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Congressional Record--Senate

**MOAKLEY REPORT REGARDING
MURDER OF JESUIT PRIESTS**

Mr. KENNEDY. Mr. President, 2 years ago, members of El Salvador's United States-trained Atlacatl Battalion entered the University of El Salvador and committed one of the most unconscionable acts in that country's long and brutal civil war—the vicious murder of six Jesuit priests, their cook, and her daughter.

Those murders shocked the conscience of the world and spurred Congress to take long overdue action in cutting aid to El Salvador. United States pressure forced the Government of El Salvador to take action against those responsible and, in a major historic breakthrough, the Salvadoran Government convicted two officers—a colonel and a lieutenant—for human rights violations. These convictions sent an important signal that the days of impunity for human rights violations by the military were numbered.

Now, in a disturbing report released today, Representative JOE MOAKLEY, the chairman of the Speaker's Task Force on El Salvador, has presented new allegations that the masterminds of the atrocity remain free in El Salvador.

The report concludes that there is strong circumstantial evidence to suggest that the crime was plotted by senior Salvadoran Army officials, including the current Defense Minister, the Deputy Defense Minister, the Commander of the Air Force, and the Commander of the Army's First Brigade, and that subsequently, the army initiated a coverup, destroying critical evidence and blocking the judicial investigation of the murders.

According to Representative MOAKLEY, all of the information presented in his report was already known by the Bush administration.

All of us who care about human rights owe a debt of gratitude to Representative MOAKLEY for the progress he has made—in the face of innumerable obstacles—in the investigation of these murders. His perseverance and commitment to justice have led to new evidence which otherwise would never have been brought to light.

If true, the evidence in his report makes a mockery of the trial of the murderers of the Jesuits and our continued military support for the Government of El Salvador. It also raises serious questions about the good faith of the Bush administration in pressing for a full investigation of this crime.

The Foreign Operations Act of 1991 required the President to terminate all military assistance to El Salvador if he determined that its government had failed to conduct a "thorough and professional investigation into, and prosecution of those responsible for, the [Jesuit] murders."

The President found that the Armed

Forces' cooperation in the investigation had "not been satisfactory." He found that military officers had provided "sketchy or contradictory testimony." He found that their testimony and actions had "raised questions about possible involvement beyond those currently indicted." And he found that important "questions remained unanswered." Despite these findings, the President failed to terminate military assistance to El Salvador.

On October 31, Senator DODD and LEAHY, joined by Congressmen OBEY and MOAKLEY, expressed to Secretary of State James Baker their concern that the President had not terminated military assistance to El Salvador. They requested Secretary Baker to provide Congress with a comprehensive report January 1, 1992, on the extent to which the government of El Salvador has conducted a thorough and professional investigation and prosecution of those responsible for the murders.

Congressman MOAKLEY's report makes it essential for the administration to provide Congress with more than another whitewash of events in El Salvador. The Moakley report lists considerable evidence—including eyewitness accounts—indicating that the decision to murder the Jesuits was made at a meeting of officers on the day before the killing took place.

The administration should respond to this evidence in detail. It should indicate when the Department of State and the Central Intelligence Agency first became aware of this evidence and why the administration did not make it available to the Salvadoran judicial system. And it should explain why the President failed to terminate military aid.

If America is to retain its role as the leader of the free world, it should be in the forefront of support for the ideals of freedom and democracy—not the forces of corruption and repression. It is time for Congress to insist on better answers than we have had so far from the Bush administration.

I ask the unanimous consent to include the text of Representative MOAKLEY's report in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

**STATEMENT OF REPRESENTATIVE JOE MOAKLEY,
CHAIRMAN OF THE SPEAKER'S TASK
FORCE ON EL SALVADOR, NOVEMBER 18, 1991**

This is, I suspect, the final statement that I will make as Chairman of the Speaker's Special Task Force on El Salvador. The Task Force was created to monitor the investigation into the murder of six Jesuit priests, their cook and her daughter at the University of Central America (UCA) two years and two days ago. Since the Task Force was created, we have issued one main report supplemented by occasional statements on my part and interim reports from staff.

I do not intend to repeat, in this statement, what we have said before. I want, in-

stead, to complete the record to the extent that rules of confidentiality and good faith allow me to do so.

I find this desirable because I felt from the beginning that the people of El Salvador deserve as full an accounting as possible of what is known about the Jesuits' case and the resulting investigation. I find it necessary because our Task Force was charged by Speaker Tom Foley with sharing what we learned with the Members of the House and with the American people. I find it important because of a statement from the Government of El Salvador that the "Jesuits' trial showed that our criminal justice system works." And I find it worthwhile to respond to a book length rebuttal of our work that was issued by something called the Central America Lawyers Group. According to that group, none of whose names are listed in the publication, "the Moakley Commission indicts the entire El Salvador Armed Forces as being responsible for the murders of the priests, yet presents no evidence of any specific orders, general policy, or permissive environment fostered by the High Command demonstrating institutional guilt."

I cannot fulfill my obligation as Chairman, nor can I respond to the criticisms that have made, without explaining more completely the basis for some of the statements I have made concerning the investigation in the Jesuits' case and the subsequent trial. I have contended, for example, that high-ranking military officers knew soon after the crimes were committed who was responsible but failed to come forward with that information. I have also stated my belief in the possibility—not the certainty, but the possibility—that the murders were ordered by senior officers other than Col. Benavides, the man who has been charged—and now convicted—of doing so. Although I have cited a number of reasons in previous statements for my beliefs, other information has not been cited because the sources of that information were not willing to be identified.

Today, for reasons of completeness, I will cite that portion of the information provided to us in confidence that I believe is most credible and that is most central to the statements I have made in previous reports. In so doing, I emphasize that this statement is based entirely on information provided directly to the Task Force by Salvadoran and other non-classified sources. In fact, aside from some cable traffic that was reviewed very early in our work and that is not relevant to anything in this statement, I have not sought—nor have I received—significant access to classified information or documents.

Before continuing, I want to mention a couple of related things for the record.

First, I believe that those in El Salvador and in the United States who have suggested that our Embassy orchestrated a cover-up of this murder case simply do not know what they are talking about. There is no question that the Embassy made some poor judgments during the difficult and often chaotic process of monitoring this investigation. But Ambassador Walker, his legal officers Richard Chidester and Stu Jones, and other key Embassy personnel devoted thousands of hours to this case and to the effort to see that justice would be done. Although the Ambassador is restrained by his position and responsibilities from detailing many of these efforts, I know that he has acted consistently and at times courageously in pursuit of the truth.

Second, I want to acknowledge the fact that, despite my criticisms, the Salvadoran

judicial system is making important progress. The Jesuits' trial, the recent indictments of a number of wealthy Salvadorans in a bank fraud case, and the resolution of the Zona Rosa case involving the murder of U.S. marines—all represent important steps forward. In addition, reforms resulting from the peace negotiations should provide the judicial system with important additional resources and should lead to the development, in time, of a professional civilian investigative capability. The conviction of Col. Alfredo Benavides in the Jesuits' case does, indeed, prove that a high-ranking Salvadoran military officer can be held accountable for the murders of prominent people provided there is sufficient international attention and pressure brought to bear on the case. This is indeed a limited accomplishment, but it is an accomplishment nevertheless.

Third, I want to give credit once again to the President of the Supreme Court, Mauricio Gutierrez Castro and the judge in the Jesuits' case, Ricardo Zamora, for their courage and skill in pushing that case forward. And although I have been critical of President Alfredo Cristiani at times, I do give him credit for encouraging the military to cooperate in the investigation and for the symbolic importance of his willingness to testify personally in the case. I believe the President was genuinely shocked by the murders of the Jesuits; that he made a sincere effort at the outset to push the investigation forward; and he insisted—at critical moments early in 1990—that the armed forces accept responsibility for the crimes. Without his efforts I do not believe that the most direct perpetrators of the crimes would ever have been identified.

Finally, I want to extend my thanks to those in the Salvadoran armed forces who did come forward voluntarily—albeit confidentially—with information in this case. In saying this, I do not mean those who simply passed on rumors, those whose stories are contradicted by other facts known to the Task Force, or those who offered information in return for favors of some sort. I am speaking of individuals who are experienced, respected and serious people, who were in a position to know the information they conveyed, who understood the harm done to the Salvadoran armed forces by the murders of the Jesuits, and who do not share the view that military officers in that country should be above the law. It is these respected—and I believe credible and sincere—individuals who are the source of much of the information described below.

I want it understood that these people incurred great personal risk in talking to the Task Force. Although I encouraged them to come forward and testify officially concerning their knowledge in the case, they refused to do so. All cited the risk of retribution against themselves or their families by extreme rightwing elements of the armed forces. Some said they had already been warned not to talk. Some said they would violate the confidences of others if they were to speak openly. None expressed faith in the protective capabilities of the United States. None wanted to leave El Salvador. And none expressed faith in the ability of the judicial system to convict high-ranking officers even with the evidence they could provide. As a result, I have an ongoing obligation to them and to their families not to identify them publicly and I will not violate that obligation.

Below is a summary of information about two central points that has been provided to the task force by these confidential sources, but which was not included specifically in previous reports:

THE EARLIER MEETING

1. According to these sources, the decision to murder the Jesuits was made at a small meeting of officers held at the Salvadoran

Military School on the afternoon prior to the murders (November 15, 1989). Among those present were Col. Benavides, commander of the military school; Gen. Juan Rafael Bustillo, then head of the Salvadoran Air Force (now assigned to the Salvadoran Embassy in Israel); Gen. Emilio Ponce, then Chief of Staff and now Minister of Defense; Gen. Orlando Zepeda, deputy Minister of Defense; and Col. Elena Fuentes, commander of the First Brigade. Reportedly, the initiative for the murders came from General Bustillo, while the reactions of the others ranged from support to reluctant acceptance to silence.

The direct and circumstantial evidence that was provided to the Task Force and that supports this version of events includes:

An allegedly eyewitness account of the meeting by an individual known to have been present at the military school on that afternoon;

Confirmation by another individual that the officers listed above were at the military school on the afternoon of November 15th;

The fact, now publicly reported, that the unit that carried out the murders was issued uniforms without insignias or other identifying characteristics late on the afternoon of November 15th;

The secret destruction, by military officers, of the logs indicating the identify of those who came and went from the military school that afternoon;

An allegation that the destruction of the logs was made known to Gen. Ponce in January, 1990, but that this information was not passed on by him to the then Minister of Defense. As a result, the Judge in the Jesuits' case did not learn that the logs had been destroyed until he made a specific request for them three months later;

A report that Col. Benavides told officers at the military school on the night of the 15th that he had "received the green light" to conduct an operation against the Jesuits. This implies that he did not make the decision himself;

A report that one of those present at the meeting with Col. Benavides later directly accused Gen. Ponce and the high command, in their presence, of being responsible for ordering the murders;

A report that Gen. Bustillo told senior Air Force officers, also on the night of November 15th, that a decision had been made to kill the Jesuit priests (citing specifically, Father Ellacuria, the best known of the priests); and

A report that Gen. Ponce told senior officers during a meeting on December 10, 1990 that "we would not be here if I had not made the decision that I did"; to which Gen. Bustillo responded "we have done well, but we must continue to take a hard line".

The account of the afternoon meeting at the military school described above might also explain the statement of a U.S. military officer assigned to the Embassy in San Salvador that he had been told by Salvadoran Col. Carlos Aviles, on the afternoon of November 15th, that "something was going to go down at the UCA" that night. The American officer subsequently told the FBI that he must have been wrong about hearing that statement because Col. Aviles was not in the country on November 15th. The fact is, however, that Col. Aviles returned to El Salvador on November 14th and might have known at least generally about a decision made the following afternoon to kill the Jesuits on the night of the 15th. At the time of the murders, Col. Aviles was serving as the chief of psychological operations on the staff of Gen. Ponce.

COVERUP

2. There is a substantial amount of circumstantial evidence, described in our earlier reports, to indicate the senior military officers in El Salvador must have known, soon

after the murders, which unit was involved. This evidence pertains to the number of soldiers involved in carrying out the murders; the operational chain of command on the night of the murders; the close relationship that exists among senior officers; the role of military intelligence in events immediately prior to, and subsequent to, the murders; the destruction of evidence at the military school and so on.

Just as an example, the Task Force interviewed one officer who claimed to have been told by a colleague on the day after the murders which unit had carried it out. The colleague had served in one of the units placed around the periphery of the UCA on the night the murders took place. When asked about the failure of officers with information to come forward, the officer told the Task Force that "in El Salvador, you talk until you find out the truth; but when you find out the truth, you shut up."

More specifically, the Task Force has not previously disclosed information provided to it that one of those later accused of the crimes reportedly confessed his involvement in the murders to his commanding officer in mid-December, 1989. That information was reportedly then passed on to General Ponce, but it was not turned over to those investigating the case.

I offer this information, as I say, to provide additional substantiation to statements made in earlier reports. Those statements concern, first, my view that it is possible—not certain, but very possible—that senior officers other than Col. Benavides ordered the murders. Based on all that I have learned about the Salvadoran armed forces, I personally find this version of events more credible than the alternative, which is that Col. Benavides acted on his own, notwithstanding the chain of command, and took upon himself the awesome responsibility for these crimes.

Second, the information contributes to my conviction that a coverup of the crimes was attempted and that this coverup involved officials at the highest levels. For reasons detailed in earlier reports, the coverup did not fully succeed because of (1) international pressure; (2) disclosures made by a U.S. military officer in early January, 1990; (3) President Cristiani's insistence that the military take responsibility for the crimes; and (4) good, preliminary police work carried out by El Salvador's Special Investigations Unit.

One additional point: the Task Force received information from a reliable Salvadoran source concerning threats made against the lives of several of the Salvadoran officials involved in pushing for progress in this investigation. One of those threats was directed against president Cristiani. There are also widespread suspicions in El Salvador about the deaths of three military officers connected with the Jesuits' case.

In part because of the threat of violence; in part because of the limited control exercised by civilian authorities over the military; and in part because both the U.S. and civilian authorities in El Salvador need to use the leverage they do have over the military to keep the peace process on track; I am under no illusion that the Government of El Salvador is likely to take further steps to investigate this case, or to examine seriously the possibility that top military officers ordered the crimes. I do recommend very strongly, however, that Congress and the Administration bear this information in mind when making further decisions with respect to U.S. policy in El Salvador. In this connection, I note that the information described above—as well as other information bearing on shortcomings in the investigation—is known to the Executive branch.