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Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 6/92; Case No. 10.190
Session:	Eighty-First (3 – 14 February 1992)
Title/Style of Cause:	Jose Angel Alas Gomez v. El Salvador
Doc. Type:	Report
Decided by:	Chairman: Marco Tulio Bruni Celli; First Vice Chairman: Oscar Luján Fappiano; Second Vice Chairman: Michael Reisman; Members: Oliver H. Jackman; Leo Valladares Lanza; Patrick L. Robinson; Alvaro Tirado Mejía.
Dated:	04 February 1992
Citation:	Alas Gomez v. El Sal., Case 10.190, Inter-Am. C.H.R., Report No. 6/92, OEA/Ser.L/V/II.81, doc. 6 rev. 1 (1991)
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HAVING SEEN:

1. The petition received by the Inter-American Commission on Human Rights, dated March 16, 1988, whereby:

Jose Angel Alas Gomez, 27, an auto mechanic, was taken on December 27, 1987, by the Atlacatl Battalion at his home at El Cementerio N° 47 Housing Development, Lourdes district, Colon jurisdiction, La Libertad.

On December 29, 1987, he was transferred to the Santa Tecla National Police Headquarters, where he remained for a day and a half. On December 31 he was released. On January 11, 1988, he left home to go to his job in San Salvador and never returned. He was picked up again, this time by the Treasury Police, on January 11 or 12, 1988.

On January 13, 1988, his body appeared at the judicial morgue. This individual died while in the hands of the Treasury Police.

2. In a note dated May 13, 1988, the Commission began its processing of this case by requesting the Government of El Salvador to provide information pertinent to the facts reported in that communication and any other information that might show whether, in the case in question, the remedies under domestic law had been exhausted. The Commission gave the Government 90 days in which to respond to that request.

3. On August 22, 1988, the Government of El Salvador replied, stating that:

On January 4, delegates from the government's Human Rights Commission went to the General Headquarters of the Treasury Police to investigate the circumstances under which prisoner Jose Angel Alas Gomez died. The individual in question was being held for the crime of extortion against Mrs. Rosalia Imelda Oliva. Authorities of that security force stated that he had died of a heart attack. At that,

our delegates visited the Second Justice of the Peace to study the medical-forensic report, which showed that the cause of death was respiratory heart failure.

4. On January 20, 1989, the petitioner sent additional information and observations on the Government's reply. That was sent to the authorities in El Salvador on February 7, 1989. The Government was given 30 days in which to send its comments. The pertinent parts of the information provided by the petitioner state, inter alia, the following:

This case points up a tactic used by the organs or agents of the Salvadoran State to protect themselves. Deaths brought on by torture sessions and mistreatment appear in the medical records as natural deaths; in other words, the torture or mistreatment that these public officials either cause or allow is not cited as the primary cause of death. Of course, the end result, i.e., the person's death, can be accurately described as respiratory heart failure; but in practice, the physical condition and state of mind of the individual that the injuries inflicted have to be identified and established; in the particular case of Jose Angel Alas Gomez, these factors did more than just lead to his death; instead they were the direct cause of the syncope from which the young man died. His general state of health at the time of his arrest was completely different from his condition when his body was finally found after his "treatment" at the hands of public officials. Though we do not have the text of the forensic report at hand, we are reminded that there is a professional ethic, national and international, that those police and medical personnel entrusted with the custody and care of prisoners must observe.

5. Later, on March 14, 1989, the petitioner sent additional information, which was forwarded to the Government of El Salvador on May 22, 1989. The Government had 30 days in which to reply. The pertinent parts appear below:

On November 29, 1987, at one in the morning, soldiers from the Atlacatl Battalion appeared at the home of Astrid Yanira Alas. Using violence and threat, they demanded to know where her "brothers" were. When they found the brothers were not at home, they took her into custody. Blindfolded and handcuffed, she was taken to the headquarters of Atlacatl Battalion, where she was held and frequently threatened with death. On December 7, they moved her to the Santa Tecla National Police, where she was held for three days. She was then sent to the Colon Municipal Jail, and held for another three days. She was finally released on December 27, after having been held unlawfully for almost a month.

Jose Angel Alas Gomez was taken on the same day his sister was released. He was taken from the same home, by the same soldiers, under circumstances very similar to his sister's arrest. He was moved to the headquarters of Atlacatl Battalion, where he was subjected to electric shock and other forms of torture to force him to say he was a guerrilla. Two days later, on December 29, he was taken to the Santa Tecla National Police, where he was released on December 31, there being no cause to hold him.

Jose Angel Alas Gomez left his house on January 11, 1988, and went to his job in San Salvador. He left his place of work at 4:00 p.m. but never arrived home.

The next day, January 12, soldiers from the Atlacatl Battalion again appeared at the house and spent the entire night near the home of the Alas Gomez family in the Lourdes district, Colon jurisdiction, department of La Libertad, as we said earlier.

On January 13, the family of the young man who had disappeared realized he was dead. That day, they went to the Morgue of the San Salvador General Cemetery, where they were told that Jose Angel Alas Gomez died of heart failure. Our institution also went to the morgue, where we saw that the body had lacerations, burns on the shoulder and legs, bruises on the testicles, and signs of blows and punches.

The "inquiry into the death" of Jose Angel Alas Gomez is now in the Second Criminal Court of San Salvador, under number 149-5/1988. A summary of that case follows:

At page 1, the Second Justice of the Peace of San Salvador, on January 12, 1988, states that she received a telephone call at the Judicial Center informing her of the death of Alas Gomez, and therefore was instituting the inquiries. On page 2 is the examination made by the Justice of the Peace at the alleged

scene of the events, at 9:30 p.m. The inquiry was conducted at the Central Headquarters of the Treasury Police in that city. As a result of the inquiry, it is stated that "the body was found on the parking lot of that institution, inside a vehicle bearing license plates 125967; the body was sitting in the back seat and, according to statements made (the judge does not say who made these statements), the deceased was a prisoner of the Treasury Police (the judge does not say when he was taken into custody); as they were returning from an inquiry conducted with the individual in question (the nature of the inquiry is not explained and the agents or persons who participated are not named), moments later he was found dead in the vehicle." In the examination record, the judge goes on to say that "the body has lacerations, which were caused when he tried to escape at the time he was taken at kilometer 44 on the road to Sonsonate. The medical-legal opinion is that death was due to cardiac arrest subsequent to the traumas mentioned herein."

Up to this point, even though the examination record shows his place of residence, neither the Treasury Police nor any other authority had informed the family of what had happened. And so, "because no relatives appeared", the body was ordered transferred to San Salvador's General Cemetery.

At page 3 is the Medical-Legal Examination conducted at 9:45 p.m. that same day by Dr. Carlos Humberto Orellana Gomez. The findings were as follows: The corpse shows the onset of rigor mortis in the lower limbs, superficial esquimosi in the left inter scapular and infrascapular region, a superficial laceration on the left knee and middle lumbar; it concludes that the sole, immediate, direct and natural cause of death was cardiac arrest after the trauma mentioned above (...)

The body had many blows to various parts that could not have happened, as they say, when the deceased tried to run away. They are evidence of his having been tortured. The death of Alas Gomez was part of a systematic persecution of the family because they were suspected of either being guerrillas or collaborating with guerrillas; the secrecy in which the inquiries into his death were launched in the sense that his relatives were never informed, even though their address was known; the fact that the International Committee of the Red Cross and humanitarian agencies were never called; and the fact that the medical-legal examination was conducted at night, at the headquarters of the Treasury Police rather than at the Forensics Clinic at the Isidro Menendez Judicial Center, even though they should have anticipated that the proper course of action was not to accept at face value the Treasury Police's account of what happened.

6. The Commission repeatedly asked the Government of El Salvador to send its observations and information on the status of the investigations into the present case, in notes dated February 12, 1990, March 22, 1990, November 13, 1990, and January 17, 1991. Thus far it has received no reply.

7. At its 79th session, the Commission adopted Report N° 15/91, which was dispatched to the Government of El Salvador so that it might formulate whatever observations it deemed appropriate, within three months of the date of dispatch. The report indicated that if the case was not settled by the Government, or submitted by it to the Court, the Commission would decide whether to publish the report.

CONSIDERING:

1. That the Commission is competent to take cognizance of the instant case as it involves violations of rights recognized in the American Convention on Human Rights--Article 4 on the right to life and Article 5 on the right to humane treatment--as provided in Article 44 of that Convention, of which El Salvador is a State Party.

2. That the petition satisfies the formal requirements for admissibility as stipulated in the American Convention on Human Rights and in the Commission's Regulations.

3. That in the instant case, it is evident that the petitioner has been unable to secure effective protection from the jurisdictional organs, so that the requirements concerning exhaustion of remedies

under domestic law, set forth in Article 46 of the Convention, do not apply.

4. That the petition is not pending settlement in any other international arrangement and is not a restatement of an earlier petition already examined by the Commission.

5. That the note that the Government of El Salvador sent by way of a reply on August 22, 1988, does not furnish any information whatever concerning the status of the investigations, nor does it refute the denunciations presented to the Commission by the petitioners. It also errs when making reference to the events; it states that on "January 4, delegates from the government's Human Rights Commission went to the General Headquarters of the Treasury Police (...)" when in fact Mr. Alas Gomez died on January 13. Moreover, despite the amount of time that has passed and the Commission's repeated overtures, the Government of El Salvador has never provided any other response to the events in the instant case.

6. That the death of Jose Angel Alas Gomez while in the custody of the Treasury Police, makes it incumbent upon the Government to provide irrefutable proof that his death was a coincidence.

7. That the Government of El Salvador failed to notify the family of the death of Mr. Alas Gomez, even though it had knowledge of the family address since it had arrested him there on December 27, 1987, as well as his sister, Astrid Yanira Alas, on November 29 of that year. This would appear to indicate that the authorities were trying to conceal his death from his family, which would not have been the case had he died of natural causes.

8. That at no time during the chain of events that culminated in the young man's death did the Salvadoran authorities ever approach the International Committee of the Red Cross or any other humanitarian organization to check the state of health of the young man they were holding.

9. That since the friendly settlement procedure provided for in Article 48.1.f of the American Convention is not applicable because of the nature of the facts denounced, the Commission must comply with the provisions of Article 50.1 of the Convention, issuing its conclusions and recommendations on the complaint submitted to it for consideration.

10. That the Government of El Salvador has not submitted observations on Report N° 15/91.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
RESOLVES:

1. To declare that the Government of El Salvador has violated the rights to life and humane treatment of Mr. Jose Angel Alas Gomez, who died while in custody at the San Salvador headquarters of the Treasury Police on January 13, 1988, according to a communication received by the Commission on March 16, 1988.

2. To declare that the Government has failed to comply with the obligations to respect human rights and fundamental guarantees, obligations imposed under Article 1 of the American Convention on Human Rights.

3. To declare that these events constitute violations of the right to life and the right to humane treatment, upheld in articles 4 and 5 of the American Convention.

4. To make the following recommendations to the Government of El Salvador, based on Article 50.3 of the Convention and Article 47 of the Regulations of the Commission:

- a. That it conduct a swift, thorough and impartial investigation of the facts denounced in order to identify those responsible and bring them to justice so that they may receive the punishment that such grave conduct demands.
 - b. That it adopt the measures necessary to avoid a reoccurrence of such acts in the future.
 - c. That it repair the consequences of the situation created by the violation of the aforementioned rights and pay the injured parties fair compensation.
5. Request the Government of El Salvador to inform the Commission regarding the measures it is adopting in the present case, in accordance with the recommendations formulated in paragraph 4 of the operative part of this report.
6. Publish this report by including it in the Annual Report to be presented to the General Assembly, in accordance with Article 48 of the Regulations of the Commission; since the Government of El Salvador did not inform the Commission of the measures it has taken to remedy the situation, within the period prescribed in Report N° 15/91.