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Title/Style of Cause:	Hector Oqueli and Gilda Flores v. Guatemala
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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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BACKGROUND:

1. On January 12, 1990, the Inter-American Commission on Human Rights was informed that the bodies of Salvadoran lawyer and politician, Dr. Hector Oqueli, and Guatemalan lawyer, Lic. Gilda Flores, had been found with bullet wounds to their heads near the Salvadoran border, after having been abducted by heavily armed men while on their way to the airport. That same day the Commission sent a cable to the Government of Guatemala requesting information on the killings.

2. On January 23, 1990, the Commission received a cable from the Guatemalan Government which stated that "terrorists" were responsible for the assassinations, and that a high level investigative commission had been established (on January 20th) which would include both the Human Rights Ombudsman and the Minister of Defense, and would be supervised by the President, Lic. Vinicio Cerezo:

When it was learned that Gilda Flores and Hector Oqueli Colindres had been abducted, a search for them was initiated. Unfortunately they were found after they had already been assassinated, which gave rise to an aggressive investigation in order to find the perpetrators.

In light of this situation the Government and all the security forces are involved in the investigation, and a Commission was created which is headed by the Human Rights Ombudsman, the Minister of Government (Gobernacion), and the participation of the Ministry of Defense. This Commission is directly supervised by the President of the Republic, Lic. Marco Vinicio Cerezo Arevalo. You will be informed of its achievements and findings as soon as they have been obtained.

On January 16, 1990, according to press reports from the news agency EFE, the Guatemalan Government requested the collaboration of the United States Federal Bureau of Investigation (FBI) in solving these crimes.

3. On February 19, 1990, a formal complaint was presented to the Commission on behalf of the

victims. The complaint alleged that since Dr. Oqueli had been the Under Secretary General of the Salvadoran political party, "National Revolutionary Movement" ("MNR" is the Spanish acronym), and Secretary of the Latin America and Caribbean Committee of the Socialist International, and since Dr. Flores had been a member of the Democratic Socialist Party of Guatemala, not only the right to life of these individuals had been violated, but also the right to engage in political organizations and activities. In the opinion of the petitioner, the circumstances surrounding the killings proved that the political-military apparatus of the Governments of Guatemala and El Salvador were responsible, which amounted to a case of state terrorism.

4. The complaint presented can be summarized as follows:

a. In November 1989, during the FLMN military offensive, the Salvadoran government placed all nationwide private radio broadcasting facilities under its control, as part of a suspension of constitutional guarantees decreed by the government. These nationalized broadcasts served as a vehicle for a barrage of threats and accusations against Dr. Guillermo Ungo, Dr. Ignacio Ellacuria, S.J., the Archbishop of San Salvador, the Auxiliary Bishop of San Salvador, and Dr. Hector Oqueli. Dr. Ellacuria and other jesuit priests were assassinated on November 16, 1989, under circumstances which are now in the public domain, and which involved officers and members of the Salvadoran Army.

b. The President of Guatemala, Mr. Vinicio Cerezo, publicly stated in November 1989, that he had reliable reports that the ARENA party in El Salvador and Major Roberto D'Aubuisson, its Honorary President, were supplying arms in Guatemala and refuge in San Salvador to well-known members of the Guatemalan far right, connected to the Guatemalan political party known as Movement of National Liberation ("MLN" is the Spanish acronym).

c. Guatemala is a place of refuge and center of political activities for well-known Salvadorans, both members of the military and civilians, who in the past had been accused of belonging to the death squads. One of these, a military man, is currently working in the Salvadoran Embassy in Guatemala. Another one, a civilian, was seen in the Guatemalan airport, on January 10 of this year, that is to say, one day before Dr. Oqueli arrived in Guatemala.

d. At the time of his abduction, Dr. Oqueli had been in Guatemala for less than 24 hours, on his way to Nicaragua (where he was part of a group of electoral observers of the Socialist International) and Ecuador (where he was going to attend the meeting of the Latin American and Caribbean Committee of the Socialist International). Lic. Flores had accompanied Dr. Oqueli the previous day in some personal activities related to his political work, and at the time of her abduction, she was driving him to the airport in her car.

e. On January 11, 1990, Dr. Oqueli arrived at the Guatemalan international airport from Mexico at approximately 8:30 a.m. Immediately upon arriving, Dr. Oqueli was held for more than an hour by the Guatemalan immigration authorities, and thought that an error must have occurred with his entry stamp. Subsequently, Dr. Oqueli learned that there had been no error as regards his passport and presumed that he had been held in order for the authorities to photograph his entire passport and to make provisions to have him followed. When, at the end of the hour, Dr. Oqueli entered into the car of Lic. Flores, he commented that he thought that he was being followed, since one of the people who had detained him, was outside the terminal installations watching them.

f. On January 12, 1990, according to witnesses, the car in which the victims were driving was intercepted on the airport road at approximately 6:30 a.m. by unknown, heavily armed men, who abducted them. Hours later on the same day, at mid-morning according to the police, the abandoned car was found evidencing signs of violence. In the interior of the car the luggage of Dr. Oqueli was found.

g. In the afternoon of the same day the two bodies appeared, on one of which was found Dr. Oqueli's passport, in an abandoned pick-up in the village of Japatagua, in the Department of Jutiapa, near the Salvadoran border. Relatives of Dr. Oqueli arrived at the site and confirmed his identity. It appeared that he had been killed by a bullet wound to the head.

The petitioner concluded that this is a case of a political assassination. Since it occurred near important Guatemalan civilian and military installations, during daylight, the petitioner presumes that it had, at least, the acquiescence of the Guatemalan authorities; the fact that Dr. Oqueli had been detained, without justifiable cause, in the international airport for more than an hour, led the petitioner to suspect that the migration authorities had some connection with the perpetrators of this political assassination.

The petitioner requested that the IACHR investigate the extent of involvement on the part of Guatemalan and Salvadoran authorities in the assassination of Dr. Oqueli and Lic. Flores.

5. During the Commission's on-site visit to Guatemala from January 29 to February 3, 1990, for the purpose of investigating a different case, the members of the IACHR delegation took advantage of the opportunity to relate their concerns about the Oqueli/Flores case to the Guatemalan authorities. The governmental authorities, in turn, informed the members of the delegation of the measures which had been taken to conduct the investigation, which had the assistance of the most qualified international technical agencies. The Commission reiterated its request to be kept informed of the progress of this investigation.

6. On February 23, 1990, the Commission transmitted the pertinent parts of the complaint to the Government of Guatemala and requested it to present its observations thereto. Having received no response, on July 3, 1990, the Commission reiterated its request for information to the Government of Guatemala.

7. By note dated July 10, 1990, the Government of Guatemala presented a document to the Commission which it referred to as "preliminary." Ambassador John Schwank Duran, the Permanent Representative of Guatemala to the Organization of American States, indicated in his note that he would continue to inform the Commission regarding the progress of this case before the Guatemalan courts. To date no further information has been submitted by the Guatemalan Government to the Commission.

8. The official "preliminary" governmental report on the assassination was prepared by the Office of Presidential Security in Guatemala. The report on the facts, in general, coincides with the facts presented by the petitioner as does the conclusion, that the perpetrators were probably members of the Salvadoran far right, with, at least, the support of some Guatemalan. The Governmental report consists of two documents, one dated March 16, 1990, and the second dated May 1990, and each apparently prepared by different person(s) since certain facts are presented in a contradictory manner. The first document also contains an appendix which contains a number of police reports.

9. The March report can be summarized as follows:

a. That Dr. Oqueli arrived from Mexico on January 11th, that he was not on an official visit to Guatemala, that he was delayed at the airport ("in order to verify the date on the entry stamp in his passport which appeared to be in error"), that at the airport he ran into his friend, the Nicaraguan Ambassador to Guatemala, that Lic. Gilda Flores was there to pick him up, that at 3 p.m. the same day Lic. Flores and Dr. Oqueli brought Mr. Rene Flores to the airport; that on January 12, Lic. Flores drove Dr. Oqueli to the airport since he was leaving for Nicaragua and, according to a witness, they were intercepted by a group of unknown men who blocked their car by interposing a coffee colored vehicle.

b. That at 6:30 a.m. on January 12, the police received a call to verify that an automobile had been abandoned on the road to the airport. Passerbys stated to the police that a woman had been violently removed from the vehicle and that another individual leaped out of the vehicle and ran away. The police verified that the automobile was registered in the name of Lic. Gilda Flores. Employees of a nearby "Burger King" restaurant were interviewed who witnessed the vehicle stop, saw a woman removed from the vehicle and put into a grey colored vehicle, and another individual attempt to run away, who dropped

his glasses, which were found and turned over to the police. The witnesses stated that the individuals were dressed normally and appeared to be adults of normal height and complexion. The vehicles departed, stopping first at the red light but the witnesses, given the poor visibility, were unable to get the license plate number.

c. The police investigation was begun de oficio. During the investigation it was learned that an abandoned beige colored pick-up was found on the Pan American highway, the road leading to El Salvador, in which the bodies of Dr. Oqueli and Lic. Flores were found. The pick-up had been stolen from Mr. Mario Sanchez Urizar, prior to mid-day on January 12, 1990, by armed men who threatened him with death.

d. The military commissioner, Mario Antonio Grijalva, confirmed the finding of the bodies to the Treasury Police. The Justice of the Peace of the municipality of Jalpatagua, Jutiapa, where the bodies were found, ordered that they be transferred to the morgue in the department of Santa Rosa, where they were identified by the son-in-law of Lic. Flores and the family's lawyer of the Flores family, Mr. John Schwank Duran, currently the Permanent Representative of the Government of Guatemala to the Organization of American States.

e. The thirteen-year old son, the mother, the daughter, the son-in-law, and the maid of Lic. Gilda Flores were interviewed and they confirmed details of the facts presented above. The son-in-law, Jorge Ramon Rodriguez Toledo, an air force lieutenant (Teniente de Aviacion P.A.), testified that when his wife called her mother's house on Jan. 12, 1990, she spoke with the maid, Marta Lidia Perez, who told her that "national police agents" had informed her that Gilda Flores possibly had been kidnapped. Incidentally, the report points out that Gilda Flores' husband, Ricardo Galindo Gallardo, had "disappeared" eight years earlier. The son-in-law further testified that on January 12, he received an anonymous telephone call at home, and that the caller stated that he was calling "from the other side," and for them to call telephone No. 364444, which turned out to be the funeral parlor in Guatemala where the bodies had been taken. It is thought that, perhaps, the telephone call came from El Salvador, and hence the reference "from the other side."

f. The March 1990 report then concludes that "almost without doubt" the political right wing (Radical) in El Salvador was motivated to have committed the kidnapping and assassination of Oqueli and Flores, and bases this conclusion on the fact that Oqueli had received death threats in El Salvador between November 11 and 20, following the FMLN offensive, and that Oqueli contemplated permanently moving to Mexico where he had been residing, due to these threats, and that his wife, upon having been informed of his assassination attributed it to the Salvadoran right wing.

The March 1990 document then concludes with a surprising and unsubstantiated statement which reads:

Guatemalan intelligence sources conclude that Roberto D'Aubuisson and the brothers Francisco Ricardo and Orlando de Sola are responsible for the deaths of Oqueli and Flores given the fact that they were recently in Guatemala.

...

It is also believed that those responsible for the crime (...) are Salvadorans who were contracted specifically for this purpose, also noting that these persons obviously were very familiar with Guatemala City or were abetted by Guatemalans.

10. The second report submitted as part of the official response of the Guatemalan government was dated May 1990, and can be summarized as follows:

a. That the abduction of Dr. Oqueli and Lic. Flores occurred approximately at 5:45 a.m., and the bodies were discovered at 4:30 p.m. Witnesses state that the bodies were abandoned in a stolen pick-up at approximately 1 p.m., by a person who, after abandoning it, got into a blue vehicle with Salvadoran license plates and continued on his way in the direction of the Salvadoran border. Other people were in the blue vehicle.

b. Dr. Oqueli had come to Guatemala from Mexico, on his way to Nicaragua, ostensibly for the purpose of getting a Nicaraguan visa. The Ambassador of Nicaragua, Ambassador Zambrana, came to the airport on January 11 to pick him up. Dr. Oqueli's wife stated that her husband had gone to Guatemala to meet with Mr. Rene Flores, a friend of his, and they had conversed by telephone from El Salvador and Mexico arranging to meet in Guatemala. Rene Flores arrived in Guatemala with Oqueli on January 11, 1990 on the same flight from Mexico and spent part of January 11th with Dr. Oqueli and Lic. Flores, in her house, until the two drove him to the airport and he returned to El Salvador.

c. During the day of January 11, Dr. Oqueli made phone calls, got his visa from the Nicaraguan Embassy and took Rene Flores to the airport. In the evening Dr. Oqueli and Lic. Flores spent the evening in her house. On January 12 Lic. Flores took Oqueli to the airport, when they were abducted and killed.

d. The following day, a secret meeting was held in Guatemala between US political figures and members of the FMLN, without the knowledge of the Guatemalan Government, which found out about it when it was taking place in order to provide protection and to avoid problems with clandestine non-Guatemalan groups. Oqueli could have been in Guatemala in order to get more information about this meeting before going to the Socialist International meeting in Nicaragua.

e. The report then attempts to define the motive for the abduction and the assassination and sets up these hypotheses:

i. The first hypothesis is that it was the work of the Salvadoran extreme Right which is opposed to a dialogue between the FMLN and the Americans and hoped, by means of this abduction, to interrupt the dialogue between them.

ii. The second hypothesis is that the work of the Salvadoran extreme Right, which abducts him in order to take him to El Salvador to extract information from him and to take revenge against him for his supposed participation in the November 1989 offensive.

Both of these hypotheses, the report finds, hold the Salvadoran groups responsible, although it is alleged that "Contra" mercenaries had been contracted to carry it out. The manner in which the killings were executed reveals that they were committed for political reasons. The bodies bore no signs of torture, so it is clear that they were not kidnapped in order to obtain information. The report also proposes a variation of the second hypothesis, that the kidnappers intended to take Oqueli to El Salvador, and then, possibly, received a countermandate, due to the political problems that this kidnapping would cause to the Salvadoran political groups. In any case, it discards the possibility that the Guatemalan security forces had anything to do with the killings, because, "except for the fact that Oqueli's passport had been held up for half an hour in the airport" there was "no other evidence" to support their involvement.

f. The report supports the first hypothesis, pointing out that in El Salvador the extreme Right considered that Oqueli had "directly participated" in the FMLN November 1989 offensive, and that he and others were in the Venezuelan Embassy "awaiting the success of the offensive." The report goes on to say that "it is not the first time that Salvadoran terrorist groups have operated in Guatemala," and that "Intelligence has information about persons connected to Salvadoran terrorist groups who in recent years, possibly, were operating in Guatemala."

The investigation could confirm that coincidentally they were in the country exactly during the days that the kidnapping and assassination under investigation occurred, having entered Guatemala on different flights but both coming from El Salvador on the same day.

The report then makes an unsubstantiated accusation against the Salvadoran military attaché in Guatemala, "whose background could make him a suspect, in that he could have given cover to the clandestine terrorist groups coming from El Salvador." The report acknowledges, however, that "there is no fact yet which would render him a suspect as a direct participant in the assassination under investigation, however, it is without doubt that a conversation about this subject would be very useful for this investigation, if the Salvadoran authorities would allow it, given the diplomatic function which he exercises."

g. The report indicates that a forensic report revealed that both Oqueli and Flores had been injected with a substance that rendered them unconscious; it speculates that the original plan was probably to have taken them to El Salvador, because otherwise the bodies would have been disposed of anywhere in

Guatemala City. The report surmises that the orders were countermandated, that the kidnapers used the stolen vehicle, which was followed by one of their own. The vehicle and the bodies were abandoned at a place known as Jalpatagua, which is 5 kilometers away from the Salvadoran border and a kilometer away from a vehicle check point of the Treasury Police, which is normally in the same place as the border control. The driver appears to have abandoned the vehicle on the side of the road and gotten into the blue vehicle in which four other persons were riding, "two of whom probably had a beard" and continued en-route to El Salvador.

h. The May 1990 report draws the following conclusions:

i. The security forces in charge of the investigation ... ought to transmit this investigation to the Attorney General, who, in cooperation with the corresponding tribunals can take the necessary legal measures in this case.

ii. At this point of the investigation the report should be submitted to the Presidential Investigative Commission, which the Government created and is comprised of distinguished national and international figures, so that they may present their observations or augment the investigation in those areas which they consider appropriate.

iii. This report should be submitted to the Salvadoran authorities, without whose cooperation no definitive conclusions can be reached.

iv. It is evident that this investigation is not conclusive as regards persons to whom it refers, but as regards the direction which should be followed.

v. The author(s) of the report (members of a security force) are convinced that the security forces of Guatemala were not involved in the acts as such since there was no motive or evidence for their involvement other than the fact that the passport had been detained in the airport, "which appears to be a strictly administrative act." The report does not discard the possibility, however, that "some Guatemalan from a terrorist group or from some security bodies could have provided information which contributed to the realization of the act." This is considered "unlikely," however, in light of the fact that neither Oqueli's nor Flores's names appeared "on any list of persons dangerous to the security of the State" or were connected with any crime.

11. The appendices to these reports, which include police reports, medical-forensic reports, a ballistic report, a biological-chemical report, and the identification documents of Oqueli, constitute part of the official governmental response to the case and present information which is ignored in the official reports:

Mario Antonio Sanchez Urizar, 57 years of age, reported to the police that his vehicle was stolen on January 12th (the vehicle in which Oqueli and Flores were later found). In the police report Mr. Urizar is quoted as stating that "at 11:15 a.m., while he was driving along the Boulevard San Cristobal, Zone 8, Mixco, in his beige Toyota pick-up, he was stopped by three armed individuals who were driving a white automobile, and who identified themselves as members of the National Police by showing him their identification cards (carnets);" they asked him for the vehicle documents and then "under threats of death they deprived him of his vehicle" and took off in an unknown direction. (Emphasis added)

12. On July 23, 1990, the Commission transmitted the response of the Government of Guatemala to the petitioners for their observations.

13. The petitioners submitted as their response two documents: (1) a report submitted by the National Revolutionary Movement (MNR) of which Oqueli was Under Secretary General, entitled "Observations to the Third Report presented by the Government of Guatemala in relation to the Assassinations of Hector Oqueli and Gilda Flores" (in Spanish) and dated September 12, 1990, and (2) a report prepared for the Socialist International, which has its headquarters in London, and of which Hector Oqueli was Secretary of the Committee for Latin American and the Caribbean, prepared by Professors Tom Farer and Robert K. Goldman of the American University Law School in Washington, D.C. entitled "An Evaluation of the Investigation and Reports Prepared by the Government of the Republic of Guatemala," and dated October

3, 1990. Since both of these reports had been communicated to the Government of Guatemala by other means, were made public, were widely distributed, and did not provide new information, but rather limited themselves to evaluating the governmental response, they were not transmitted to the Government of Guatemala by the Commission for its observations.

14. Both reports presented by the petitioners state that the Government of Guatemala has failed to clarify the facts of this crime and has not held anyone responsible for the material or intellectual execution of it.

15. The MNR report can be summarized as follows:

1. On January 22, 1990, Guatemalan President Vinicio Cerezo made a commitment to a delegation of the Socialist International which visited Guatemala to carry out an investigation to clarify the facts.

2. The Christian Democratic Government (of President Cerezo) has circulated three reports (January, April, and May) and in none of them are the assassins identified. These investigations have led to nothing.

3. The defensive style in which these reports are drafted seeks to exculpate, at all costs, the Government of Guatemala from any responsibility in these killings.

4. President Cerezo established a high level Presidential Commission which apparently had nothing to do with the preparation of the governmental reports since the reports recommend that they be transmitted to the Commission. The author(s) of the report are anonymously defined as the "Estado Mayor Presidencial, Departamento de Seguridad, Guatemala." In fact it appears that the Presidential Commission, specially created to investigate this case, never functioned.

5. The governmental report fails to investigate certain important questions, such as:

a. Who informed the kidnapers of the arrival of Oqueli in Guatemala? This question is crucial in light of the fact that Oqueli was barely 24 hours in the country, which is a brief amount of time to prepare and carry out such an operation.

b. The owner of the pick-up stated that the individuals who stole his vehicle identified themselves as members of the Guatemalan National Police and showed him their I.D. cards. This was never investigated.

c. The pick-up was returned to the owner without having attempted to take any fingerprints to identify the suspects.

d. No attempt was made to discover the nationality of the persons who stole the vehicle; the owner was not interrogated regarding their accent or nationality.

e. The different reports are mutually contradictory, it is clear that the author(s) did not attempt to search for the truth, for example:

i. It is alleged that Oqueli and Rene Flores arrived in Guatemala on the same flight. That is untrue. Oqueli arrived from Mexico and Flores arrived from El Salvador, revealing that the author(s) were unwilling to make the most elementary checks with the migration authorities.

ii. It is alleged that the Nicaraguan Ambassador in Guatemala came to pick up Oqueli at the airport. This is untrue. The Nicaraguan Ambassador and Oqueli ran into each other at the airport, but only Lic. Gilda Flores was there to pick him up.

iii. It is alleged that Oqueli, Guillermo Ungo of the MNR, and Luis Ayala of the Socialist International were in the Venezuelan Embassy in El Salvador awaiting the triumph of the FMLN offensive. This is untrue. Luis Ayala was not in El Salvador at that time.

f. The forensic report states that Oqueli and Flores were injected by the kidnapers, but no medical attempt was made to determine what they were injected with.

g. No attempt was made to interview Guillermo Ungo, the head of Oqueli's political party in order to determine the reasons for Oqueli's visit to Guatemala, with whom he met, the length of his stay, etc.

h. No attempt was made to interview Rene Flores, also an important figure in the party; but rather he is cast as a possible suspect. This intrigue is rejected as irresponsible.

6. The MNR report concludes that it continues to consider that the assassination was committed for "strictly political" motives, and that the responsibility must be found in political-military elements of the Salvadoran far Right. The facts permit a connection or collaboration with Guatemalans. Consequently, the MNR requests that the Government of Guatemala undertake a "serious and responsible investigation in order to identify the material and intellectual authors of this crime." The MNR report adds that it is not clear whether the Government of Guatemala has sought collaboration from the Government of El Salvador in undertaking this investigation.

7. The second report prepared for the Socialist International (SI) evaluates the Government of Guatemala's response and "does not attempt to identify the perpetrators of this crime," since it had "neither the means nor the mandate to conduct an investigation designed to unmask them." In the opinion of the authors of the SI report, "the ultimate responsibility for their identification and punishment obviously lies with the Guatemalan Government," and "by virtue of exercising sovereignty over the territory where the crime took place, it possesses obligations no less than means superior to all other parties to fulfill its legal and moral duties."

The SI report concludes that although President Cerezo had promised to make every effort to solve this crime and to identify the perpetrators, the investigation "is gravely flawed," and the authors find its "contradictions, omissions, and non sequiturs" so blatant that they are "moved to wonder whether President Vinicio Cerezo intends it to be taken seriously." The Minister of Interior, retired General Carlos Morales Villatoro, member of the Presidential Investigative Commission, and the official responsible for the National Police, played an obstructionist role in that, contrary to the governmental report's conclusions, he insisted to the authors, that the perpetrators were members of the Salvadoran Left, and insinuated that Rene Flores, the friend and colleague of Oqueli, was among those responsible for the crime.

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 submitted its response to the complaint by note dated July 10, 1990, and has submitted no further documents or information on the case since then, leading to the conclusion that no further administrative or judicial action has been taken by the Guatemalan authorities in this case. The lack of any further action on this case has also been confirmed verbally by the Guatemalan diplomatic authorities accredited to the Organization of American States.

3. That in connection with the question of exhaustion of domestic remedies, the Minister of Interior, retired Gen. Carlos Morales Villatoro made a public statement, during the investigation conducted by the lawyers for the Socialist International, to the effect that "the Government had done what it could and now the case was strictly one for the courts." The Guatemalan courts have not taken any action in this case. One could not expect the Guatemalan court system to act, given that the official governmental investigation attributed responsibility for this crime to the Salvadoran right wing death squads, without providing any grounds showing probable cause. The Salvadoran authorities have rejected these accusations and dismissed them, effectively paralyzing any further action on this case either in Guatemala or in El Salvador.

4. That the evidence collected in the governmental investigation revealed the alleged participation of

members of the Guatemalan National Police in the abduction and assassination of Oqueli and Flores. Nonetheless, the official governmental reports exculpate the Guatemalan security forces and accuse certain named Salvadoran based on the argument that the bullets used to assassinate Oqueli and Flores were not commonly found in Guatemala. It is, however, a matter of common knowledge that a 7.65 caliber weapon is common throughout the world, and in the United States is called a 32 automatic, which is lightweight, uses a small bullet, and is very effective at short range. Such weapons are readily available for purchase in Guatemala as in the United States.

5. The role played by the Minister of the Interior, retired General Morales, in the progress of the police investigation as regards the collaboration of the FBI agent, Mr. Joseph A. Gannon, leads one to believe that Minister Morales had a reason to not pursue the investigation. Mr. Gannon requested samples of the victims' blood, their clothing, fingerprints, and hair found in the vehicle, to be sent to FBI laboratories in the United States for analysis. The police investigators, according to Mr. Gannon, enthusiastically accepted the idea, whereas General Morales subsequently denied that blood samples had ever been taken and declined to allow the FBI to analyze any material evidence from the crime scene. According to Mr. Gannon, the police investigators attempted to fulfill their responsibilities in a professional manner, but their efforts were frustrated at a higher level. Mr. Gannon departed after ten days of waiting. President Cerezo, however, in public declarations after Mr. Gannon's departure, stated that Guatemala had received FBI assistance in the investigation of this case.

6. That interviews with Oqueli's colleagues revealed that Oqueli himself was convinced that the seizure of his passport at the airport was intended to give the Guatemalan authorities time to arrange to have him followed, and Oqueli believed that he was already under surveillance as he left the airport. He also believed that he was being followed as they arrived at the house of Gilda Flores a short while later.

7. That 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 that is where the crime took place.

THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, RESOLVES:

1. To declare that the Government of Guatemala has failed under Article 1.1 of the American Convention on Human Rights to respect and ensure the right to life (Article 4), the right to respect for one's physical integrity (Article 5), the right to personal liberty (Article 7), the right to freedom of political association (Article 16), and the right of access to justice (Article 25) in the abduction and assassination of the Salvadoran lawyer and politician, Dr. Hector Oqueli and that of the Guatemalan lawyer, Lic. Gilda Flores.

2. To recommend to the Government of Guatemala that it order a thorough investigation into the facts reported in this complaint 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, and fair compensation be paid to the families of the victims.

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.

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.