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File Number(s):	Report No. 9/92; Case No. 10.256
Session:	Eighty-First (3 – 14 February 1992)
Title/Style of Cause:	Francisco Alberto Martinez Marroquin 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:	Martinez Marroquin v. El Sal., Case 10.256, Inter-Am. C.H.R., Report No. 9/92, OEA/Ser.L/V/II.81, doc. 6 rev. 1 (1991)
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HAVING SEEN:

1. The complaint received by the Inter-American Commission on Human Rights, dated October, 1988, to the effect that:

On Monday, April 11, 1988, at 8:30 a.m., Francisco Alberto Martinez Marroquin, 34 years of age and married, left his home in Jardines del Selsunt, Prodicto Street, N° 9, Ilopango, San Salvador, to pay the water and electricity bills. He then drove to the Amatepec Development in Credisa to collect a sum of money that was owed to him. At around 2:00 p.m., he left Credisa and drove to the Libertad Development to borrow some money. He then left by the street that leads to Ricaldone High School and happened to pass an ocher-colored pick-up with a dual cabin and tinted glass. Two men got out and pointed at him, telling him to "stop, stop right there." They shoved him into the car and put a blindfold on him. After driving for about 30 minutes, they reached their destination, took him out of the car and put him in something that seemed to be an underground jail. He could tell that there were sewer pipes down there. They took him into another small room which was completely dark. There was another hooded man there. They told him they needed his help and that he should tell them whom he was working with, his comrades' address, and the number of years he had been working there, implying that he had links to guerrilla groups.

The detainee told him that he had nothing to do with any group, that they had made a mistake. One of the hooded men told him: "Look, we know that you have ties with the subversive movement and what good will it do you to deny it if we're going to kill you. You have to cooperate." The other men who had taken him to that room and who also wore hoods, tied his hands behind him. One of the hood men who was interrogating him punched him in the stomach, saying that he was in their hands and had better talk. They then asked him if he knew the university campus. He told them that he did because he had lived there as a child and had friends who worked there.

Since they could not make him talk, they beat him and began to torture him. On Monday, April 18, they came back and took him out of the cell to interrogate him again, insisting that he had better cooperate.

When he did not say what they wanted him to say, they used electric shocks, whereupon he passed out. During the night they came to his cell and told him that they were going to release him. But, they said, he had 15 days in which to leave the country. They then threw him out of the vehicle and left him with his hands tied. He regained consciousness at around 5:30 the next day and began to walk in a gully until he found refuge with people who helped him. Since then his health has been poor as a result of the torture.

2. Through a note dated November 1, 1988, the Commission began its process of the case and asked the Government of El Salvador to furnish the pertinent information on the facts reported in that communication and any other information that would make it possible to establish whether the remedies under domestic law had been exhausted in the case addressed in the petition; the Government was given 90 days in which to respond to that request.

3. Through a note dated February 12, 1990, the Commission reiterated its request to the Government of El Salvador, noting that the reply should be received within 30 days.

4. On May 7, 1990, the Government of El Salvador informed the Commission that:

Francisco Alberto Martinez Marroquin: This Commission has on record the fact that on February 19, 1989, a Mr. Francisco Alberto Martinez Castro was apprehended in Villa Moncagua, by members of the Arce Battalion from San Miguel in Villa Moncagua, for being a terrorist. On March 3, 1989, he was remanded to the San Miguel Treasury Police, where he was released on March 4, 1989, and turned over to the Delegate of the International Committee of the Red Cross.

5. The Commission asked the Government of El Salvador to send additional information on the status of the present case, in notes of November 13, 1990, and January 17, 1991. Thus far it has received no reply.

6. At its 79th session, the Commission adopted Report N° 18/91, 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 hear the present case inasmuch as it concerns violations of rights recognized in the American Convention on Human Rights--Article 5 on the right to humane treatment and Article 7 on the right to personal liberty--as provided in Article 44 of that Convention, of which El Salvador is a State Party.

2. That the petition meets the formal requirements for admissibility set forth in the American Convention on Human Rights and in the Regulations of the Commission.

3. 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.

4. That in the instant case it is obvious that the petitioner has been unable to secure effective protection from the organs having jurisdiction, so that the requirements concerning exhaustion of the remedies under domestic law, spelled out in Article 46 of the Convention, do not apply.

5. That the response provided by the Government of El Salvador to the Commission, dated May 7, 1990, concerns the arrest of someone other than the individual in question in the instant case, and the

method, timing, and scene of the events are completely different.

6. That the way in which Mr. Martinez Marroquin was seized and the outrageous conditions in which he was kept throughout the period of his confinement indicate that he was the victim of paramilitary groups having ties to the Salvadoran security forces, since it is the latter that is interested in obtaining information on subversives; all this points to the existence of a very grave practice used to exact, via extrajudicial means and through the use of violence, confessions from those who are seized.

7. That the way these paramilitary groups operate, concealing the identity of their members and using clandestine places of confinement, is compounded by the lack of action on the part of the authorities to investigate the facts and identify those responsible, all of which helps to ensure that the authors of violations such as the one denounced are able to act with complete impunity.

8. That despite the time that has passed and the repeated overtures made by the Commission, the Government of El Salvador has not responded to the facts denounced in the instant case.

9. That by not responding, the Government has failed to comply with its international obligation to supply the Commission with information within a reasonable time period, as provided in Article 48 of the Convention.

10. That, since the friendly settlement procedure provided for in Article 48.1.f. of the American Convention does not apply because of the very nature of the acts denounced, the Commission must comply with the provisions of Article 50.1 of the Convention by issuing its conclusions and recommendations on the complaint filed with it for consideration.

11. That the Government of El Salvador has not submitted observations on Report N° 18/91.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS,
RESOLVES:

1. To declare that the Government of El Salvador is responsible for the violation of the right to humane treatment and the right to personal liberty (Articles 5 and 7 of the Convention) of Mr. Francisco Alberto Martinez Marroquin, according to the complaint received at the Commission on October of 1988.

2. To declare that the Government of El Salvador has failed to honor 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, pursuant to Article 50.3 of the Convention and Article 47 of the Regulations of the Commission:

a. That it conduct a swift, exhaustive and impartial investigation into the events 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 prevent the commission of similar crimes in the future.

c. That it make reparations for the consequences of the situation that its violation of those human rights has created and pay the aggrieved parties a fair compensation.

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° 18/91.