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BACKGROUND:

1. In a communication dated December 4, 1980, the Inter-American Commission on Human Rights transmitted to the Government of El Salvador the following message by telex:

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS HAS RECEIVED FOLLOWING COMPLAINT: "WE DENOUNCE THE DISAPPEARANCE OF THREE NORTH AMERICAN NUNS, SISTERS ITA FORD, MAURA CLARK (MARYKNOLL) AND DOROTHY KOESEL (URSULINE) AND A LAY MISSIONER, JEAN DONOVAN, WHOSE VAN WAS FOUND COMPLETELY BURNED ON THE ROAD FROM THE AIRPORT TO LA LIBERTAD. BECAUSE OF THE MILITARY VIOLENCE AGAINST THE CHURCH THIS YEAR AND THE DISAPPEARANCE OF TWO PRIESTS ON MONDAY, DECEMBER 1, WE FEAR FOR THE LIVES OF THESE RELIGIOUS WORKERS".

WE WISH TO INDICATE TO YOUR EXCELLENCY THAT UNDER THE TERMS OF ARTICLE 31 OF THE IACHR REGULATIONS PRESENT REQUEST FOR INFORMATION DOES NOT ENTAIL PREJUDGMENT OF ADMISSIBILITY OF COMPLAINT. ACCEPT, EXCELLENCY, RENEWED ASSURANCES OF HIGHEST CONSIDERATION.

2. On December 8 of the same year, the Commission remitted to the Salvadoran Government the following additional information furnished by the petitioner:

On March 2 of this year, at approximately 7 p.m., the nun Dorothy Koesel (Ursuline) and the social worker Joan Donovan were on their way back from the El Salvador airport from picking up two nuns of the Maryknoll order, Ita Ford and Maura Clark, when they were detained. They have not been seen since that date.

The vehicle they were driving turned up the next day on the road between the airport and the port city of La Libertad. It had been burned along the edge of the coastal highway at Km 41. Early Thursday morning, the cadavers of the four missionary workers, brutally murdered and with signs of mistreatment and torture, were found. They had been buried by local residents of the place known as Hacienda San Francisco, Santa Teresa Canton, jurisdiction of San Juan Nonualco, La Paz Department.

It should be noted that a short distance from where the aforementioned vehicle was found, shortly before the missionary workers had passed that point, a security force check point had been set up which had

earlier stopped two vehicles with other priests and nuns.

The record of the medical examination of the cadavers reveals that the direct cause of death was bullet wounds to the heads of the four and the nude bodies showed inflammation of the genital organs.

In view of these grave violations of human rights it is considered that these criminal acts are part of a qualitatively and quantitatively growing number of violations of the most elementary human rights of citizens and foreigners, an illegitimate aggression against the rights of people, based on the lack of defense of the majority of the victims, and aggravated by premeditation, treachery and madness that are characteristic of the impunity and freedom of action enjoyed by the perpetrators and planners of these violations.

3. During the course of December, 1980, and the following months of 1981, the Commission continued receiving other communications of charges in connection with the same events covered in the investigation, all of which contained pieces of background information on the murder of the nuns and exhorted the Commission to request the Government of El Salvador to make the most exhaustive investigation into the commission of such a horrendous crime and appropriate punishment of its perpetrators.

4. On January 16, 1981, the Government of El Salvador remitted the following note of reply to the IACHR:

In this connection, I wish to communicate to you that the Salvadoran Government has ordered law enforcement agencies, the Office of the Attorney General of the Republic and the Supreme Court of Justice to make all necessary efforts to clarify this case as promptly as possible and to determine the responsibility for it. To date the following investigations have been carried out:

a) The case was opened at 8 a.m. on December 3rd of last year, when the Justice of the Peace of Santiago Nonualco was informed of the discovery of the cadavers of four unidentified women by the Canton Commissioner of San Francisco Hacienda, Santa Teresa Canton, of that jurisdiction.

b) The place was inspected at 9:30 a.m. and the legal examination of the victims was conducted at 10:30 a.m., both on December 3. The latter examination found the wounds that presumably caused the death of the nuns and the social worker.

c) On December 4, at 1:05 p.m., the nun Teresa Alexander and the priest Pablo Schindler, both United States citizens, appeared before the court of San Juan Nonualco and stated that, judging by the descriptions of the persons who had been buried as unknown persons, they suspected that the bodies were those of the four United States citizens, and consequently they requested the exhumation of the cadavers. This was done at 1:30 p.m. of the same day, in the presence of the Ambassador of the United States of America to our country, Mr. Robert White, the Consul of that country, Mrs. Patricia Lansbury, and the requesters themselves, who identified the bodies.

d) On December 5, the Office of the Attorney General of the Republic joined the criminal proceedings and assigned three of its own agents to the case, in addition to the prosecutor of the First Criminal Court of Zacatecoluca, the Court of First Instance which has jurisdiction over the Court of the Justice of Peace of San Juan Nonualco. These agents requested the directors of the National Guard, the National Police Force and the Treasury Police Force to undertake the extra-judicial investigations that would be necessary to clarify the facts. The report of the National Police Force has now been received. This report includes the declarations of the local residents of the place where the cadavers were found and an inspection of the burned vehicle, a Toyota Hi-Ace model, no license plates, which was owned by the parish priest of the port city of La Libertad.

e) The First Criminal Court of Zacatecoluca ordered, in addition to other measures, that the deaths be recorded in the local civil register and an examination of the cadavers, with approval of records, be made and it requested a report from the Court of Justice of the Peace of San Salvador to which the bodies had been transferred to determine whether the victims had been raped. Local newspaper accounts stated

that there had been no such rape.

f) The Office of the Attorney General of the Republic has undertaken efforts to locate and take declarations from the persons who found the bodies, who buried them and who later helped to exhume them as well as of persons living in the area where they were found, and any others who may be helpful in clarifying the events. On December 15, instructions were sent to the Ministry of Defense and Public Security to summon the local Commander of Santiago Nonualco and several members of the San Francisco Hacienda Canton Patrol to appear before the Public Ministry to present evidence on the case in question. In addition, the Office of the Attorney General instructed the Director General of Migration to determine the time; flight and airline by which the four religious workers had entered El Salvador last December 2.

Following the requests made by the agents of the Attorney General's Office to the Court of the Justice of Peace of San Salvador, which was the Court on duty at that time, to undertake a legal examination of the cadavers of the United States nuns and social worker to determine whether they had been the victims of rape or some other sexual crime, the examination was made on December 4. No signs of violence giving evidence of the perpetration of such crimes were found.

On January 12, 1981, the Office of the Attorney General requested the Second Criminal Court Judge of Zacatecoluca, Department of La Paz, since the bodies of the nuns Ida Ford and Mary Elizabeth Clark had been buried in the cemetery of the city of Chalatenango, to conduct other legal investigations to fill any voids that earlier investigations might have left, and to undertake a new legal medical examination for which two experts of recognized prestige in medical pathology and with sufficient capacity in forensic medicine and criminology should be appointed.

It should be pointed out, Mr. Assistant Executive Secretary, that the Salvadoran Government intends to clarify this case for which the appropriate official bodies will continue all investigative work necessary, and we shall keep the honorable Inter-American Commission on Human Rights informed of its findings.

5. The Commission transmitted to the petitioners the pertinent parts of the communication from the Salvadoran Government and requested them to forward their observations about this matter.

6. In communications dated September 16 and October 17, 1981, the petitioner remitted his observations to the response of the Government of El Salvador. The petitioner made the following remarks and posed the following questions:

a) No reply.

b) The report indicates that extreme care was taken in examining the wounds which presumably were fatal.

Could the attorney of the families of the religious workers be given the original burial certificate of December 3?

Why did the persons present at the act--the Justice of Peace, the Mayor, the National Guard and the Police Force--proceed to bury persons of obvious foreign origin without notifying the United States Embassy or other embassies, and why did they not check the records of airports to determine whether there were any persons among the recently arrived travelers about whom no word had been received?

c) Identification of bodies made on December 4 at the Office of the Justice of Peace.

1. According to eyewitnesses, the place is Santiago Nonualco and not San Juan. Neither Sister Teresa Alexander or Father Paul Schindler went to San Juan Nonualco that day. Sister Teresa Alexander was alone when the Secretary, not the Justice of the Peace, read the description of the four women, and it was she who authorized the request to disinter the bodies.

2. During the identification process, a Maryknoll ring was found. This ring, Sister Teresa was assured, would be turned over to the United States Embassy. We do not have any information as to whether the ring, in which we are extremely interested, was delivered.

3. Not only Sister Teresa Alexander and Father Paul Schindler, but all the persons present when the exhumation was performed--Ambassador White, Miss Patricia Lansbury, Sister Teresa Alexander and Father Paul Schindler--as well as Sister Madeline Dorsey, Sister Elizabeth Kochik and Father Kenneth Meyer identified the bodies.

4. As part of the procedure, the Secretary of the Justice of the Peace went to the local National Guard station to inform of the exhumation. Several members of the Guard accompanied the Secretary to the place and were present during the act but did not notify their superior officer of the discovery of the cadavers of the four United States women. If the all points alert order had been given during the afternoon of December 3, as the Chief of the National Police, Carlos Lopez Nuila, and the Minister of Defense, Jos  Guillermo Garcia, had assured Ambassador White, the local Guard Members would have had to notify their superior officers of the finding of the bodies. By not reporting to their superiors, the Guard voluntarily demonstrated that the all points alert order had not been given, a fact which might indicate a cover-up and official implication at the highest level in the homicide of the four religious women.

5. A post-mortem examination, not a complete autopsy of the four cadavers, was conducted at the Maria Auxiliadora Funeral Home in San Salvador the day the bodies were disinterred. Could the attorney of the families of the victims learn the results of those examinations?

d) December 5.

Another reference is made to San Juan Nonualco. Can you explain why, if all the actions were taken before the Justice of Peace of Santiago Nonualco?

Did the interest of the Minister of Justice in this case come from within his office or from another source? Could this matter be clarified?

Reference: Time magazine, December 22, 1980: "...the Salvadoran Government belatedly named a 'high-level civilian and military commission'... But the three military members of the new four-man commission included two close friends of Defense Minister Garcia and a first cousin of Police Chief Lopez Nuila,"

In naming the individuals or groups who were requested to help clarify the facts, no mention was made of having contacted the Sisters Teresa Alexander and Madeline Dorsey, the persons closest to those who died. However, Pat Lansbury asked them whether they wanted to be interviewed by the Commission.

e) Reference is made only to local journalists even though journalists from other countries were present to report on the funeral of six leaders of the FDR.

f) Actions of the Ministry of Justice.

Reference: Statements of Military personnel.

Was the order to take depositions given to the Minister of Defense and Public Security before the Public Ministry communicated with Lieutenant Colonel of Santiago Nonualco? What were the results of that order?

Reference: Statements of witnesses.

Has any record been kept of the statements made by the local residents and other persons who were involved in the discovery, burial and disinterment of the cadavers? What procedures should be followed to have those declarations delivered to the attorney of the families of the deceased?

Reference: Autopsy.

The report indicates that the Minister of Justice gave the autopsy order on January 12 and that the autopsy was carried out January 26. The Sisters Teresa Alexander and Madeline Dorsey who were in Santa Ana, did not receive any official notification of this decision of the Salvadoran Government. The first news they had of the autopsy order came in a newspaper dated January 24. We understood that Mr. Duarte and Ambassador White had decided that the autopsy would be conducted in San Salvador, and that Miss Pat Lansbury had informed the nuns that the date set for that procedure would be January 27. However, the autopsy was conducted in Chalatenango on January 26.

How can these discrepancies of time and place be explained? We would also like to know who attended the exhumation of the bodies of Sisters Clark and Ida Ford on January 26.

7. On November 18, 1981, the IACHR remitted to the Government of El Salvador the contents of the reply from the complainants. In accordance with the Regulations of the Commission, specifically, Article 31.8, the government had a term of thirty days to present its final observations so that these could be considered by the Commission at its 55th regular session.

8. The Government of El Salvador has not made any reply to the communication that the Commission sent to it on that date nor has it furnished any additional information in connection with the investigations requested by the Commission.

WHEREAS:

1. The procedures followed in connection with the present denunciation have complied strictly with all regulatory provisions and the opportunity has been given to each of the parties, both petitioner and petitioned, to express, to the fullest possible extent, their respective positions, and to offer and show to the Commission the evidence considered pertinent;

2. As a result of the information provided and the background information placed at the disposal of the Commission, it has been clearly established that the United States nuns Ita Ford and Maura Clark, of the Maryknoll Order, Dorothy Koesel, Ursuline, and Jean Donovan, a lay missionary, were murdered on Tuesday, December 2, 1980, after a security force patrol of the Salvadoran Armed Forces intercepted the vehicle that was conducting them from the San Salvador airport to the capital city at approximately 7 p.m.;

3. Likewise, it has been shown that the place in which the events took place "was an uninhabited part of Santa Teresa Canton, the jurisdiction of San Juan de Nonualco, in the Department of La Paz, in whose immediate surroundings the bodies of the missionary workers were later found;"

4. The record of the medical examination made immediately after the bodies were discovered notes, "the direct cause of death were bullet wounds to the heads of the four and the nude bodies showed inflammation of the genital organs;

5. This record of the medical examination mentioned by the petitioners is contradicted and denied by the Government of El Salvador in its reply to the Commission. The Government of El Salvador submitted the legal examination conducted by the Justice of the Peace who, acting under special order of the Criminal Court of Zacatecoluca to determine whether these persons had been the victims of rape or any other sexual crime, reached the conclusion--which the Government of El Salvador brandishes in its defense--that no signs of rape were found in evidence of the perpetration of this of crime;

6. The Commission has since received information of investigations carried out by the Federal Bureau of Investigation of the United States, with the approval of the Government of El Salvador, which have helped to identify the military persons allegedly responsible for the facts denounced;

7. Despite the statements made by the Government of El Salvador to the IACHR in its communication dated January 16, 1981, Salvadoran authorities have not provided facilities to help conduct the investigations that the case required but have actually, as stated in the reply of the petitioners, obstructed the domestic investigatory work ordered by the government itself;

8. Despite the statements of public officials to the effect that the government lacks sufficient evidence to bring to trial the military persons charged with the commission of the murder of the United States religious women, and, despite the attempts to keep secret the findings of the investigations, it is a matter of common knowledge that in late January, the former member of the National Guard, Carlos Joaquin Contreras Palacios, and another member of the same Guard, confessed to the murder and rape of

the nuns and furnished the names of the other members of the National Guard who participated in the events;

9. The Commission has in its possession a description of the manner in which the murder of these persons was carried out, the tenor of which has also been made public through different press organs. These stories reveal that the crime might have been committed in the following manner:

Koesel and Donovan had gone to the airport near San Salvador on December 2, 1980, to welcome Ford and Clark who were returning from a meeting of Maryknoll workers in Nicaragua.

Margarito Perez Nieto, on duty at the airport, saw Koesel and Donovan when they arrived and became suspicious of them. He said that he thought the women were carrying weapons in their bags and that he called his superior officer, Sergeant Luis Antonio Colindres Alemón.

Carlos Joaquin Contreras Palacios, the former National Guard who confessed to the crime, said that Colindres Alemón ordered him and other former National Guard, Francisco Orlando Contreras Rocioinos, Josñ Roberto Moreno Canjura, Daniel Canales Ramirez and Salvador Rivera Franco, to wear civilian clothing that afternoon.

The sergeant sent the men to the airport and ordered all vehicles leaving the airport, with the exception of the missionaries' truck, to be stopped. The guards later went to a toll booth where they stopped the truck and searched it for thirty minutes.

The guards took their jeep and the truck to Rosario de La Paz where the jeep was incorrectly parked at a National Guard post and the truck was parked and placed under surveillance.

In his confession, Contreras Palacios said that that was a deserted place. It was there that Colindres Aleman told the National Guardsmen to take out their weapons and kill the four women.

The order was obeyed by the witness (Contreras Palacios) and the other members of the group...before murdering them, the witness and the others sexually abused the victims.

10. Later on, a former high official of the Government of El Salvador gave the following version of the event in a public statement:

Under-Sargent Colindres ordered the others to stop the women as they were going to the capital of El Salvador from the airport on the night of December 2. The soldiers put the women into the truck and drove them along a dirt road to a remote place. Following orders, they raped at least two of them. They then shot all four in the head.

11. The aforementioned versions which have been printed in an endless list of press organs have not been officially denied or corrected by Salvadoran authorities and are completely consistent with the statements of the denunciations.

12. A recent report on the status of the investigations into the murder will be tried or not, but also new difficulties have arisen which will delay even more the final decision. These difficulties are:

a) The civil judge, responsible for deciding whether the persons charged will be tried, could not allow the evidence gathered by the military authorities who preceded him in gathering the information because, under the law of El Salvador, evidence gathered by military authorities may not be used as evidence against a person charged in a civil court.

b) The investigations made by the FBI, which were of a technical and scientific nature involving ballistics and fingerprints, would also be disqualified and ruled out of order because, under Salvadoran law, such proofs would constitute evidence that has not been obtained within the territorial jurisdiction of the judge but obtained outside the boundaries of his jurisdiction since these were processed by the FBI in Washington at its investigative laboratories.

13. Other important obstacles to continuation of the investigation are the enormous political pressures being put on the judges, and the situation of intimidation and threats under which the members of the judicial branch must perform their functions;

14. Three years are about to lapse since the commission of this detestable murder and there is still no sign of firm will on the part of the political and judicial authorities of El Salvador to cooperate effectively in preventing this crime--one that was committed with the support and the participation of the armed forces and security forces of the country--from going unpunished;

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To declare that the facts covered in the denunciation constitute extremely grave violations of the right to life (Article 4), the right to humane treatment (Article 5), the right to privacy (Article 11) and the obligation of the state parties to respect and enforce the American Convention on Human Rights (Article 1).

2. To deplore the delay and denial of justice implied in the fact that, despite the time that has lapsed, it has still not been possible to bring to trial and punish the perpetrators of the murders and the abuses committed against the United States nuns, Ita Ford and Maura Clark of the Maryknoll Order, Dorothy Koesel of the Ursuline Congregation, and Jean Donovan, according to the denunciation and the evidence offered by members of the Salvadoran armed forces during the development of a military operation.

3. To request the Government of El Salvador to remit to this Commission copies of the investigations conducted to determine the responsibility of the perpetrators and planners of these events.

4. To recommend to the Government of El Salvador that it call for the following: a) that the investigation of the denounced facts be concluded as promptly as possible; b) that it punish the perpetrators and planners of the aforementioned events and those who have, in some manner or another, obstructed and impeded the investigation of the same; and c) to report to the Commission within the term of ninety days on the measures taken in connection with the above.

5. To communicate this resolution to the Government of the Republic of El Salvador and to the petitioners.

6. To include this resolution in the Annual Report of the Commission to the General Assembly of the Organization of American States unless information regarding compliance with the recommendations contained in this resolution is received within the term of sixty calendar days.

Note: Dr. Francisco Bertrand Galindo disqualified himself from the discussions and the drafting of this resolution.