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Title/Style of Cause: Andres Colindres Vasquez, Maria Luisa Panameno, Miguel Colindres Panameno and Manuel Antonio Colindres Panameno v. El Salvador
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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
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HAVING SEEN:

1. The original petition received by the Inter-American Commission on Human Rights on June 2, 1989, to the effect that:

On February 28 of this year (1989), soldiers from the Military Detachment of Armed Force Engineers (Destacamento Militar de Ingenieros de la Fuerza Armada - DMIFA) seized and later killed Andres Colindres Vasquez, 48, his wife Maria Luisa Panameno, also 48, and their son Miguel Colindres Panameno, 18. One of the murdered couple's other sons, Manuel Antonio Colindres Panameno, 18, discovered the three bodies on March 7, near the home of this peasant family, in the Las Animas district, Jurisdiction of Santiago Nonualco, Department of La Paz, El Salvador.

These summary executions followed a series of arrests, torture and threats against the Colindres Panameno family, always from the DMIFA, which has its headquarters in Zacatecoluca, La Paz. We are presenting this petition to denounce these facts to the Inter-American Commission on Human Rights (IACHR) and to ask it to investigate the events recounted here and to condemn the State of El Salvador for these grave violations of the American Convention on Human Rights. What follows is a detailed description of the events and our petition with regard thereto.

I. Background leading up to the murders: arrests, threats, and torture

In early 1986, Miguel Colindres Panameno was arrested and sent to the Mariona Prison, where he remained as a political prisoner until released in late 1987 under the most recent amnesty decree.

On April 24, 1988, Manuel Antonio Colindres Panameno was arrested and held for one week in the quarters of the Military Detachment of Armed Force Engineers, accused of being a collaborator for the guerrillas (of the Farabundo Marti Front for National Liberation, FMLN). On December 10 of that year, troops from that post seized Andres Colindres Vasquez and his youngest son Pedro Colindres Panameno, who was 16 at the time. They were held for 19 days, without being formally charged or brought before a judge. To the contrary, they were interrogated and threatened that they would be killed if they refused to

say that two other sons of the family, Miguel and Manuel Antonio Colindres Panameno, were guerrillas. They were released once the International Committee of the Red Cross established that they were being held at that post. Before they were released on December 29, 1988, the Commandant of the DMIFA gave them a "statement" wherein he asserted that Mr. Colindres "is someone who has left the terrorist organizations and has given himself up voluntarily to this Command; he said that he wished to resume his daily work." It also said that he was required to make an appearance at the DMIFA every 15 days.

Some six weeks later, on February 12, 1989, Manuel Antonio Colindres Panameno was taken by members of the Santiago Nonualco Civil Defense, under the command of the Military Detachment of Armed Force Engineers. He was brutally tortured for hours at the Santiago Nonualco Command Post. They stripped him and "tied a nylon cord around his testicles and pulled on it until they lifted him off the ground... they struck matches and put the lighted matches on his penis, and threw hot coffee on him," all of which caused him to faint repeatedly; this was all done in order to get him to admit he was a guerrilla and delivered rifles.

The next day he was transferred to the DMIFA, where he was hung up by his hands, which were tied behind him, and beaten. When he could not withstand any more torture, "he confessed" to being a guerrilla and having a rifle (which was not true). They dressed him like a soldier and took him to the Las Animas district. There was a clash in progress at the time, and they put Manuel and two other detainees in the middle of the shooting, exposing them to the danger of the crossfire. Manuel was later taken to the National Guard, then to the Zacatecoluca Municipal Police and from there to the Santiago Nonualco jails, where he was released on February 17.

II. Arrest and subsequent murder of mother, father, and son

On February 28, 1989, Andres Colindres Vasquez, Maria Luisa Panameno de Colindres, and Miguel Colindres Panameno were on their way from the Santiago Nonualco municipal market to their home in the Las Animas district when they were arrested. According to statements made by people living in the area, they were taken by soldiers from the DMIFA. However, DMIFA headquarters denied this. It was not until March 7 that Manuel Colindres Panameno discovered the bodies of his mother, father, and brother near their house.

The three bodies were exhumed on March 30. It was established that in the case of Andres Colindres Vasquez, at both wrists there is a sectioning of the third distal of the radius and ulna bones (amputation) produced by a cutting instrument: by itself this could be the direct cause of his death. The body of Maria Luisa Panameno was incomplete and identification was difficult because it had decomposed; however, one could see the fracture and destruction of the third distal of the left femur, indicating that that member had been amputated. That injury was the immediate and sole cause of death. Miguel's body showed a wound caused by a heavy-caliber firearm; the entry orifice is at the 7th left rib; there is no exit wound; there is severe hemorrhaging in the left hemithorax, which caused the left lung to collapse. A careful search for the bullet found nothing. The direct and sole cause of death was the injury to the left side of the body.

III. The responsibility of the Military Detachment of the Armed Force Engineers

The victims themselves and the DMIFA's own statements clearly point to the latter's role in the earlier arrests and torture of the Colindres Panameno family. Other persons confirm that Andres and Pedro were held for 19 days at the headquarters of the DMIFA and describe torture by DMIFA officers that are similar to those used on Manuel.

Thus, the DMIFA can be singled out as the force responsible for the summary executions of the three members of that family, based on information concerning their arrest together with the history of the DMIFA's persecution of the Colindres Panameno family and the accusations it made against them alleging ties with the FMLN.

Moreover, the Las Animas district is one of the areas in which the DMIFA focuses its activities, because its headquarters is in the nearby city of Zacatecoluca. For example, in December the DMIFA put a curfew into effect in this area and mounted a military operation there that lasted several months. In December 1988, members of the DMIFA killed Francisco Alvarez Garcia, whom they had seized near his house in the same area where they would later take the Colindres Panameno family; the summary execution of the

Colindres Panameno family is an isolated example of the DMIFA's human rights violations, but just one of many murders, abductions, and tortures that this branch of the Armed Force has committed.

What little could be seen on the bodies of the three victims indicates that their deaths were neither accidental nor caused in combat; two of the three had limbs amputated: both of Andres Colindres' hands had been amputated, while Mrs. Panameno's leg had been amputated.

All this information points to but one conclusion: that the DMIFA, with or without the aid of the Civil Defense, killed this family for the same reasons it had abducted and tortured the father and sons earlier, accusing them of either collaborating with or being members of the FMLN.

It should be noted here that this family is still being persecuted. On May 26, Manuel and Pedro were captured in the western part of the country, where they had moved after the murder of the father, mother and brother.

IV. Response of the domestic system of justice and the lack of results because of the judicial system's inability to function

When Pedro and his father were taken by the DMIFA in December of last year (1988), along with other peasants, Maria Luisa Panameno, as an aggrieved party, reported it to the Justice of the Peace of Santiago Nonualco. The men who abducted her husband and son were never tried and it would be 14 days before the two were finally released.

In February of this year (1989), a petition of habeas corpus on behalf of Manuel was filed with the Supreme Court of Justice, but was not executed. Two days later, Manuel Colindres Panameno was released. Likewise, when Andres, Maria Luisa, and Miguel were taken on February 25, a petition of habeas corpus was filed, but the next day the three were found already murdered.

The inquiry into "the death of Maria Luisa Panameno and others" is in the Criminal Court of the city of Zacatecoluca, under number 133/89. The Justice of the Peace of Santiago Nonualco conducted the identification proceedings on March 9 and two sons of the murdered couple, Tomas Colindres Panameno and Pedro Colindres Panameno, filed complaints as the aggrieved parties, and accused the DMIFA of the murders. Two prosecutors appeared as counsel in the case on March 13, and on March 30 the exhumation of the three bodies was conducted. That was the status of the case as of April; no attempt was made to summon the troopers or officers from that post, much less to bring them to trial.

Therefore, because there is no functional judicial system in El Salvador, we believe that there is no hope of establishing criminal liability in this case so as to punish the guilty parties and compensate the aggrieved parties. In a recently published report, the judicial system's inability to function is summarized as follows:

The lack of cooperation from the Armed Service effectively prevents the human rights cases from being resolved. Under Salvadoran law, the evidence presented in a court of law has to be produced either by an examining magistrate or some law enforcement agency. This provision paralyzes the judiciary: the only law enforcement agencies with the authority to present evidence in cases involving the security forces are the security forces themselves.

The Armed Service weakens these cases and the civilian government is either unable or unwilling to institute fundamental changes. These two factors combined have brought El Salvador's system of justice dangerously closely to collapse. Today that system is influenced by fear, intimidation, and political interference. Judges and attorneys are often the targets of bribery attempts and threats of violence. A number of brave judges and attorneys who tried to advance the cause of justice in difficult cases have resigned in the last twelve months, fearing the consequences of their quest for truth.

A sweeping amnesty decree enacted in October 1987 has only served to further discourage those judges and attorneys who honestly seek justice. Understandably, with the harassment and death threats many no longer want to risk their lives because they now believe that, no matter what they do, even the most violent acts will be pardoned.

With the situation as it is, the IACHR should admit this petition without waiting for the remedies under domestic law to be exhausted or should consider them to have been exhausted. Regulations, Article 37.

V. Petition

This case involves numerous violations of the American Convention, starting with the first arrests and then the murders and the constant threats to the three surviving sons.

The arrests violated the rights upheld in Articles 5, 7, and 8 of that Convention; Andres and Pedro were threatened and held for long periods of time, while Manuel was the victim of brutal torture, all in violation of Article 5; finally, the murders denied the three victims their right to life, Article 4.

The lack of an effective judicial response to the first complaints and in the inquiry into the deaths of the three people, is a violation of Article 25. Indeed, this case is a sad example of the consequences of an ineffective judicial system; had those who were responsible for the earlier arrests and torture been punished, the deaths that followed might have been avoided. In general, once again this case shows the Salvadoran State's systematic failure to comply with its obligation to guarantee "full and free exercise" of the rights to which the articles in question refer, which in itself is a violation of Article 1.1 of the American Convention.

Therefore, we respectfully request that the IACHR:

1. Admit the present petition.
2. Conduct an on-site observation concerning the conduct of the Military Detachment of Armed Force Engineers and the Civil Defense in the instant case, to establish the identity of the individuals responsible for the crimes described above.
3. Condemn the Government of El Salvador for the violations that have been committed and recommend that said Government take the necessary measures to punish the guilty parties and compensate the victims.
4. Consider referring this case to the Inter-American Court of Human Rights.

2. In a note dated June 26, 1989, the Commission began to process this case and, therefore, requested the Government of El Salvador to furnish the pertinent information on the facts reported in that communication and any other information that would enable it to determine whether the remedies under domestic law had been exhausted in the instant case; the Government was given 90 days in which to respond.

3. On May 7, 1990, the Government of El Salvador replied, reporting the following:

Andres Colindres, Maria Luisa Panameno, and Miguel Colindres Panameno: The above-named individuals left their home on the morning of February 28, 1989, on their way to the Municipal Market in Santiago Nonualco to make purchases. They never returned home, but their bodies were later discovered on the Colindres property. The bodies were examined by the Justice of the Peace of Santiago Nonualco, Department of La Paz. The above-named individuals died under circumstances that have not yet been clarified.

Manuel Antonio Colindres Panameno was remanded for trial to the Justice of the Peace of Santiago Nonualco, Department of La Paz, on February 16, 1989.

4. At its 79th session, the Commission adopted Report N° 22/91, 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.

WHEREAS:

1. The Commission is competent to hear the present case, as it involves violations of human rights recognized in the American Convention on Human Rights--Article 4 on the right to life, Article 7 on the right to personal liberty, and Article 25 on the right to judicial protection--as provided under Article 44 of that Convention, of which El Salvador is a State Party.

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

3. The petition is not pending action in any other international arrangement and is not a restatement of a petition already examined by the Commission.

4. In the instant case, it is obvious that the aggrieved parties were unable to secure effective protection from the organs having jurisdiction, as is clear from the fact that the investigation to determine those responsible for the triple homicide of Andres Colindres Panameno, Maria Luisa Panameno and Miguel Colindres Panameno produced no results whatever, and neither the investigation concerning young Manuel Antonio Colindres Panameno. Hence, the requirements on exhaustion of the remedies under domestic law, contained in Article 46 of the Convention, do not apply.

5. Despite the time that has passed, the Commission's overtures, and the very serious nature of the facts denounced, the Government has not supplied a satisfactory reply concerning the facts in the instant case.

6. In the instant case, it is obvious that the Colindres Panameno family has been harassed and persecuted by members of the Military Detachment of Armed Forces Engineers since 1986.

7. The response supplied by the Government of El Salvador in its note of May 7, 1990, does not supply any information concerning the investigations to ascertain the facts and determine those responsible for the murder of Andres Colindres Vasquez, Maria Luisa Panameno de Colindres and Miguel Colindres Panameno and confines itself to a brief description of what occurred and a statement to the effect that the circumstance of their deaths have not yet been clarified. Further, the response concerning MANUEL ANTONIO Colindres fails to make any reference to the torture to which he was subjected during the period he was in custody.

8. Since the friendly settlement procedure provided for in Article 48.1.f of the American Convention does not apply because of the nature of the facts denounced, the Commission must comply with Article 50 paragraph 1 of the Convention and so issue its conclusions and recommendations on the petition submitted to it for consideration.

9. That the Government of El Salvador has not submitted observations on Report N° 22/91.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
RESOLVES:

1. To declare that the Government of El Salvador is responsible for the violation of the rights to life, personal liberty and judicial protection (Articles 4, 7, and 25 of the Convention) of Andres Colindres Vasquez, Maria Luisa Panameno, Miguel Colindres Panameno and Manuel Antonio Colindres Panameno, based on the communication received at the Commission on June 2, 1989.

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

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

a. That it conduct a thorough, swift and impartial investigation into the facts denounced to identify

those responsible and bring them to trial, so that they may receive the punishment that such grave conducts warrants, and the necessary investigations and punishments.

b. That it adopt the measures necessary to avoid similar acts from being committed hereinafter.

c. That it make reparations for the consequences of the situation created by the transgression of the aforementioned rights and pay a fair compensation to the injured parties.

4. 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 3 of the operative part of this report.

5. 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° 22/91.