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Title/Style of Cause:	Jose Walter Chavez Palacios v. El Salvador
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Decided by:	Chairman: Patrick L. Robinson; First Vice Chairman: Marco Tulio Bruni Celli; Second Vice Chairman: Oscar Lujan Fappiano; Members: Gilda M.C.M. de Russomano; Oliver Jackman; Leo Valladares Lanza; Michael Reisman
Dated:	13 February 1991
Citation:	Chavez Palacios v. El Sal., Case 10.001, Inter-Am. C.H.R., Report No. 3/91, OEA/Ser.L/V/II.79, doc. 12 rev. 1 (1990-1991)
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HAVING SEEN:

1. The denunciation received on May 5, 1987, which reads, "Jose Walter Chavez Palacios, 16 years of age, single, student, captured in his residence at Colonia Chintu N° 2, Apopa, San Salvador, by the Treasury Police. Whereabouts still unknown", and transmitted to the Government of El Salvador in a request for information.

2. The response from the Government of El Salvador including a report by the Human Rights Commission (governmental), which was transmitted to the claimant on December 7, 1987, which reads:

The CDH has procedures that appear under No. 1548-Chp-86, aimed at gathering information about the disappearance of the aforementioned young man, who was 15 years of age, single, a student, living at Colonia Chintu N° 2, Pasaje Nejapa, Access M., House No. 1, Apopa, who was apprehended on November 9, 1986, in his residence by two subjects dressed in olive green and heavily armed, at approximately 1:30 a.m. The file notes that his captors identified themselves as members of the First Infantry Brigade, who took him to some unknown place. This Commission conducted search procedures at the military unit where his captors were supposedly on duty, and other military units, but has been unable to locate him to this time.

3. The additional information and observations from the complainant to the response from the government, according to which:

Jose Walter Chavez Palacios, 15 years of age, student, was captured on November 9, 1986, at 1:30 a.m., in his residence at Colonia Chintu N° 2, Apopa, department of San Salvador. According to sworn testimony from the grandmother of the young man, given at our offices on May 6, 1987, the capture was carried out by a group of 25 soldiers, who identified themselves as members of the First Infantry Brigade. Following the capture, the young man was seen twice, once aboard a military truck accompanied by

soldiers of the First Infantry Brigade and two other captives, and the second time, in a Cherokee vehicle, in the custody of members of the Treasury Police. In late April, an agent from the Treasury Police informed the grandmother of Chavez Palacios that the captive was with six other young men in the basement of that security unit. However, the Treasury Police and the First Infantry Brigade deny that they are holding the young man. To date his whereabouts are unknown.

Despite having information indicating clearly that the First Infantry Brigade and the Treasury Police are responsible for the event, the Government of El Salvador has not taken worthwhile steps to determine the whereabouts of the young man. In its response to this case, the government only says, "this Commission conducted search procedures at the military unit where his captors were supposedly on duty, and other military units, but has been unable to determine his location to this time." It does not specify what steps it took.

We believe that it is important to see the lack of action by the government in this case within the framework of the cases of more than 7,000 Salvadorans who have disappeared during the nine years of war. The lack of protection of the rights covered in the American Convention, specifically in Articles 4, 5, 7, and 8, by not bringing to justice the members of the armed force and security agencies indicated as the perpetrators of these crimes, has created an environment in which the permanent practice of this vile crime of disappearance can grow; accordingly, we believe that the Government of El Salvador is clearly violating its obligations under Article 1 of the American Convention, as well as the other articles mentioned above.

In view of this, we request the Inter-American Commission on Human Rights to continue its investigation into this case, and that it condemn the Government of El Salvador for its culpability in this event.

For your reference, we are attaching the following documents: a. a photocopy of a picture of the victim; b. a sheet bearing the personal data of the captured man; c. the sworn testimony of Raquel Antonia Palacios; d. a letter to the headquarters of the First Infantry Brigade and the Director of the Treasury Police, dated May 6, 1987, which requests information about the capture; e. a letter from the First Brigade dated May 9, 1987, denying the capture; f. letter sent to the Treasury Police, dated May 18, 1987; g. open letter published in the newspaper El Mundo, June 2, 1987; h. an open letter to President Duarte, July 2, 1987.

4. That on May 11, 1990, the Governmental Human Rights Commission of El Salvador advised that:

This office, has registered under Reference Number 1548-CHP-86, attempts to determine the whereabouts of the youth, Jose Walter Chavez Palacios, 15 years of age, single, student, resident of Colonia Chintuc, No. 2, of Apopa, who, on November 7, 1986 at about one in the morning was apprehended by a group of uniformed subjects wearing olive green and heavily armed, who were identified as members of the First Infantry Brigade and who took him away to parts unknown. To date his whereabouts continue to be unknown in spite of all search efforts that have been conducted by the Security Corps.

5. That the Commission adopted a Report N° 7/90 on this case at its 77th Regular Meeting which was sent to the Government of El Salvador as well as to the claimant to allow both to make their respective observations if they so wished, in a period of sixty days commencing on May 29, 1990, the date of mailing, indicating that if observations were not made, the Report would be published in the Commission's Annual Report to the General Assembly.

CONSIDERING:

1. That the name of the victim, place and date of his arrest, and the names of the persons who would appear to be responsible are sufficiently specified and therefore the denunciation meets the formal requirements of admissibility.

2. That this matter, owing to its nature, is not susceptible to friendly solution.

3. That the statements provided by the claimant indicate that the young man, Jose Walter Chavez Palacios, was detained by a large group of military personnel who identified themselves as belonging to the First Infantry Brigade, that he was later seen in the hands of the Treasury Police and that since his detention on November 9, 1986, no information as to his whereabouts has been produced.

4. That many steps have been taken to find the affected person but that none of the steps has yielded positive results.

5. That both the response from the Human Rights Commission (governmental) of El Salvador and the note from the commanding officer of the First Infantry Brigade confine themselves to stating that the young man Chavez Palacios is not detained, but do not say what steps have been taken to clarify the circumstances of such a notorious act as the raid of houses at 1:30 a.m. at Colonia Chintu N° 2 by a large group of soldiers, to proceed to identify them and determine the whereabouts of the detained man.

6. That it is the obligation of the Salvadoran state to investigate exhaustively such a serious denunciation as the arrest and later disappearance of a young man only 15 years of age in order to protect his liberty and personal integrity and his right to life.

7. That the insufficiency of the answers provided by the government to the Commission lend support to the truth of the denunciation by the claimant and demonstrates that the government has not proceeded to investigate the denunciation formulated with the energy required.

8. That the Government of El Salvador has made no observation on the Report sent to it on May 29, 1990.

9. That the event denounced constitutes a violation of the rights to personal liberty, personal integrity and life, recognized by Articles 7, 5 and 4, respectively of the American Convention on Human Rights, as well as a failure of duty to guarantee the free and full exercise of rights such as those prescribed in Article 1.1 of the Convention, of which El Salvador is a party state. That in the present case exists the brutal murder of which the presumed victim is a minor.

10. That the General Assembly of the Organization of American States declared in its Resolution AG/RES. 666 (XIII-0/83) that the forced disappearance of persons is an affront to the conscience of the hemisphere and constitutes a crime against humanity.

In view of which,

**THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
RESOLVES:**

1. To declare that the Government of El Salvador is responsible for the violation of the right to personal liberty and to life of Jose Walter Chavez Palacios, 15 years of age, by virtue of the acts of its agents who detained him at his residence on November 9, 1986, and that no information as to his whereabouts has been produced to this date, all of which constitutes a violation of Articles 4 and 7 of the American Convention on Human Rights, of which El Salvador is a party state.

2. To ask the Government to accept the jurisdiction of the Inter-American Court of Human Rights in the specific case referred to in this report.

3. To recommend to the Government of El Salvador that it undertake an exhaustive investigation

into the events in order to clarify the circumstances, in particular the whereabouts of Jose Walter Chavez Palacios, to identify those responsible and to bring them to justice.

4. To publish this report in its annual report to the General Assembly in accordance with Article 18e of the Commission's Statute.