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## BACKGROUND:

[1] On December 23, 1986, a complaint was filed with the IACHR concerning the following:

Miguel Angel Rivas Hernández, a 20-year old student at a high school in Ilopango in the Department of San Salvador, was kidnapped on November 29, 1986, at 7:30 p.m., near San Salvador. At the time of his capture, the young man was on his way home from his place of work at a Texaco service station located in the Ilopango district. According to eyewitnesses, his captors took him away in a pick-up truck. Some days later, his family received information to the effect that he was being held prisoner at the Ilopango Air Force Base. The family was also told that Miguel Angel would be released by Christmas of 1986, but that did not happen.

The family has unsuccessfully exhausted all of the remedies of El Salvador's domestic law in an effort to have his arrest acknowledged, to have the reasons for his arrest explained, and to have him either brought before a judge or released. The armed forces and police deny that they arrested Miguel Angel Rivas Hernández and deny that they have him in custody. However, it was learned that Rivas was later taken to facilities of the National Guard, though that arm of the police continues to deny his arrest. It was also learned that he is in bad health.

There are also reports that the Salvadoran Government's Human Rights Commission reportedly conducted an investigation into this case, and presented its findings to the President of the Nation, Ing. José Napoleón Duarte. The latter reportedly ordered that the information be passed on to the Criminal Investigations Commission. Despite of the many steps taken, thus far the arrest of young Rivas Hernández has not been acknowledged and the family continues to be overwhelmed by anguish and uncertainty.

[2] In the case in question, apart from the normal official communications, the Commission has made a number of personal inquires with Salvadoran authorities in connection with the situation of Mr. Rivas Hernández. Moreover, when one of the attorneys from the Secretariat of the Commission visited the Republic of El Salvador in November of 1987, direct inquiries were made in this connection in the hope of helping to secure the release of the person in question.

[3] In view of the fact that no statement or response was forthcoming from the Government

of El Salvador, the Commission addressed the following note, dated January 15, 1988, to the Foreign Minister of that country:

Excellency:

On behalf of the Inter-American Commission of Human Rights, I would like to repeat once again our request to Your Excellency's Government that it supply the information that it deems pertinent with respect to the instant case. We refer to our notes of December 23, 1986, June 1, 1987, and a telex dated October 28, 1987, copies of which are attached hereto. Apart from this, Your Excellency's Government is well aware of the direct, personal overtures that have been made with the Salvadoran Government's Human Rights Commission and with the Embassy of El Salvador in Washington to have the student Rivas Hernández released alive.

Should that information not be received within a period of 30 days, the Commission would then consider the possibility of applying Article 42 of its Regulations.

[4] At its 72nd session, held in March 1988, and in consideration of the fact that despite the time that had elapsed, the Government of El Salvador, had not responded to any of the Commission's repeated communications and inquiries, even personal inquiries; that it had not even requested an extension for that purpose; that, moreover, the information the Commission had in its possession corroborated the denunciation; that, in effect, young Miguel Angel Rivas Hernández had been kidnapped by members of the security forces; that he was still alive but "disappeared" in an official detention center of the National Police; that even though all of the legal and constitutional guarantees of defense by an attorney and trial by an independent and competent court were in full effect, he has been denied them; and, finally, that unofficial reports indicated that his predicament was due to a personal rivalry between the young man and an officer in El Salvador's Armed Force, the Inter-American Commission on Human Rights, in application of Article 42 of its Regulations, resolved the following:

1. To presume as true the facts denounced in the communication dated December 23, 1986, concerning the illegal capture and subsequent disappearance of student Miguel Angel Rivas Hernández.
2. To declare to the Government of El Salvador that this involves very grave violations of the right of protection against arbitrary arrest (Article 7) and of the right to life (Article 4) of the American Convention on Human Rights.
3. To recommend to the Government of El Salvador that it order an exhaustive investigation to determine the authorship of the facts denounced, the whereabouts of the victim and, in accordance with the laws of El Salvador, that the person or persons responsible for these acts be punished and that the Commission be informed within 60 days of the measures taken to put the recommendations set forth in the present resolution into practice.
4. To transmit this resolution to the Government of El Salvador.
5. If, within the stipulated 60 days the Government does not present information on the measures it has taken, the Commission will include this resolution in its Annual Report to the General Assembly of the Organization of American States, in accordance with Article 63. g of the Commission's Regulations.

[5] In response to the copy it received of Resolution 21/88, on May 19, last the Government of El Salvador, in a letter sent by the Minister of Foreign Affairs, Ricardo Acevedo Peralta, acknowledging multiple receipt, he replied the following:

In connection with Case 9844, concerning to the situation of Mr. Miguel Angel Rivas Hernández, during the course of the visit that the Executive Secretary of the Salvadoran Government's Human Rights Commission made to the headquarters of the IACHR at its most recent session, he gave a verbal report on

the matter and on the situation of the case' and Dr. Luis Fernando Jiménez, who visited El Salvador in November of last year, on an IACHR mission, also had an opportunity to obtain information. The case in question has been referred to the Criminal Investigations Commission for the appropriate purposes.

[6] Subsequent to transmittal of Resolution 21/88, to which the Government of El Salvador raised no objection nor did it provide any useful information in the above-transcribed note, the Commission received a letter from the parents of Miguel Angel Rivas Hernández reporting that he had been seen alive. The text of that letter was brought to the Salvadoran Government's attention in a note dated June 8, 1988, which reads as follows:

Excellency:

On behalf of the Inter-American Commission on Human Rights, I have the honor to address Your Excellency to forward the text of a letter that this Secretariat received from the parents of Miguel Angel Rivas Hernández in connection with the situation of their son, who had been illegally arrested--disappeared by the Armed Forces of El Salvador:

The purpose of this letter is to inform you that on March 27, I went to the Jurisdiction of Tacachico, Department of La Libertad, in the company six people, in an effort to find my son, Miguel Angel Rivas Hernández. Victor Manuel Iraheta and I saw my son, who was inside National Guard Headquarters in that jurisdiction .

We wish to report that we have informed Mr. Peter Schmeelk, Human Rights Officer with the United States Embassy, that we saw my son inside the headquarters building. Through Mr. Schmeelk, we were negotiating for my son's possible release.

Since Mr. Schmeelk has advised us that because of the institution's honor it is not in the National Guard's interest to release my son, aware as they are of the crime that they have committed, it is also inconvenient for the Embassy of the United States, because of the ties that it has with them and which I will refrain from detailing here.

Therefore, I am turning to you in the hope of securing a timely investigation that will help save the life of my son, Miguel Angel Rivas Hernández, and thereby resolve this painful and unjust case, which has caused us so much anguish.

Thanking you for your attention to this request, please accept our appreciation.

The Commission views this person's predicament with the greatest concern. Thus far, the Government of El Salvador has evaded any official reply as to his personal situation even though, extra officially, it has been admitted that Mr. Rivas Hernández is not only alive but that he is being held in custody without investigation, without trial, without proper defense, without access to the legal guarantees provided for in the Constitution of the Republic of El Salvador.

Unfortunately, your Excellency's letter of May 19, 1988, does not supply any specific information as to the situation of Rivas Hernández; instead, allusion is made to the fact that Lic. Benjamín Cestoni, Executive Secretary of the Salvadoran Government's Human Rights Commission, presented an oral report, once more, concerning the matter and the situation of that person, i.e.,that he was alive.

The IACHR wishes to once again respectfully request clarification of the situation of Miguel Angel Rivas Hernández.

Accept, Excellency, the renewed assurances of my highest consideration.

[7] Since this overture, the IACHR has not received from the Government of El Salvador, any information or cooperation that would shed some light on the situation of the individual in question.

CONSIDERING:

[1] The background information presented in this document;

[2] The resolution adopted by the IACHR at its 72nd session;

[3] That subsequent to transmittal of that resolution, the Government of El Salvador did not supply the IACHR with any information and has not taken any action to put an end to the illegal and arbitrary state of affairs described herein;

[4] That the Inter-American Court of Human Rights, in a resolution on Case 7920 corresponding to *Manfredo Velázquez vs. Honduras*, has stated that "prolonged isolation and forced non communication... are themselves forms of cruel and inhuman treatment, injurious to the individual's psychological and moral freedom and of the right of every prisoner to proper respect for the dignity inherent in the human being, which is itself a violation of the provisions of Article 5 of the Convention..."

In exercise of the powers vested in it,

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,  
RESOLVES:

1. To Confirm Resolution 21/88 of the IACHR which, in application of the provisions of Article 42 of the Commission's Regulations, presumed as true the facts contained in the denunciation referring to the illegal arrest and subsequent disappearance of student Miguel Ángel Rivas Hernández.
2. To energetically condemn the official practice of government security forces involving the forced detention/disappearance of individuals and in particular, in the instant case, that of Miguel Angel Rivas Hernández.
3. To call upon the Government of El Salvador to reflect upon the seriousness of the facts of the instant case and on the irregularity arising out of its failure to reply to the IACHR and cooperate with it.
4. To urge the competent authorities of the Republic of El Salvador to investigate this obvious case of abusive official kidnapping, violation of the legal guarantees and continued violation of the rights to personal freedom and due process of law being perpetrated against the person of Miguel Angel Rivas Hernández.
5. To reiterate the recommendations made earlier to the effect that an exhaustive investigation be ordered to determine the authorship of the facts denounced, the whereabouts and definite location of the victim and, in accordance with the laws of El Salvador, punishment of those directly and indirectly responsible for these events.
6. To communicate this resolution to the Government of El Salvador.
7. To publish the present resolution in the Commission's Annual Report to the General Assembly of the Organization of American States.