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The UCA case on hold (editorial)

While the war escalates, the Salvadoran government's political and military decision to cover up the identities of the intellectual authors of the UCA massacre is approaching another decisive moment. The immediate future of the case seems to be pending a new political determination, one whose extremely high political costs are still being weighed, and whose outcome seems much more contingent upon the willingness of the United States to cooperate than on the virtually exhausted internal dynamics of the investigation.

Since November, the case has entered a difficult holding pattern, in which only one testimony of any importance was given, that of Maj. René Guillermo Contreras, who on the night of the massacre was head of counterintelligence for Group II (Intelligence) of the Joint Chiefs of Staff as well as responsible for security for the Staff complex, which also houses the Ministry of Defense. Although Contreras acknowledges having heard powerful explosions near the complex, he stated that he took no initiative to report any danger to the troops and sentinels under his command. In this he coincides with other previous testimonies from those who guarded the periphery of the UCA that fateful night. So in their zeal to cover up for the top echelons, the Armed Forces has not hesitated to stoop so low as to admit that defending and protecting the civilian population is only for propaganda speeches, since when danger comes their members are only concerned for their own safety.

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Little progress, thus, has been made in the case. The insignificant powers granted to Judge Zamora have not been enough to penetrate the tangle of lies, contradictions and unknowns woven by members of the top military echelons. The reciprocal denials spouted by those directing the investigation and the Armed Forces' Honor Commission have also left the case in the dark. So little can be done in the face of such impunity that the murderers' legal defense team has decided that the time has come to ask for the charges to be dismissed, which the judge has countered by heaping additional counts of terrorism, conspiracy and acts preparatory to terrorism on the direct authors of the crime, while the Attorney General's Office replied that the case has been sufficiently investigated to take it to trial.

The Attorney General's reaction is nothing less than premature and naive, since among other things, the results of the FBI's tests regarding the possible forgery of Benavides' operations logbook are not yet available; the book went from the hands of the head of the Special Investigative Unit (SIU), Lt. Col. Rivas Mejía, to those of Benavides' successors at the Military Academy, without letting the judge see it or find out where it was for over seven months. The United States has still not decided whether or not to heed the request made by the judge over a month ago to turn over a copy of the most important revelations of Maj. Buckland, as well as the 81 secret documents it possesses related to the execution of the crime and the identity of the murderers. Without these pieces of evidence, it would be senseless and irresponsible to take the case to trial merely because the defense team has asked for the charges to be dismissed.

The urgency surrounding the decision to drop charges or go to trial is even more unacceptable and suspicious to the extent that the arguments used by the Bush administration to protect the identity of the intellectual authors are becoming ever weaker, untenable and counterproductive. In November, Newsweek published statements by an administration official who admitted that after concluding that Buckland's statements about the army's preconceived plan to murder the Jesuits were in fact absolutely true, the FBI and State Department decided to grill him until he recanted, considering that such testimony "wasn't productive to the conduct of the war" in El Salvador. By admitting that, however, the U.S. has in its own way taken a step forward in indicating how high in the army the responsibility for the massacre goes. Furthermore, the exaggerated and unacceptable excuse of national security wielded by the U.S. as a way to withhold documents about the massacre has become nothing more than a way to protect its network of informers within the army, a network which in ten years has served only to identify and promote those who best serve U.S. war strategy without regard for criminality and corruption. One would have to be either highly candid or highly unscrupulous to suggest that solving a case that is so crucial for El Salvador (and for the honor of U.S. policy) does not merit the sacrifice of even one member of the informants' network, a trivial sacrifice in light of the United States' own spy and Cold War mentality.

The connection between the Jesuits' murderers and those who run the war within the Armed Forces is slowly and surely becoming clearer, as Rep. Moakley has so often insinuated. For this reason, justice cannot be served in this case by restricting it to purely judicial boundaries, since it directly affects the political will of the Salvadoran and U.S. governments. It is precisely this resolve which is at stake internationally. Soon it will be decided whether the chances for peace, and especially the very future of the government, will lie with the murderers of the Jesuits or with the dignity of the Salvadoran people.

The FMLN military campaign continues

The latest FMLN campaign has gone on now for two weeks without showing any signs of fading. San Salvador and Usulután continue to be the principal stages of insurgent war actions, although some action has also been registered in the traditional rebel strongholds, where the FMLN has struck important blows at the army.

On December 4, in Chalatenango, the FMLN downed an AC-47 transport plane fitted with three .50 caliber machine guns using a SAM-14 surface-to-air missile. The incident took place in the area around La Laguna, when the plane was providing logistical support to infantry troops engaged in combat with rebel units. The entire crew was killed except for one of the flight technicians, who managed to eject with a parachute.

On December 1, rebel forces launched simultaneous attacks with mortars and RPG-2 rocket launchers against the "5 de Noviembre" and "Cerrón Grande" hydroelectric dams located in the department of Cabanas. The attack produced no casualties among second Military Detachment troops who were guarding the area, but electric company spokespersons reported considerable damages at the "5 de Noviembre" plant, with one transformer completely destroyed. Preliminary estimates hold the damages at over \$800,000.

According to a preliminary assessment broadcast over the rebel radio Farabundo Martí, the FMLN caused 600 casualties among army troops, including at least half a dozen officers, during the first nine days of the campaign. The FMLN also said it destroyed 12 airplanes and helicopters and nine light tanks, and damaged six major garrisons; it also reported taking dozens of weapons as well as a great quantity of ammunition and other war materiel.

During the last week, the rebel campaign produced seven clashes and eleven attacks on military positions in eight departments. At the same time, the FMLN has said it is prepared to step up its activities as a way to pressure the government and the Armed Forces to negotiate seriously to achieve a political settlement to the war. In a communique published on November 30, the insurgents declared, "if the government doesn't want any FMLN military campaigns, then it should accept the fact that its Armed Forces has lost great portions of territory and a great number of municipalities, it should stop invading, stop bombing, stop putting pressure on the disputed zones and stop the repression in the cities." The FMLN also warned the government: "if you want to avoid a large-scale offensive, then negotiate seriously and accept the fact that the Armed Forces must be abolished."

Insurgent attacks in the San Salvador urban area have been chiefly characterized by commando actions against security patrols, although they have also included harassment of civil defense posts on the outskirts of the capital and constant sabotage of the electrical system.

On November 28, rebel columns attacked--for the second time in two months and for the third time in the war--"La Esperanza" men's prison located in San Luís Mariona, Mejicanos. The attack began at 10:20 p.m. with intense rifle fire and barrages from RPG-7 rocket launchers aimed at security personnel and troops from the First Infantry Brigade guarding the prison. The action left four dead (including one prisoner) and nine wounded. That same evening, an automobile filled with explosives was blown up in barrio San Jacinto, 300 yards from the Presidential Palace. The "Modesto Ramírez" urban commandos

took responsibility for another attack on a military outpost the same day, and two explosives were fired at the offices of the Central Electoral Council.

On the morning of November 30, a light tank from the Cavalry Regiment, parked 100 yards away from the National University, was hit by a shot from an RPG-2 rocket launcher, killing two soldiers and wounding three. Moments later, another army vehicle, parked next to the Central Market, was damaged when urban commandos fired an explosive which wounded two soldiers from the Bracamonte Battalion and nine civilians. In other actions, a soldier from the First Infantry Brigade was wounded when troops attempted to drive back a rebel incursion into San Ramon, just north of the capital.

Fierce fighting continued in Usulután, with a high number of casualties on both sides. Battles in Jucuarán and San Dionisio left eleven soldiers dead, while in Santa Elena, COPREFA reported 31 rebel dead and 52 wounded after guerrilla columns clashed with troops from the Third Infantry Brigade; the government reported three soldiers dead and eight wounded. The FMLN also launched simultaneous attacks against the headquarters of the Sixth Infantry Brigade and the Atonal Battalion, both located in the capital of the department, leaving four soldiers wounded. Other rebel units harassed military positions guarding two cotton cooperatives. Fighting broke out again near Santa Elena, with eight rebels and two soldiers dead.

In Chalatenango, besides the fighting in La Laguna reported above, which left 13 rebels and one army officer dead, the FMLN attacked the Fourth Infantry Brigade barracks with artillery fire on December 2. Another unit of the same brigade was attacked in San Rafael, killing one soldier and wounding two.

The FMLN has issued a clear warning that if the government and the Armed Forces refuse to take more flexible positions at the negotiating table, it will step up its campaign of military pressure.

IDHUCA Report: Recommendations by international organizations on the issue of impunity

As we have commented in previous articles, the Human Rights Agreement signed by the FMLN and the Salvadoran government last July 26 represents a very positive step in efforts to improve respect for human rights in El Salvador. The arrival of the U.N. verification mission will herald an important means to oversee compliance with and promote respect for human rights. However, there is no doubt that these steps are not enough to insure full respect for human rights. They must be complemented with additional measures in order to guarantee that human rights are respected in practice.

According to the Inter-American Convention on Human Rights, one of the fundamental obligations of the State is that of "guaranteeing" the free and full exercise of those rights recognized under the Convention for all persons under its jurisdiction. According to the Inter-American Court of Human Rights, "this obligation implies the duty on the part of the participating States to organize the entire governmental apparatus, and in general, all structures of public power, in such a way that they will be capable of legally insuring the free and full exercise of human rights. As a consequence of this obligation, the States must prevent, investigate and sanction all violations of the rights recognized

under the Convention, and they must furthermore do whatever is possible to redress the violated right and, where applicable, make reparations for the damages caused by the human rights violation."

The last section of Article 1 of the Human Rights Agreement places a priority upon the investigation of cases of torture, extrajudicial executions and forcible disappearances. In thousands of cases which have occurred over the last ten years, the Salvadoran civilian authorities have not been able or have not been willing to hold the Armed Forces responsible for acts of political violence. Among the factors which contribute to this situation is the fact that those responsible for police investigations are under military authority, and show no interest in solving cases of human rights violations, especially when those responsible are themselves military personnel; a highly politicized Attorney General's office, which also lacks resources to carry out serious investigations; a judicial branch which lacks political independence, as well as independence from the military and in economic terms. On top of all this, existing laws are inadequate and procedures are not functional.

What, then, can be done about the notorious non-compliance on the part of the Salvadoran State with its human rights obligations? There must be a radical change in the behavior of the State, in which it assumes its obligations, not only to respect but also to guarantee human rights, and the State must take a series of effective measures in this field.

Here is where the experience of international organizations which monitor human rights can offer some assistance. These contributions are valuable because they are formulated independently, impartially and objectively apart from governmental power. They also come from organizations which have had the opportunity to make thorough comparisons of different situations throughout the world. In the following paragraphs we will set forth some of the recommendations made by P. Kooijmans, the Special Rapporteur on Torture of the U.N. Human Rights Commission, in his report on a visit to Guatemala in 1989, and others which appear in the Amnesty International Report on *Killings, Torture and "Disappearances" in El Salvador*, published in October of this year.

1. The government should publicly condemn and take steps to halt "death squad" activities. These steps should include a special investigation into all "death squad"-style killings, including the examination of testimonies of former members of the military and security forces who allege that such units exist within the Armed Forces. These and other effective measures must be taken with the purpose of investigating the identity and composition of such groups, dismantling them and prosecuting those guilty of committing serious human rights violations.

2. Thorough and speedy investigations should be carried out into reports of extrajudicial executions, torture and "disappearances" and those responsible brought to justice, regardless of when the case occurred. Investigations into "disappearances" should clarify the circumstances in which the person was abducted, the agency and individuals responsible and the fate of the "disappeared". The government should consider establishing an independent commission of inquiry--or a similar procedure--to ensure that effective and impartial investigations are carried out into past human rights abuses.

3. The results of all investigations should be made public since the only way that public

opinion will be convinced of the authorities' commitment to bring the perpetrators to justice is to see public proof that human rights violations will not be tolerated.

4. In order to strengthen investigative capability, serious consideration should be given to the creation of a judicial police force responsible to the Supreme Court, to assist it in carrying out investigations. At the same time, the government should separate the existing security forces from the Armed Forces and permanently exclude all members who could be identified as responsible for human rights violations.

5. Organisms to monitor the police, which do not include members of the police forces (for example, a Police Office of Professional Responsibility), should be established. The decisions taken by this office with regard to persons declared guilty should be made public, even if only in general terms. The possibility of creating analogous offices in other military bodies should also be considered.

6. The government should ensure strict control, including a clear chain of command, over all officials responsible for arrests, detention or imprisonment, and over all officials who carry firearms.

7. Investigations should establish chain-of-command responsibility for patterns of human rights violations, as well as individual cases. Anyone found to have ordered, committed or covered up human rights violations should be brought to justice. Anyone who obstructs an investigation should be immediately brought to justice and punished according to the law.

8. Steps should be taken to strengthen the Attorney General's Office and to ensure its independence so that it is able to operate more effectively in carrying out its tasks including processing complaints of human rights violations, initiating the corresponding legal action and intervening in legal proceedings related to human rights violations, monitoring investigations from the initial police inquiry stage to ensure that procedural requirements are strictly complied with, and reporting irregularities in judicial proceedings so that disciplinary measures may be taken.

9. The creation of a human rights advocacy office with sweeping powers should be given serious consideration.

10. Serious and effective measures should be taken to guarantee the safety of all persons who investigate and monitor human rights violations; measures should also be taken to protect victims, their relatives, witnesses and judges who may be involved in the reporting or investigating of human rights abuses.

11. Police and Armed Forces training programs should include courses on human rights in which it would be emphasized that serious human rights violations (such as torture) will be severely punished, and that no one is to obey any order to commit such violations.

12. A central archive on all violent deaths should be set up at the national level. Such an archive should include information to facilitate the identification of cadavers and the

investigation of any crime which could have been committed in connection with such deaths; the files should be open to the relatives of the victims, and to the organizations and individuals who attempt to find "disappeared" persons.

13. Steps should be taken to ensure that military personnel cooperate with investigations and that members of the judiciary fulfill their professional duties in carrying out prompt and thorough investigations.

14. Forensic investigations into killings and allegations of torture should be carried out promptly and thoroughly in all cases. Steps should be taken by judicial authorities to ensure that forensic investigations, including autopsies, are performed in accordance with international standards included in the U.N. Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.

15. Any authority which suspects that a human rights violation has been committed should report it to the relevant body for appropriate action, whether or not the victim or their family wishes to make a formal complaint. The absence of a complaint by the victim or his/her relatives should not be a reason for failing to carry out investigations. Failure by any authority to report human rights violations should be sanctioned.

16. The prompt ratification of the U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984 and other related international instruments, as well as the recognition of the jurisdiction of the Inter-American Court of Human Rights, will contribute significantly to preventing and eliminating torture.

This list is obviously not exhaustive. There are other measures which could also help strengthen the Human Rights Agreement and could insure that the government has a better chance of fulfilling its obligations to respect and guarantee human rights. What is most important is that we all begin to think creatively about steps which could be taken to confront the issue of impunity.

Initiative for (North) America?

President Bush's Initiative for the Americas has awakened great--but ambivalent--expectations on this continent. There are those who see it as an opportunity for prosperity and even as a panacea to solve all the economic problems of the region. However, there are also those, such as the Permanent Secretariat of the Latin American Economic System (SELA), who point out that the Initiative could be more advantageous for the United States than for the rest of the participating nations.

Internationally, the time is not especially ripe for this step. The atmosphere of uncertainty produced by the Persian Gulf crisis has not only continued, but has also worsened over the last few weeks, producing adverse effects on the economies of the oil-importing nations. The differing opinions in reaction to Bush's proposal which have emerged from Latin American academic and intellectual circles show how hard it will be for his economic integration plan to find broad acceptance. This is the context in which Bush has launched a tour of a number of South American countries, during which he will

presumably try to sell the idea that the economic integration of the Americas will bring benefits for all participants.

In the specific case of El Salvador, taking into account the moves already made toward economic integration at the Central American level, so far the prospect of hemispheric integration shows little sign of being favorably received at the local level. The nation continues suffering from a complete economic and social breakdown, which makes it harder to adopt a viable strategy for economic integration. Another obstacle to integration are the unfavorable conditions under which local industry would have to compete with more developed countries, a fact that private business organizations have already acknowledged.

Signs of a breakdown in national consensus continue to emerge, despite government efforts to satisfy business demands and co-opt worker protests. For example, after widespread demands to raise agricultural salaries, the government finally agreed to a 20% increase in the agricultural minimum wage, but this has by no means satisfied the agricultural labor organizations, who argue that wages must go up by at least 35% and have promised to keep the pressure on until they achieve the desired raise.

For its part, private business continues to be upset and reluctant to work for national consensus as a result of the government economic policies. The construction sector, represented by CASALCO, expressed its concerns about the possible effects that the reprivatization of the bank will have on its members. According to the president of CASALCO, a banking law must be passed which would guarantee that housing loans will be extended, because otherwise the banks will dedicate their resources to more profitable activities.

Also with regard to the reprivatization of the bank, the organizations belonging to the Confederation of Cooperative Associations (COACES) asserted that the measure will lead to a concentration of credit in the hands of the most powerful economic sectors, which will leave the cooperatives at a disadvantage since they will not have access to credit.

And more related to the prospects of hemispheric economic integration, members of the Chamber of Commerce and Industry (CCIES) have already set forth some of the problems that business might face in a broader market. Dr. Juan Daboub, member of the CCIES committee on industry, predicted that reduced tariffs could lead to "dumping" of merchandise on the part of foreign companies. In Daboub's opinion, the government must protect local businesses with legislation and import tariffs, although he does not deny that in order to compete with foreign goods, local industry must improve the quality of its products. Given that trade barriers would be dropped under the Bush plan, this opinion is especially important since it echoes one of the chief objections to the Initiative: the unequal conditions of competition among the participants.

The prospects of success for a hemispheric free-trade zone are not yet quite clear. The disparate levels of development of the systems of production of the different countries leaves in doubt the likelihood that all will benefit from such integration; not even the existence of an "enormous potential for agricultural trade" (in Bush's words) guarantees that the Initiative for the Americas will be advantageous for all participants.

For example, take the case of the Central American Common Market. The differences between the levels of development of the systems of production among the five

countries were not all that great, yet they upset the balance of payments of the less-developed countries. To this problem was added the fact that the Chamber of Compensation never functioned, provoking the greatest problem of all in the whole process: the unequal distribution of benefits. In an even larger-scale process of integration, where enormous differences exist among levels of development, it can be expected that unequal distribution of benefits will take on giant proportions, leading to a greater decline in the relatively less-developed economies.

The possibilities of competing with countries like Brazil or Argentina, much less with the United States, who hold a significant advantage in terms of levels of production, productivity, diversification and product quality, over most of the other countries on the continent, will depend on the ability of the latter to improve their conditions of production. Given the region's current economic crisis, now exacerbated by the Persian Gulf oil crisis, the chances of improving the conditions of production appear quite remote. For the moment, the comparative advantage held by the less-developed countries in Latin America is in the area of agriculture, which has still been unable to energize the respective economies enough to achieve sustained economic growth.

U.S. efforts to win support for its integration plans should thus be seen cautiously by the Latin American countries. Although it is true that the Initiative for the Americas has aspects worthy of consideration, especially in terms of foreign debt, the proposed trade liberalization will produce unequal benefits for the countries involved due to the disparate levels of development of the different systems of production.

The effects that this process might have on the Salvadoran economy are especially worth noting, if the plan is implemented in its proposed form. As long as El Salvador is undergoing a process of structural adjustment, it is hard to imagine that the system of production can improve its competitiveness for two reasons: first, because of the extremely limited resources that the government would be able to destine toward stimulating modernization and increased competitiveness; and second, because the ability to import intermediate goods and capital necessary to stimulate the development of industry has been considerably reduced by the adjustment process itself and by the increased oil bill. Furthermore, our agricultural sector does not exactly have "enormous potential". The Salvadoran economy would therefore be one of the big losers in the type of trade liberalization proposed by the Bush plan.

Given all these factors, it cannot be recommended that the relatively less-developed countries--like those of Central America--take part in the Initiative, since the dropping of trade barriers would produce unequal competition among manufactured goods, driving many local businesses into bankruptcy and provoking lower levels of production and employment as well as a greater deficit in the balance of payments. For countries that are still relatively backward in their production methods, it would be better for them to launch a process of subregional integration among countries whose systems of production are at a similar level of development. Furthermore, the countries must work toward coordinating and guiding the productive specialty of each subregion in such a way that the economies could ultimately achieve a higher level of vertical and horizontal integration.

The U.S. proposal to establish a free trade zone in the Americas seems aimed at solving its own problems of trade and budget deficits, as well as preventing possible additional complications which could arise from the 1992 completion of the European Community's plan to set up one single market covering 300 million people, with a Gross

National Product of \$6 billion and whose world market share could reach 15%. The Bush plan seems to be more of a strategy to strengthen his country's position vis-a-vis trade partners like the European Economic Community and Japan who are giving him headaches, while the benefits derived by the rest of the American nations from the Bush integration plan are not quite clear.

Given the true situation which prevails in Latin America and the Caribbean--and leaving out the problem of the foreign debt--the Initiative for the Americas does not appear to include enough provisions to promote economic development on the part of the other countries of the hemisphere, but rather responds to two key U.S. needs: to restructure overall U.S. policy toward the hemisphere, and to strengthen its position in an adverse world economic climate.