue the investigation wherever it may lead. Yet on several critical points, President Cristiani himself has failed to provide needed leadership. Consider the following:

1. In the case of overwhelming circumstantial evidence implicating the Salvadoran Armed Forces, prominent members of Cristiani's government continued to assert that the insurgent FMLN guerrilla movement was responsible for the murders right up until Cristiani's January 7 announcement that "elements of the Armed Forces" were involved. At no point did President Cristiani publicly contradict their assertions.
2. On December 9, 1989, President Cristiani announced at a news conference that Lucia Barrera de Cerna -- the Jesuit housekeeper who gave crucial testimony placing soldiers on the scene at the time of the killings -- was lying and that she had admitted to never having left her bed on the night of the massacre.
3. President Cristiani waited five months before providing the court with a written report of the military Honor Commission that recommended that charges be brought against nine men. Despite much public speculation about the Commission's deliberations, President Cristiani did not volunteer that he had a written report until

a witness told the judge that the document had been submitted to the President and the judge asked him to provide it to the court.

4. On July 12, President Cristiani admitted publicly for the first time that he personally authorized the search of the Jesuit residence two days before the priests were killed. In the eight months since the murders, there had been wide speculation about who had signed the order.

5. At the same July 12 news conference, President Cristiani told reporters that guerrilla weapons were found at the Jesuit university on that November 13 search. The military has never asserted that arms were found, and President Cristiani did not respond when the Jesuit Provincial sought an explanation for this baseless assertion. Mr. Cristiani has still not retracted this false and damaging charge.

6. On September 7, testifying in person before the court, President Cristiani said that he was at High Command headquarters from 11:00 p.m. to 2:00 a.m. on November 15-16. This was precisely the time that the Jesuit murder operation was in progress. Mr. Cristiani said that at this time he was conferring with El Salvador's top military leadership: the Defense Minister, the head of the High Command, and the two Vice-Ministers of Defense. Further, Mr. Cristiani says he was briefed at 12:30 a.m. in the Tactical Operations Center where two or three U.S. advisors were present. In the months since the Jesuit murders, there has been much speculation about what went on that night at the High Command headquarters and the role of U.S. advisors during the offensive. President Cristiani waited 10 months to admit he was at the High Command on the night of November 15-16, and has yet to give substantive testimony that could help solve the crime.

Failure to Follow Early Leads

Several witnesses provided the SIU and the court with early leads implicating the Atlacatl commando unit which were not pursued by the SIU, whose agents are drawn from the Security Forces. It was not until mid-December -- one month after the crime -- that the SIU began to focus on the Atlacatl commandos. In not following these leads, important investigatory possibilities were missed in the critical early stages of the investigation.

1. The court record indicates that on November 17 the SIU interviewed members of the Montserrat Battalion of the National Police who were stationed at the Democracy Tower, on the edge of the UCA campus, on the night of November 15-16. These soldiers testified that at about midnight they saw tanks and personnel of the Atlacatl Battalion pass by on the street known as Albert Einstein, which forms one parameter of the campus.

2. SIU interviews with troops in the area on November 17 indicate that members of the Atlacatl Battalion patrolled the adjacent residential neighborhood on the night of the killings.

3. On November 21, Father Miguel Francisco Estrada, S.J., who replaced Father Ellacuría as UCA president, told the SIU that on Monday, November 13, members of the Atlacatl Battalion had searched the Jesuit residence where the priests were murdered two days later.

4. On November 28, Father Fermín Sainz, S.J. director of the Loyola Center near the UCA, told the court that Atlacatl troops occupied the retreat center on the afternoon of November 15. Shortly after the fall of curfew at 6:30 p.m., these troops moved off down the hill toward the campus.

Key Recent Developments

President Cristiani and ranking military leadership met with Judge Zamora and Supreme Court President Mauricio Gutiérrez Castro on August 20. According to media accounts, the officers reiterated their commitment to collaborate with the judicial investigation and the two sides discussed ways to facilitate the investigation process. Following that meeting, the court began a new series of interviews with some 24 officers who attended the meeting at High Command headquarters on the evening of November 15.

All the officers who have testified to date have denied that there was any discussion of the UCA or the Jesuits during that meeting. Their testimony has, however, clarified the official command structure in place at the time of the killings. Several officers have indicated that only Col. Ponce, then Chief of Staff and now Minister of Defense, could have given orders to Col. Benavides and that it was he who decided that the Atlacatl commandos would undertake the search of the UCA and be assigned to the military complex security zone during the period November 13-16.

In a surprising revelation, Lt. Col. Juan Emilio Velasco Alfaro, who heads up the elite Bracamonte Battalion, testified that he was named to replace Col. Benavides as commander of the special security zone in early December, just weeks after the killings and over a month before Col. Benavides was detained in connection with the slaying. Lt. Col. Velasco said he did not recall if he knew that Benavides was a murder suspect when he relieved the colonel from this sensitive post.

The Role of the United States

One aspect of the investigation that has not been thoroughly examined is the role of U.S. personnel in the days surrounding the murders and the information they may have had prior to or after the crime. Among those aspects which warrant further attention are the following:

1. **U.S. Training:** The soldiers now charged with killing the Jesuits participated in a training course run by U.S. special forces attached to Ft. Bragg, North Carolina up until 48 hours before the murders. These Green Berets were later trapped in the San Salvador Sheraton when the FMLN stormed the hotel on November 21. In

correspondence with the Pentagon in April, June and September, the Lawyers Committee requested detailed information on the nature of the U.S. training and the nature of contact between these Green Berets and the Atlacatl commando unit in the days surrounding the murders. That information has not been provided by the Pentagon and we urge that these men be questioned by the Moakley task force or some other appropriate body.

2. U.S. Major Eric Buckland Offers Key Testimony: The Moakley task force observed that despite "good police work, those now charged with the crime might not have been arrested if an American military officer [Buckland] had not come forward in early January with information concerning the alleged involvement of Salvadoran Col. Alfredo Benavides in the case."

According to Major Buckland, about December 20, a Salvadoran colonel told him that Col. Benavides had confessed his role in the crime to the officer heading up the SIU investigation. This officer, said Buckland, "was scared and didn't know what to do. As a result, the investigation slowed . . ."

Major Buckland's testimony was no doubt vital in moving the investigation forward, but his information also has other important implications. If Col. Benavides confessed early on to the SIU chief, this officer's testimony could help convict Benavides. Further, this officer himself would be implicated in an attempt to cover up the crime.

On September 28, Major Buckland appeared before Judge Zamora in San Salvador for questioning. As a member of the U.S. Embassy staff, Major Buckland enjoyed diplomatic immunity and his appearance followed several months of negotiations between the two governments. The veracity of Buckland's account had been called into question when two Salvadoran officers denied their part in the events as described by Major Buckland. In this week's testimony, Major Buckland confirmed his account and offered additional details.

3. Presence of U.S. Personnel in the High Command Headquarters: On September 7, President Cristiani testified in court in an unprecedented personal appearance. During his two-hour testimony President Cristiani mentioned a military briefing he was given at 12:30 a.m. on November 16 at High Command headquarters. He said that two or three U.S. military advisors were present in the Tactical Operations Center during the briefing. He did not identify them by name.

Lt. Col. Juan Vicente Equizábel Figueroa told the judge on September 12 that two U.S. advisors -- Col. Porter and Major Lewis -- were working with C-2, the Intelligence section of the Salvadoran armed forces, in the days surrounding the Jesuit killings. We urge that these U.S. personnel be identified and interviewed to determine what they may have observed or heard concerning the murders.