

WorldCourts™

Institution:	Inter-American Commission on Human Rights
File Number(s):	Report No. 25/91; Cases Nos. 10.111 and 10.112
Session:	Eighty-First (3 – 14 February 1992)
Title/Style of Cause:	Danilo Sergio Alvarado Mejia and Rene Aroldo Leiva Cayax v. Guatemala
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:	Alvarado Mejia v. Guat., Cases 10.111 and 10.112, Inter-Am. C.H.R., Report No. 25/91, OEA/Ser.L/V/II.81, doc. 6 rev. 1 (1991)
Terms of Use:	Your use of this document constitutes your consent to the Terms and Conditions found at www.worldcourts.com/index/eng/terms.htm

BACKGROUND

1. On October 22, 1987, the Inter-American Commission on Human Rights received the following complaint:

Danilo Sergio Mejia, 32, an agronomical engineer who worked for Digesa in region IV Escuintla, assistant to the chair of agronomy, member of the board of the University of the Western AEVO Student Association from 1980 to 1986, was abducted on Saturday, October 17, 1987, at 3:30 p.m., at 7th Street and 13th Ave., Zone 3 of Quetzaltenango. He was taken away in a Corinto pick-up, presumably belonging to the security forces. Relatives filed a petition of habeas corpus, filed reports with the police and with the major's office. He is still missing.

2. On October 23, 1987, the Commission sent a cable to the Government of Guatemala on the above-mentioned complaint and requested that the Government provide the Commission with information on this case, numbered 10.111, as soon as possible.

3. Also on October 22, 1987, the Commission received the following complaint:

Rene Aroldo Leiva Cayax, 29, and a student of agronomy, was a leader of the Western AEVO Student Association from 1982 to 1984. He was abducted on Monday, October 19, 1987, at 12 Ave. 7-40 zone 1, near the central park of Quetzaltenango. He was handcuffed and put in his own vehicle, a Toyota bearing license plates P-33591. There were witnesses to his abduction. Despite efforts made by family and friends, he is considered as "disappeared."

4. On October 23, 1987, the Commission sent a cable to the Government of Guatemala on the above mentioned complaint and requested that the Government provide the Commission with information on this case, to which it gave the case number 10.112, as soon as possible.

5. On October 23, 1987, the Commission was informed by the petitioners that the bodies of Danilo Sergio Alvarado Mejia and Rene Aroldo Leiva Cayax had been found, and that they bore signs that they had been tortured, strangled, and shot.

6. On December 3, 1987, the Commission received a letter from the Government of Guatemala stating that the "Minister of the Interior has stated that the crimes committed against these two university people are now undergoing an exhaustive investigation and the case will not be closed until we are certain who the intellectual and material authors of these crimes were."

7. In light of the fact that the two cases involve a similar set of facts they are being consolidated for the purpose of reaching a decision in this case.

8. By note received at the Commission, dated January 11, 1988, the Government of Guatemala informed the Commission that:

The Government of President Vinicio Cerezo Arevalo deeply regrets the abduction and assassination of Mr. Danilo Alvarado Mejia and Rene Aroldo Leiva Cayax in mid October this year. As a consequence of these criminal action, the President ordered an exhaustive investigation of both cases, which resulted in the detention of six police officers now subject to criminal charges. The individuals under investigation are Catalino Esteban Valiente Alonzo, Head of the National Police in the Department of Quetzaltenango; Cristobal Antonio Martinez Flores; Braulio Herbelio Velasquez Rodas; Eulalio Cabrera y Cabrera; Daniel Flores Tellez, and Jose Luis Ordocez de Leon.

Last December 4, the Minister of Interior Juan Jose Rodil Peralta held a press conference in which he clearly stated: 'The present Government of Guatemala is not, like in the past, an institutional partner of violence.' In accordance with that, Mr. Rodil released information on the cases above mentioned and referred to the detention of other police officials involved in crimes that took place from 1980 to 1982. The individuals involved are: Ramon Merida Herrera and Osmundo Fidencio Zacarias Villacinda.

The Government of Guatemala would like to take this opportunity to express its confidence in a democratic process that cannot tolerate abuses of any kind, particularly those committed by forces intended to protect and preserve human rights.

9. On February 15, 1988, the petitioner submitted additional information, which also confirmed the information that a number of police officers had been detained. This information can be summarized as follows:

Alvarado Mejia, at the time of his kidnapping was the father of two, and employed by the Ministry of Agriculture. He was abducted by several armed men, in plainclothes, who were driving a red vehicle with official government plates, into which he was put after they threatened to kill him. The victim had been riding a motorcycle when he was intercepted. According to the press, the witnesses were too afraid to offer him any assistance. They only informed the local authorities as to what had occurred. The victim's relatives informed the family, moments after he was captured, that they had his motorcycle.

Leiva Cayax at the time of his kidnapping was 25 years old and married. He was also abducted by several plainclothes men, who were heavily armed, and were driving an official government vehicle. At the time of his detention, Leiva Cayax was driving his Toyota, with license plate number P-33591, which subsequently appeared in the jurisdiction of San Juan Ostuncalco, Department of Quetzaltenango.

When the vehicle appeared, the local Justice of the Peace opened a case and sent the file to the Quetzaltenango tribunal, which was processing the complaints regarding the kidnapping of Leiva Cayax. On October 18, ACAFADE and other human rights groups petitioned President Cerezo, but to no avail. On October 19, the students at the Centro Universitario de Occidente, held protest demonstrations in the city of Quetzaltenango, demanding the liberation of Alvarado Mejia and Leiva Cayax.

On October 23, Alvarado Mejia's body was found on the road known as Kilometer 175, Pacific Highway, near Cuyotenango in the Department of Suchitepequez, with five knife wounds and signs of having been tortured. On the same day the body of Leiva Cayax was also found, which revealed that he had been strangled and shot, since the body had six bullet wounds; Leiva Cayax was found on Kilometer 117, of the Panamerican Highway, in the jurisdiction of Las Trampas, in the Department of Solola.

According to press reports, the Ministerio de Gobernaciyn had revealed that the persons responsible for these two assassinations were the Chief of the National Police of Quetzaltenango, Catalino Esteban Valiente Alonza and five policemen whose names are: Cristobal Antonio Martinez Flores, Braulio Herbilio Velasquez Rodas, Eulalio Cabrera y Cabrera, Daniel Flores Tellez, and Jose Luis Ordocez de Leon.

10. By letters dated February 15, 1988, the Commission transmitted the pertinent parts of the petitioner's letter on these cases to the Government of Guatemala.

11. By note dated May 11, 1990, the Government of Guatemala informed the Commission that:

It was established that those responsible for this abduction and murder were a number of former agents of the national police. They were sentenced to 30 years' imprisonment by the First Lower Court of Quetzaltenango.

In light of the documents enclosed, which demonstrate that those guilty of the abduction and murder were convicted, I would be most grateful if you would remove cases N° 10.111 and 10.112 from the list of cases against the State of Guatemala.

12. On June 25, 1990, the Commission informed the petitioners of the response of the Government of Guatemala, and requested that it submit whatever observations it had thereto so that the case could be considered by the Commission during its next period of session.

13. By letter dated August 30, 1990, the petitioners presented the following observations to the Commission:

We enclose information on Guatemalan cases numbers 10.111 and 10.112, which concern Danilo Sergio Alvarado Mejia and Rene Aroldo Leiva Cayax, respectively.

As you know, the Guatemalan Government's response to the Commission has been that those responsible for the murders were convicted to 30 years' imprisonment, this being the only case in Guatemalan history in which members of the security forces were tried for human rights violations.

These cases were initially heard by a Quetzaltenango criminal court. On July 22, 1988, it handed down a guilty verdict against the members of the security forces (whose names we enclose), sentencing them to 30 years in prison for kidnapping and murder.

The Eighth Appellate Court nullified this decision and returned the case for retrial in Quetzaltenango, with another judge presiding.

One year after their conviction, on July 24, 1989, the lower court, with the new judge presiding, cleared the accused of the kidnapping charge, though the 30-year sentence on the murder charge stood.

Finally, the case was heard in Guatemala City by the Fourth Appellate Court, which in early August of this year dismissed all charges against the members of the security forces who had been accused of these abductions and murders.

This is an affront to the Alvarado Mejia and Leiva Cayax families, and to all of us who would like to see justice done in Guatemala some day.

We are reminded that in 1988, Harvard University began a criminal justice advisory program to assist the Guatemalan Government, and took the case of the security forces accused of these crimes as a case study and to prove how the investigative system could function.

However, two weeks before the accused were cleared of the charges, Harvard University pulled out of the

country, saying that the Guatemalan Government was not disposed to investigate cases of political violence in that country.

We enclose a copy of the "Harvard Report on Police Trials," which was published in Guatemala by Inforpress, on page 14, on August 23, 1990.

We hope that this information will be useful in following up on these cases, so that they will not go unchallenged, as the Guatemalan Government would have it.

14. On September 17, 1990, the Commission transmitted the observations of the petitioners to the Government of Guatemala, and requested that it present whatever observations it deemed appropriate within a period of 30 days.

15. On October 22, 1990, the petitioners informed the Commission of a letter which they had received from Lic. Edmundo Vasquez Martinez, the President of the Guatemalan Supreme Court. Lic. Vasquez Martinez stated that:

I received your note of September 10 wherein you request information on the proceedings in the case involving the abduction and murder of Aroldo Leiva and Sergio Alvarado.

The case is still before the courts. The appropriate notifications are being made and the only finding thus far is the dismissal handed down by the Fourth Appellate Court, to which I have sent a photocopy of your request and the documents that you sent.

16. On November 8, 1990, the Commission communicated this additional information from the petitioners to the Government of Guatemala, and requested that it present any further observations within a period of 60 days.

17. No additional observations were received from the petitioners and the Government of Guatemala has not provided any further information on this case.

CONSIDERING:

1. That the complaint meets the formal admissibility requirements set forth in Article 46 of the American Convention on Human Rights, to which Guatemala became a party when it deposited its instrument of ratification on May 25, 1978.

2. That domestic remedies have been exhausted in this case, pursuant to Article 26.1.a of the American Convention, in that the Government of Guatemala, by means of a trial court in Quetzaltenango, in July 1988, convicted Catalino Esteban Valiente Alonzo, the National Police Chief for the Department of Quetzaltenango, and five other National Police officers, and sentenced them to 30-year prison terms for the kidnapping and murder of Danilo Sergio Alvarado Mejia and Rene Aroldo Leiva Cayax, two agronomists affiliated with the Western University Center in Quetzaltenango. The Police Chief was convicted for ordering the crimes and his subordinates were held responsible for having carried them out.

3. That the Commission has no information that any other Guatemalan Army or security force officials have ever been convicted in a criminal prosecution for human rights violations. Consequently, this 1988 conviction, which was based on evidence obtained using laboratory techniques taught to police investigators by the United States under its Administration of Justice program for Guatemala, was a landmark decision. For example, hair samples taken from the Toyota jeep at the disposal of the Chief of Police, were found to be consistent with that of the victims, which led the trial judge to conclude that the victims had been held in that vehicle.

4. That according to information received by the Commission on this case, from sources other than

the parties, the Commission has learned that the killings were particularly atrocious. Alvarado suffered head injuries and eight stab wounds in the thorax; Leiva had his stomach cut open and his organs exposed, he was strangled and his left arm was broken, as well as having received injuries on the back caused by an electric saw. The police interviewed witnesses and carried out laboratory tests in its efforts to find the perpetrators of the crime. On July 22, 1988, the trial judge sentenced them to 30 years (the heaviest sentence short of the death penalty). The case was appealed to the Seventh Appellate Court in Quezaltenango, which in December 1988 remanded the case to the trial court for further investigation. A new judge, at the trial court level, upheld the convictions on murder but acquitted the defendants on the charges of kidnapping. They again received sentences of thirty years, and the families of each victim were awarded damages of 15,000 quetzales each. The case was appealed again, but the Supreme Court reassigned it to the Fourth Appellate Court in Guatemala City instead of to the Seventh Appellate Court in Quetzaltenango. The Fourth Appellate Court did not dispute the facts established by the trial court but held that they were insufficient to uphold the murder convictions. On July 30, 1990, the convictions of the six police agents were overturned and they were all released from detention.

5. That the appellate court determined that the evidence presented in this case was insufficient to uphold the murder convictions; consequently, three years after its commission, the State has been unable to identify the perpetrators of this heinous crime.

6. The ultimate responsibility for the identification and punishment of the perpetrators of this crime lies with the Government of Guatemala since the Guatemalan authorities have control over the evidence since the crime took place.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
RESOLVES:

1. To declare that the Government of Guatemala has failed under Art. 1.1 to ensure the full and free enjoyment of the right to life (Article 4), the right to respect for one's physical integrity (Article 5), the right to personal liberty (Article 7), and the right of access to justice (Article 25) of the American Convention on Human Rights in the abduction and assassination of the two Guatemalan agronomists Danilo Sergio Alvarado Mejia, 32, and Rene Aroldo Leiva Cayax, 28, in Quetzaltenango.

2. To recommend to the Government of Guatemala, that it order a thorough investigation in this case in order to clarify the facts and to bring to justice the persons responsible for this heinous crime so that they may be punished according to the law.

3. To request that the Government of Guatemala advise it of the measures which it has adopted in order to evidence compliance with this recommendation within a period of 90 days.

4. To forward this report to the Government of Guatemala, pursuant to Article 50 of the American Convention.

5. To consider at the next regular meeting of the Commission whether the measures taken by the Government of Guatemala are in compliance with the recommendations set forth above and to decide at that time whether or not to publish this report.