

# EXHIBIT 1

Expert Report of Professor  
Terry Lynn Karl

**EXPERT REPORT OF PROFESSOR TERRY LYNN KARL  
STANFORD UNIVERSITY  
IN THE MATTER OF INOCENTE ORLANDO MONTANO**

**December 31, 2012**

**I. SUMMARY OF OPINION**

On the basis of my expertise, described below [Section II], and using a wide variety of sources [Section III], I have reached the following conclusions:

1. Colonel Inocente Orlando Montano achieved one of the highest and most important leadership positions in the El Salvador Armed Forces (ESAF) – the Vice Minister of Defense for Public Security.<sup>1</sup> He was part of the ruling “inner circle” and occupied one of the top three positions in the armed forces at a time when El Salvador’s highest officers engaged in widespread human rights abuses. [Section IV].

2. Colonel Montano conspired with other high-ranking officers to incite to kill and then murder six Jesuit priests, their housekeeper and her young daughter. He then engaged with these officers in a campaign of lying and a systematic cover-up of the crime. This Jesuit massacre by the Salvadoran Armed Forces, which was intended to block a peace agreement, instead directly led to a negotiated settlement of the civil war. As such, it is one of the most significant religious and political crimes committed in Latin America in the twentieth century.[Section V].

3. When Colonel Montano left El Salvador in 2001, events in Latin America, in general, and in El Salvador, in particular, made it more likely than at any previous time that high level military officers, including Montano, would be prosecuted for their role in the Jesuit massacre. Such events included legal challenges to impunity in El Salvador and elsewhere and unprecedented prosecutions for human rights abuses of high-ranking military officers throughout Latin America. [Section VI].

4. The Jesuit Massacre was not an aberration. Throughout Colonel Montano’s 30-year military career, he ordered, abetted and assisted, and/or commanded troops that participated in a strategy of state terror against civilians. This included: extrajudicial killings, torture,

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<sup>1</sup> **A Note on Terminology:** The “El Salvadoran Armed Forces” includes the army, navy, and air force as well as the security forces, meaning the National Guard, National Police, and Treasury Police. In this report, I will use the terms “armed forces,” “military,” “El Salvadoran Armed Forces,” or “ESAF” to refer to all combined forces. The term “security forces” is limited to the National Guard, the National Police, and the Treasury Police. Also, note that appointments to these forces were fungible, thus an officer of the National Guard could later become an officer in the army and vice versa.

disappearance and arbitrary detention, rural massacres of civilian non-combatants, the forced disappearance of children, and the toleration of military-led death squads operating inside units under his command.

5. Several important legal developments and events after Colonel Montano's arrival in the U.S. affected military officers from other countries residing here who have records of human rights violations. From 2002 to the present, three of Colonel Montano's former commanders living in the U.S. were found liable for human rights abuses committed in El Salvador during their service in the ESAF. In addition, the Department of Homeland Security began vigorous enforcement of policies denying entrance to or removing from the United States numerous individuals based on human rights violations they committed in their home countries. This included one of the confessed murderers from the 1989 Jesuit massacre. Certain of these individuals have been charged with crimes such as perjury and immigration fraud in connection with false statements concerning their involvement in human rights abuses. [Section VIII].

## II. EXPERT CREDENTIALS<sup>2</sup>

My full curriculum vitae is attached in **Appendix I**, but some of the details of my expertise and my professional knowledge of El Salvador follow:

I hold the Gilded Professorship of Latin American Studies at Stanford University, which is the University's the highest academic honor bestowed on faculty for expertise in the region. I am also Professor of Political Science, Senior Fellow (by courtesy) of the Freeman Spogli Institute for International Studies, and the Bass University Fellow for Excellence in Teaching. Prior to my appointment at Stanford, I was on the faculty of Government at Harvard University. I received my Ph.D. in Political Science at Stanford University in 1982, with Special Distinction.

I served as Stanford's director of the Center for Latin American Studies for twelve years (1990-2002), during which period it was designated a "major center of excellence" by the U.S. Department of Education. I am a specialist in Latin American politics, especially Central American politics, military authoritarian rule, civil wars, the military, and the political economy of oil. I have extensive experience studying and analyzing human rights abuses and government responses to them. I speak Spanish and conduct my research in Latin America in that language.

I have received numerous awards, prizes, and fellowships for my work on Latin American politics, especially Central America. Most recently, I was awarded the Latin American Studies Association Honorary Martin Diskin Memorial Lectureship, and I received a Doctor of Humane Letters, *honoris causa*, from the University of San Francisco. The MacArthur Foundation, the Ford Foundation, the Open Society Institute, the Rockefeller Foundation, and other organizations have supported my work. At Stanford University, I have received three of the University's highest teaching prizes and its volunteer service prize.

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<sup>2</sup> See Appendix I: Karl Curriculum Vitae for complete details.

I have published widely, including many works pertaining directly to El Salvador.<sup>3</sup> The thesis of my book, *The Paradox of Plenty*, was named by *Time Magazine* as one of “Ten Ideas Changing the World” and was designated one of two “outstanding books on Latin America in the Social Sciences and the Humanities” by the Latin American Studies Association.

In my capacity as an authority on Central America and the Caribbean, I am asked to advise U.S. government officials or testify about that region. For example, I have testified to the Committee on Armed Services of the U.S. House of Representatives, advised the Chairman of the Sub-Committee on Hemispheric Affairs of the Committee on Foreign Affairs of the House of Representatives, and briefed numerous U.S. government officials. For many years I presented high-level seminars before members of the Department of Defense, the Department of State, and other government agencies.

I have also advised the U.N. Secretary General’s representatives on peace talks in El Salvador and Guatemala, chaired “pre-talks” to end the war in El Salvador, and co-chaired (with Nobel Prize winner Oscar Arias) pre-talks to end the war in Guatemala.

My expertise has been repeatedly recognized in U.S. and foreign courts. For example, I served as the expert witness in *Romagoza et al v. Garcia and Vides Casanova* (2002), *Doe v. Saravia* (2004), and *Chavez et al v. Carranza* (2005).<sup>4</sup>

My knowledge of El Salvador is based on the following: For nearly 30 years, I have traveled regularly throughout Central America for research or policy-related purposes.<sup>5</sup> In my travels to El Salvador, I have interviewed government representatives, including three presidents

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<sup>3</sup> Some selected titles include: “The Hybrid Regimes of Central America,” *Journal of Democracy* 6, No. 3 (July 1995); “El Salvador’s Negotiated Revolution” *Foreign Affairs*, Spring 1992; “Dilemmas of Democratization,” *Comparative Politics*, October 1990; “El Salvador at the Crossroads: Negotiations or ‘Total War,’” *World Policy Journal*, April 1989; “Imposing Consent: Electoralism Versus Democratization in El Salvador,” in Paul Drake and Eduardo Silva, eds., *Elections in Latin America*, University of California Press, 1986; and “After La Palma: Christian Democracy, U.S. Policy, and the Prospects for Democratization in El Salvador,” *World Policy Journal*, 1985; “The Salvador Option: U.S. Foreign Policy, Deniability and the Political ‘Utility’ of State Terror,” in Marjorie Cohn, ed., *The United States and Torture: America’s Past and Present Policy of Interrogation and Abuse* (New York: New York University Press, 2010); and “Comments on The Nature of the Political Transition in El Salvador,” in Cynthia Arnson, ed., *El Salvador’s Democratic Transition Ten Years After the Peace Accord*, (2003); “War Transitions versus Peace Transitions,” in United Nations Institute for Research and Training (1999). For the full list, see Appendix I.

<sup>4</sup> I am currently an expert witness working for the Department of Homeland Security in the deportation trials of two Salvadoran former Ministers of Defense, Generals José Guillermo García and Carlos Eugenio Vides Casanova. I am also an expert witness in the *Juzgado Central de Instrucción* N.006, in Madrid, Spain, which is a criminal trial related to the 1989 murder of six Jesuit priests in El Salvador. In the past I assisted with the preparation of a report on political asylum for the Office of the Attorney General of the United States, and I have prepared briefs about El Salvador for the Ninth Circuit and Eleventh Circuit Courts of Appeal. I have also been an expert witness regarding human rights issues for the *Consejo del Estado* in Bogotá, Colombia.

<sup>5</sup> Among other trips, in January 1987, I visited San Salvador as a member of a congressional fact-finding delegation of the House Committee on Appropriations. I have led many congressional delegations to El Salvador.

and two ministers of defense. I have also interviewed representatives of human rights organizations, all major political parties, military personnel, retired officers and some troops, guerrilla fighters, leaders of private sector institutions, trade unionists, religious personnel, leaders of peasant cooperatives, local academics and university officials, and victims of human rights abuses, including torture victims. I interviewed numerous Salvadoran cabinet ministers, several U.S. ambassadors, and many political and military officers from the U.S. Embassy.

My interviews extend across the political spectrum during the civil war. For example, prior to the presidential elections of 1984, I traveled throughout the country with Roberto D'Áubuisson, founder of the rightist ARENA Party and a main organizer of El Salvador's vast death squad network. I frequently interviewed Christian Democratic Party officials, especially President Jose Napoleón Duarte, as well as leaders of the civilian opposition, the Democratic Revolutionary Front (FDR). I also visited guerrilla-controlled zones and interviewed leading guerrilla commanders, including Joaquín Villalobos, the main military commander of the armed opposition, the Farabundo Marti Liberation Front (FMLN).

This travel and these interviews — combined with other research conducted in Mexico (1983, 1984, 1986, 1989, 1991, 1994), Costa Rica (1983, 1984, 1985), Nicaragua (1983, 1987), Honduras (1987), Venezuela (1978-1979, 1983) and Washington, D.C. (1983, 1985, 1987, 1989)— form the basis of my firsthand knowledge of El Salvador. As an expert, I also rely upon major U.S. military reports about the Salvadoran military; oral interviews in Spanish of leading commanders of the Salvadoran Armed Forces; existing reports by the United Nations, human rights organizations, and the U.S. government; English and Spanish language newspaper reports; and the extensive scholarly literature on El Salvador and Central America in both Spanish and English produced in the United States and Latin America. Some of these sources are cited below.

### III. SPECIAL SOURCES AND METHODOLOGY

This report also makes extensive use of the information gleaned from the review of thousands of declassified U.S. government documents released by President Clinton and through Freedom of Information Act requests.<sup>6</sup> Note that *all documents with either ES or EL numbers after the citation are available online in two El Salvador collections (ES and EL) at The National Security Archive, <http://www.gwu.edu/~nsarchiv>*. Documents with GU are from the Guatemala collection located at the same site. Those that cannot be found online were cited elsewhere or culled from boxes of declassified documents not yet processed by the National Security Archive. These available U.S government documents have been in conjunction with other previous rigorous investigations, including that of the Lawyers Committee for Human Rights (cited below as Martha Doggett, *Death Foretold: The Jesuit Murders in El Salvador*, Lawyers Committee for Human Rights, 1993).

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<sup>6</sup> These documents were declassified by the Clinton administration for use by the U.N. Truth Commission, but this declassification occurred too late to be of use, with some exceptions. Investigators from the United Nations had requested their release, but they were only made fully available after the Commission finished its work. Thus, this report has relied on more complete information available with the passage of time, especially about the Jesuit case and the human rights record of Colonel Montano.

This report also uses original documentation arising from the 1992 U.N. negotiated Chapultepec Peace Accords between the (ARENA) Government of El Salvador and the FMLN to end the civil war. These include, first, the United Nations mandated Commission on the Truth for El Salvador, *From Madness to Hope: The 12 Year War in El Salvador*, referred to below as the Truth Commission report, headed by three highly respected international legal authorities and published in 1993.<sup>7</sup> Whenever possible, background documentation for preparation of the report has also been consulted. This commission was charged by the U.N. Secretary General with clarifying and putting an end to any indication of impunity on the part of officers of the armed forces “so that the punishment prescribed by law is meted out to those found responsible.”<sup>8</sup>

Second, the original documents of the U.N. mandated Ad Hoc Commission were also consulted. This latter commission, composed of three highly respected Salvadorans (advised by two retired army generals) was charged with reviewing the human rights and professional records of military officers and recommending administrative measures to remove officers who might threaten the new democratic political order. After examining over 2,000 files, **the commission called for the removal of virtually the entire military command, including Colonel Montano** -- an unprecedented phenomenon in Latin America. While the final report of the Ad Hoc Commission is still a closely guarded secret, many of the background documents for the commission are available and the content of the commissions report was leaked.<sup>9</sup>

Regarding the death squad apparatus operating out of the armed forces, this report draws upon documents presented in other U.S. courts and the U.S. Congress, documents from a special commission to investigate post conflict illegal armed groups,<sup>10</sup> and confidential interviews conducted with participants in these illegal activities.

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<sup>7</sup> The three commissioners include Thomas Burgenthal from the U.S., former judge at the International Court of Justice (Hague) and Lobingier Professor of Comparative Law and Jurisprudence at the George Washington University Law School, former President of Colombia Belisario Betancourt, and Venezuelan jurist Reinaldo Figueredo.

<sup>8</sup> The Commission received testimony from 2,000 people in relation to 7,000 victims, and gathered information from secondary sources related to more than 8,000 victims. 23,000 additional written statements were received. From this evidence, the commission selected 13,569 cases and highlighted 32 cases that illustrated the patterns of violence by the combatants in the war. On March 15, 1993, the commission published its report *From Madness to Hope: the 12-year war in El Salvador*, U.N. Doc S/25500 (1993).

<sup>9</sup> Over 110 officers were named to be purged or transferred for human rights abuses, including the Defense Minister, his two deputies (Colonels **Montano** and Zepeda), and the other serving members of the *Tandona*. The long list, and the inclusion of the powerful *Tandona* was unexpected, and there is evidence that the government agreed to this commission believing it would not take real action. The three Salvadoran commissioners delivered their report in New York and resided outside El Salvador afterwards in fear for their lives. This report and its recommendations proved to be one of the most serious tests of civilian authority since elections in 1984 ended years of direct and de facto military rule. See Tim Golden, “Salvadoran Commission Seeks Army Purge,” *New York Times*, October 25, 1992. Also see Thomas Buergenthal, *Vanderbilt Journal of Transnational Law*, Vol. 27, No. 3, October 1994.

<sup>10</sup> See “Informe del Grupo Conjunto Para La Investigacion de Grupos Armados Illegales con Motivacion Politica en El Salvador,” July 28, 1994.

All of the above sources also shed significant light on the Jesuit massacre (November 16, 1989), but an additional source dealing with this crime alone are the extensive background documents and various reports of the Speaker's Special Task Force on El Salvador (known as "the Moakley Commission"), which was appointed by the Speaker of the House of Representatives in 1989 to investigate the Jesuit murders. The Moakley papers were the first to reveal that the murders were directed from the top levels of the Salvadoran Armed Forces, and they resulted in the end of military funding for El Salvador's armed forces. The documents can be located at: <http://www.suffolk.edu/moakley/elsalvadorguide.html>

**A Note on Methodology:** This report has been arrived at by studying all known major assignments of Colonel Inocente Orlando Montano, both in El Salvador and elsewhere, as reported by the Government of El Salvador and the U.S. Department of Defense, with some details provided by other sources. Colonel Montano's human rights profile throughout his career is based on the materials cited above, and then compared to records of reported incidents of human rights abuses, where he was either the commander or the executive officer of the forces in charge at the time these crimes were committed. Human rights violations are derived from reports by reputable human rights monitors like Amnesty International, El Rescate, and the Salvadoran Catholic Church's Tutela Legal, and/ or State Department, CIA or other U.S. government officials. The summaries of human rights information below provide, whenever possible, the name of victim, date, location, and details provided by onsite witnesses.

The results of this comparison of Colonel Montano's command posts with human rights records appears in **Appendix II**, which was prepared by this author with statisticians from Benetech. This is the most complete record from available sources, and in general it may not include records compiled separately by the Truth Commission or the Ad Hoc Commission. Appendix II should be understood as a partial list of named victims that were murdered, tortured, and/or disappeared by military and security forces during the period Colonel Montano held command positions or was Vice Minister of Public Security. It is the most comprehensive dataset currently available that lists all of the following information -- victim names, the unit responsible and the date and nature of the abuse.

This dataset attributes 1169 violations of human rights to units or troops under Colonel Montano's command, including at least 65 extrajudicial killings of named individuals, 51 reported disappearances, and 520 torture victims.<sup>11</sup> The actual number is significantly greater.

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<sup>11</sup> The Karl/Benetech dataset draws on the two most comprehensive data collections on human rights violations during the civil war in El Salvador. One was compiled by the American non-governmental organization El Rescate from the files of the Legal Assistance Office of the Archbishopric of El Salvador (see Howland, Todd, "How El Rescate, a Small Nongovernmental Organization, Contributed to the Transformation of the Human Rights Situation in El Salvador," *Human Rights Quarterly* 30:3, August 2008). The number of rights violations reported in data from El Rescate under-represents the violations that occurred in El Salvador during October 1979-April 1983, because (1) El Rescate data represent only violations that occurred on or after January 1, 1980, when reporting was most difficult, and it focuses especially on violations occurring during and after 1982, and (2) it is not possible to compile a full census of all rights violations committed. The second data source is coded records of the non-governmental Commission for Human Rights of El Salvador (Comisión de Derechos Humanos de El Salvador, or CDHES). The CDHES data collection process is described in detail in Ball, Patrick, "The Salvadoran Human Rights Commission:

#### IV. THE EL SALVADOR ARMED FORCES AND COLONEL MONTANO'S TANDONA<sup>12</sup> PRIOR TO THE JESUIT MASSACRE

The military and security forces, which Colonel Montano headed with other members of the High Command towards the end of his thirty-year career, ruled El Salvador for sixty years, thus forming one of the longest continuous military dictatorships in Latin American history. Even when the country moved to a nominal civilian president in 1984, the Salvadoran Armed Forces (ESAF) remained the most powerful organization in the country. In this system, the small officer corps operated as a caste or privileged class inside the military.<sup>13</sup> When military rule was challenged in the late 1970s by the largest civilian popular movement in El Salvador's history as well as the appearance of an armed opposition, the Farabundo Marti Liberation Front (FMLN), the military and security forces responded by launching a campaign of indiscriminate mass murder aimed largely at civilian non-combatants. This state terror eventually descended into a decade long civil war between the ESAF and the FMLN, which was ended by a United Nations sponsored peace agreement in 1992.<sup>14</sup>

El Salvador's military and security forces committed the majority of gross and systematic human rights abuses prior to and during the civil war, becoming one of the leading abusers of human rights in Latin American history. This is not disputed.<sup>15</sup> The Government of the Republic

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Data Processing, Data Representation, and Generating Analytical Records," in *Making the Case: Investigating Large Scale Human Rights Violations Using Information Systems and Data Analysis*, Patrick Ball, Herbert Spierer, and Louise Spierer, eds., Washington DC: American Association for the Advancement of Science, 2000. Like the El Rescate data, the CDHES data represent an undercount of the total number of rights violations during the October 1979-April 1983 period, because (1) CDHES data represent only violations that occurred on or after January 1, 1980, and (2) it is not possible to compile a full census of all rights violations committed. In our compilation of data, Benetech statisticians note that "[r]eported violations may include duplications between or within datasets because two or more victims may share the same name. Reported violations are not necessarily representative of all violations by the ESAF during this period because many episodes of violence were not reported to any organization and consequently do not appear in data on reported violence. Note, for example, sexual torture is especially underrepresented.

<sup>12</sup> A *tanda* is the name for each graduating class of officers from the El Salvador Military Academy. The *tandona* is the name of the 1966 graduating class, which is bigger than any past graduating class. Colonel Montano is a member of this class.

<sup>13</sup> See Brian Bosch, *The Salvadoran Officer Corps and the Final Offensive of 1981*, McFarland & Co., Jefferson, North Carolina, 1999; Mariano Castro Morán, *Función Política del Ejército Salvadoreño en el Presente Siglo*, UCA Editores, San Salvador, 1983; Rafael Guidos Véjar, Rafael, *El Ascenso del Militarismo en El Salvador*, UCA Editores, San Salvador, 1988 William Stanley, *The Protection Racket State. Elite Politics, Military Extortion, and Civil War in El Salvador*, Temple University Press, Philadelphia, 1996; and Benjamin Schwarz, *American Counterinsurgency Doctrine and El Salvador*, RAND, Santa Monica, 1991.

<sup>14</sup> On the Chapultepec peace agreement and how it came about, see Terry Lynn Karl, "El Salvador's Negotiated Revolution," *Foreign Affairs* 71, spring 1992. <http://www.foreignaffairs.com/articles/47766/terry-lynn-karl/el-salvadors-negotiated-revolution>

<sup>15</sup> The FMLN guerrilla army also committed abuses, but the El Salvadoran Armed Forces responsibility for the great majority of these crimes is not an issue of debate. A full 85 percent of the complaints filed with the U.N. Commission on the Truth, established by the peace agreement, concerned abuses committed by the military and

of El Salvador today recognizes its responsibility for the crimes committed by the ESAF in this period, including “massacres, extrajudicial killing, forced disappearances, torture, sexual abuse, arbitrary deprivation of liberty and other acts ... committed against defenseless civilians far from conflict.”<sup>16</sup> These actions produced a record number of civilian deaths, which is estimated at between 75,000-85,000.<sup>17</sup>

**Patterns of State Terror:** Violence rose, then fell and rose again in phases. In the first phase (1979-1983), state-sponsored terror dominated and violence became “extremely indiscriminate,”<sup>18</sup> marked by appalling massacres, arbitrary attacks on the non-combatant civilian population and collective summary executions. The military and security forces especially targeted the rural population by pursuing what they called “cleansing” or “total war.” This consisted of exceptionally wide “free fire zones” characterized by indiscriminate aerial bombings, massive artillery attacks and infantry advances. The results were frequent massacres, the death of thousands, and the destruction of entire communities.<sup>19</sup> At least one and a half million people were displaced from a population of five million.<sup>20</sup> Urban areas were not spared: violence by regular ESAF units and military-associated death squads formed part of a vast plan to physically eliminate political enemies, trade unions, and grass roots organizations, especially

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security forces, associated paramilitary units, and heavily armed killers in civilian clothing known as “death squads.” Seventy-five percent of these murders are attributable to military in uniform. See United Nations Commission on the Truth for El Salvador, *From Madness to Hope: The 12-Year War in El Salvador*, U.N. Doc S/25500 (March, 1993). U.S. declassified documents also note that the military and security forces are responsible for the majority of abuses and, as noted above, the Government of El Salvador has taken responsibility for these crimes.

<sup>16</sup> In 2010, the President of the Republic of El Salvador publicly admitted and formally took responsibility for the El Salvador Armed Forces’ commission of “grave violations of human rights and abuses of power,” and the fact that the ESAF “made illegitimate use of violence, broke the constitutional order and violated basic norms of decency and peace. The crimes committed included massacres, extrajudicial killing, forced disappearances, torture, sexual abuse, arbitrary deprivation of liberty and other acts of repression. The majority of these abuses were committed against defenseless civilians far from conflict. The state is responsible, both for its actions and well as its omissions...” [Translation by author]. The Spanish text can be found at “[Discurso Presidente, Mauricio Funes XVIII Aniversario de la firma de los Acuerdos de Paz](http://www.archivoep.contrapunto.com.sv/documentos/discurso-presidente-mauricio-funes-xviii-aniversario-de-la-firma-de-los-acuerdos-de-paz) 16 Enero 2010, available at <http://www.archivoep.contrapunto.com.sv/documentos/discurso-presidente-mauricio-funes-xviii-aniversario-de-la-firma-de-los-acuerdos-de-paz>

<sup>17</sup> It is difficult to know the exact number of civilians who died, especially because deaths in rural areas, where the majority of extrajudicial killings occurred, were often not recorded. This means that the figures here are “best estimates.”

<sup>18</sup> The United Nations Truth Commission explained: “Anyone who expressed views differing from the Government line ran the risk of being eliminated as if they were armed enemies on the field of battle...” See United Nations Commission on the Truth for El Salvador, *From Madness to Hope: The 12-Year War in El Salvador*, U.N. Doc S/25500 (March, 1993).

<sup>19</sup> This author has documented 76 massacres occurring between 1980-1983 during this indiscriminate terror. Fifty-nine of these massacres have been presented in documents to a U.S. immigration court.

<sup>20</sup> Americas Watch, “El Salvador’s Decade of Terror. Human Rights since the Assassination of Archbishop Romero,” Yale University Press, 1991, 108.

those organized by Catholic and Lutheran religious personnel. As numerous reports and studies have pointed out, no distinction was made between armed groups and non-combatants.<sup>21</sup>

In the second phase (**1984-1988**), violence was more discriminate due to U.S. threats to cut aid unless death squad activities and free fire zones<sup>22</sup> were curbed. The message regarding death squads was delivered directly to ESAF top commanders in a visit by then Vice President George H.W. Bush.<sup>23</sup> The abrupt decline in massacres and the greater selectivity of abuses that followed the Bush visit served as clear evidence of the ability of top commanders to control the extent of abuses when forced to do so, and it powerfully demonstrated that death squad activity responded to a functioning chain of command. In this second period, mass state terror turned into a civil war between the military and security forces and a newly formed guerrilla army, the FMLN.

**Total War or Negotiations?** A third phase (**1988-1990**) marked the return to what hard-line military officers called “total war” or “Plan Jakarta”<sup>24</sup> when the High Command of the military and security forces realized that they could not win the civil war using more accepted tactics of war. This was especially true by mid-1989 after pressure increased to reach a negotiated settlement, which was opposed by hardliners. The year 1989, culminating in the November massacre of six Jesuit priests, their housekeeper and her young daughter, proved to be a major turning point. In June 1989, the political ally of the military and security forces, Alfredo Cristiani of the National Republican Party (ARENA), took office and, for the first time, the far right controlled all branches of government. By this time the FMLN also had real power, having

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<sup>21</sup> Among the most notorious cases known to be carried out by the ESAF or allied death squads in this period include the murder of Attorney General Mario Zamora (1980), the murder of Archbishop Oscar Romero (1980), the rape and murder of four American churchwomen (1980), the “Sheraton” murders of the director of El Salvador’s land reform agency and his two U.S. advisors (1981), and the dumping of more than 150 bodies at Puerta del Diablo (1982). On indiscriminate war, *See*, for example, Benjamin Schwarz, *American Counterinsurgency Doctrine and El Salvador*, Rand Corporation: National Defense Research Institute, 1991; “the four colonels report” of A.J. Bacevich et al, *American military policy in small wars: The case of El Salvador*, Pergamon Brassey’s, 1988. This is also a key finding of the Truth Commission Report, United Nations Commission on the Truth for El Salvador, *From Madness to Hope: The 12 Year War in El Salvador*, U.N. Doc S/25500 (March, 1993).

<sup>22</sup> See “Some Tough Discussion with García,” secret cable, November 7, 1981, EL00728.

<sup>23</sup> In December 1983, as Vice President in the Reagan administration, Bush travelled to El Salvador to exhort the Salvadoran officer corps that any future U.S. assistance would be conditional upon limiting the orgy of killings and prosecuting those responsible for egregious abuses, especially the murders of four American churchwomen. He also demanded that a number of extreme rightists, including several from the 1966 graduating class to which Colonel Montano belonged, be transferred outside the country. Bush carried with him a letter from President Reagan warning that Congress would not pass an aid bill to the military without these actions. The Bush list contained specific names that needed to be removed from the military. *See Vice President Bush’s Meetings with Salvadoran Officials*, Declassified Document from the Department of State (Dec. 14, 1983).

<sup>24</sup> This is a reference to the Indonesian killings of 1965-1966, where more than 500,000 people were killed who were reputed to be members of the Communist Party. This led to the downfall of President Sukarno and ushered in the 30 year Suharto dictatorship. As in El Salvador, the army also organized, encouraged, trained, and supplied civilian groups and local militias, and, like El Salvador, methods of killing included shooting and beheadings. See Harold Crouch, *The army and politics in Indonesia*, Ithaca, N.Y.: Cornell University Press, 1978.

grown from a small group of poorly armed guerrillas into one of the most effective modern rebel movements seen in Latin America. Thus, the war had become stalemated at best, making victory by either side “at least another 10 year proposition.”<sup>25</sup>

Stalemate, in turn, led to the strongest pressures yet for a negotiated settlement of the conflict. President Cristiani and his right-wing ARENA Party<sup>26</sup> were confronted with a pivotal choice. On the one hand, new initiatives for dialogue from the FMLN, strong popular support for dialogue to end the war, and disenchantment in the U.S. for involvement in El Salvador created growing demands on the government and the armed forces to enter negotiations.<sup>27</sup> On the other hand, the ARENA electoral victory appeared to give new impetus to hardliners inside the officer corps, who had been the party’s allies both financially and ideologically,<sup>28</sup> to push for “war by assassination” or “total war.” But the reality on the ground showed that the war could not be won. These mixed results presented the country’s political antagonists with a stark choice: they could either move toward a negotiated settlement or they could plunge the country back into an earlier period of massive civilian killings.

**The Tandonas: A Power unto Itself Blocking a Negotiated Settlement:** The resurgence of death squad and other state terror activities occurred in this context and coincided with the ascent into the leadership of the armed forces of the 1966 “big graduating class” called the *Tandonas*, which included Colonel Montano as one of its leaders.<sup>29</sup> The importance of the *Tandonas* requires brief explanation. El Salvadoran Armed Forces were like other military institutions with a functioning chain of command,<sup>30</sup> but also unique in that the ESAF was

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<sup>25</sup> This was the prognosis of the noted “four U.S. colonels report.” See A.J. Bacevich, *American Military Power in Small Wars: The Case of El Salvador* (1988).

<sup>26</sup> From its beginnings, ARENA had its own paramilitary structure that incorporated officers in the Armed Forces, but it always worked closely with the military and its associated death squads as well. ARENA’S paramilitary arm comprised officers and men of the army and security forces. Author interviews with Roberto D’Aubuisson, founder of ARENA, San Salvador, (September 1983); “*El Salvador: the Right Wing*,” Declassified CIA memo requested by Vice President Bush (March 18, 1981).

<sup>27</sup> See “El Salvador: Growing Pressure for the GOES to Negotiate with the Guerrillas,” Secret, Information Memorandum for Secretary of State, June 16, 1988. [EL00957]

<sup>28</sup> *Right Wing Machinations with the ESAF*, Declassified Document EL00398 from the Department of Defense (Apr. 30, 1984), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

<sup>29</sup> Personnel changes in 1987 opened the door for the Tandonas, and, by the end of the year, the class of ‘66 held 12 of 16 key commands. In June 1988, Tandonas officers took over the leadership of the *Estado Mayor* and all positions in the High Command, except that of Defense Minister, but even this was soon to follow. See James LeMoyne, “*Salvadoran Army Starts a Shake-Up*,” *New York Times*, July 3, 1988.

<sup>30</sup> It had a formal and functioning chain of command headed by the Minister of Defense. Orders were regularly followed. Orders were easily communicated within a day, though they were often given verbally and followed later by formal direct orders. See Trial Testimony from *Romagoza Arce et al v. Garcia and Vides Casanova*, 2005 U.S. Dist. LEXIS 44427 (W.D. Tenn. Oct. 17, 2005), Testimony of Argentine Colonel José Garcia (July 2-3, 11, 2002), testifying as an expert in military command structure, Trial Transcript at pp. 825-29; This description is also taken from Brian J. Bosch, *The Salvadoran Officer Corps and the Final Offensive of 1981*, 116 (1999); Barriers to Reform: A Profile of El Salvador’s Military Leaders, Report to the arms control and Foreign Policy Caucus prepared by the Staff of the Arms Control and Foreign Policy Caucus, May 20, 1990; *Report of the El Salvador Military*

entirely organized according to membership in graduating classes from the Military Academy called *tandas*. Unlike other militaries, Salvadoran officers migrated between different services, e.g., sometimes serving in the army and sometimes in the security forces, thus they had no loyalty to a particular branch of the ESAF. Instead, they were identified permanently as members of their particular graduating class and their allegiance was to their *tanda*. This group bond created a type of “mafia family” that “bound members to loyalty to one another... with its younger members taking their first commands in the expectation that they would one day be running the country.”<sup>31</sup> Salvadoran military rule lasted for an unusually long time because this *tanda* system also permitted a rotating distribution of financial rewards and shared benefits from corruption as officers gained seniority. This in turn fostered institutional (and personal) self-protection through a ‘code of silence.’<sup>32</sup> As the so-called “four colonels” study by the U.S. military put it, the elite Salvadoran officer corps was “a West Point protection racket gone berserk.”<sup>33</sup>

The *Tandona* was the biggest,<sup>34</sup> most powerful<sup>35</sup> and most corrupt<sup>36</sup> graduating class in the history of the Salvadoran military. Trained under a military dictatorship, *Tandona* officers

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*Strategy Assistance Team (1981); Benjamin Schwarz, American Counterinsurgency Doctrine and El Salvador, RAND (1991).*

<sup>31</sup> These are the phrases used by U.S. officials in El Salvador. See also “El Salvador Officer Corps Dynamics”, at <http://www.country-data.com/cgi-bin/query/r-4313.html>.

<sup>32</sup> As one U.S. military adviser in El Salvador explained: “We’re talking about thirty guys afraid to point the finger because the finger will point back at them.” He elaborated, “This is the way the country is. If you have authority, you abuse it. If you have access to funds, you steal them. ....” quoted in Phillip Bennett, “Burying the Jesuits,” *Vanity Fair*, November 1990. Also see U.S. Declassified Document EL00331, “*Discusses Salvadoran Military Immunity to Punishment*,” August 24, 1990 and U.S. Ambassador Edwin Corr’s detailed discussion of the “code of silence” in *Post Plan Reporting: Military’s Response to Human Rights Accusations*, Declassified Document 00961, U.S. Embassy to U.S. Department of State (June 29, 1988), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

<sup>33</sup> This is the conclusion of one of the best studies of the Salvadoran Armed Forces by the U.S. military, often called “the four colonels” report. See A.J. Bacevich, et al, *American Military Power in Small Wars: The Case of El Salvador* (1988). Corruption was legendary. Senior officers invented “ghost soldiers” and pocketed the paychecks of these phony men under their command, kept dead soldiers on the payroll so senior officers could collect their salaries, and forced conscripts to buy high-priced food, new uniforms and even boot polish at a profit to their commanders. As one major told the New York Times: “Just about every brigade lists at least one fifty man company that isn’t there,” bringing its commander approximately an additional \$60,000 annually. See Joel Millman, *El Salvador’s Army: A Force onto Itself*, New York Times Magazine, December 10, 1989. For more information on corruption in the Salvadoran military, see also William Stanley, *The Protection Racket State: Elite Politics, Military Extortion, and Civil War in El Salvador* (1996).

<sup>34</sup> Because the Military Academy did not graduate a class in 1965s, the 1966 *tanda* was unusually large, and far outnumbered its rival classes, which is one key to its extraordinary power.

<sup>35</sup> By July 1988, the *Tandona* held five of the six prestigious infantry brigade commands; controlled five of the seven military detachments, the three security forces, and the intelligence, operations, and personnel posts in the High Command; and occupied numerous other key slots. Douglas Farah. “Salvadoran Army Announces Changes in Senior Command; Group of Colonels Push Top-Level Officers Aside,” *The Washington Post*, Nov.13, 2012. Soon afterwards, it controlled over half of the military’s 36 commands. *The Boston Globe*, Nov.13, 2012.

had been taught to expect to govern at the end of the decade when they reached seniority, an option they had been discussing since at least 1980.<sup>37</sup> Considering an attack against any one of their members as an assault against the entire *Tandona*,<sup>38</sup> it was known for putting the interests of its own members above the military institution as a whole. Filled with right-wing extremists who admired European fascist war strategies<sup>39</sup> and rejected U.S. pressure to couple military restraint with badly needed political and economic reforms, *Tandona* officers as a group favored ‘total war’ methods which meant the complete lack of differentiation between combatants and unarmed civilians.

Not surprisingly, *Tandona* officers had appalling human rights records. They were known for their belief in and support for the physical elimination of anyone presumed to be opposed to their rule;<sup>40</sup> and from the beginning of their military careers some *Tandona* leaders were involved with death squads operating principally out of the security forces (National Guard, Treasury Police, National Police), the Engineering School and other institutions.<sup>41</sup> One

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<sup>36</sup> Corruption was legendary. Senior officers invented “ghost soldiers” and pocketed the paychecks of these phony men under their command, kept dead soldiers on the payroll so senior officers could collect their salaries, and forced conscripts to buy high-priced food, new uniforms and even boot polish at a profit to their commanders. As one major told the New York Times: “Just about every brigade lists at least one fifty man company that isn’t there,” bringing its commander approximately an additional \$60,000 annually. See Joel Millman, *El Salvador’s Army: A Force onto Itself*, New York Times Magazine, December 10, 1989. For more information on corruption in the Salvadoran military, see also William Stanley, *The Protection Racket State: Elite Politics, Military Extortion, and Civil War in El Salvador* (1996).

<sup>37</sup> U.S. Colonel Brian Bosch, who served as the U.S. Embassy’s Defense and Army Attaché in El Salvador and who knew the military well, said the *Tandona* “had been discussing the mechanics of acquiring power as early as 1980.” See Brian J. Bosch, *The Salvadoran Officer Corps and the Final Offensive of 1981*, 116 (1999).

<sup>38</sup> See the analysis of the defense attaché sent to the Department of Defense, Intelligence Section, “Sinfonica Tanda Concerned over the La Cebadilla Incident,” Confidential, Cable, Excised Copy, 13793, October 14, 1988. [EL00440].

<sup>39</sup> The term “total war” is derived from Hitler’s Propaganda Minister Joseph Goebbels’ speech in which he said: “Total war is the demand of the hour . . . The time has come to remove the kid gloves and use our fists. The question is not whether the methods are good or bad, but whether they are successful.” Joseph Goebbels, *Nation, Rise Up, and Let the Storm Break Loose*, Address at the Berlin Sportpalast (Feb. 18, 1943), available at German Propaganda Archives, <http://www.calvin.edu/academic/cas/gpa/goeb36.htm>. U.S.

<sup>40</sup> The U.N sponsored Truth Commission would describe these officers’ beliefs thusly: “Anyone who expressed views differing from the Government line ran the risk of being eliminated as if they were armed enemies on the field of battle...” As one very prominent colonel explained to me in an interview in June 1983, when he referred to what Salvadorans call the 1932 *Matanza*, “We killed 30,000 peasants in 1932, and they were quiet for 50 years. We just want another 50 years.”

<sup>41</sup> *Tandona* leaders most frequently named in death squad activity in U.S. declassified documents include the following: Army Chief of Staff and later Minister of Defense René Emilio Ponce, Vice Ministers Juan Orlando Zepeda and **Inocente Orlando Montano** as well as others. Despite the obvious difficulties in obtaining information about the death squads, the location, leadership, and functioning of these death squads has been researched as thoroughly as feasible and is well documented. See, e.g., Linda Garrett (ed.), *Los Escuadrones de la Muerte en El Salvador* (1993); Cynthia Arnson, *Window on the Past: A Declassified History of Death Squads in El Salvador*, in *Death Squads in Global Perspective* (2002). Also see “Escuadrones de la Muerte: Declassified Documentation on Death Squad Activities in El Salvador,” February 1994, which is derived from U.S. declassified documents.

influential U.S. Congressional report, “Barriers to Reform,” singles out 12 commanding officers from the *Tandona* for their human rights abuses; these officers included the Vice Minister of Defense, the Chief of Staff, the directors of all three of the security forces, the commanders of five of the six major brigades and **Vice Minister of Public Security Inocente Orlando Montano**.<sup>42</sup>

This atrocious human rights record meant that one of the central objectives of a negotiated settlement became the *Tandona*’s removal from command. By mid-October 1989, during peace talks in Costa Rica, this appeared to be the emerging consensus position of the FMLN as well as President Cristiani’s government.<sup>43</sup> More than any other single person, this consensus position was due to the efforts of the Catholic University’s (UCA) Jesuit Rector, Ignacio Ellacuría, who was trusted by both President Cristiani and the FMLN.<sup>44</sup> For the first time, both sides appeared open to what Father Ellacuría, the foremost political analyst in the country, defined as a “new phase.”<sup>45</sup> Having argued for years that dialogue was the only possible exit from the civil war,<sup>46</sup> shortly before his murder Ellacuría told a crowd of thousands

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<sup>42</sup> This influential report, simultaneously presented to both the Senate and the House of Representatives, was instrumental in demonstrating the widespread involvement of the 1966 Graduating Class, the *Tandona*, in egregious human rights abuses. It was influential in cutting aid to the Salvadoran military. See “Human Rights Record of the Salvadoran Military. Barriers to Reform: A Profile of El Salvador’s Military,” Congressional Record, 101st Congress (1989/1990), May 21, 1990.

<sup>43</sup> The October 16-18 meeting in Costa Rica between the government and the FMLN, held a month before the Jesuit massacre, was the crucial meeting making this determination. It honed in on what the rebels insisted was the main negotiating point: the restructuring of the armed forces and the removal of the entire *Tandona* as well as their ally, Air Force Commander General Juan Bustillo. *Movement of 1,000 Fresh FMLN Troops to San Salvador; Planned Role of Ellacuría in Effecting New Negotiations Between the FMLN and the Government*, Declassified Document EL00279 from the U.S. Central Intelligence Agency (Sept. 17, 1989), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

<sup>44</sup> By mid-September, Ellacuría had issued statements increasingly favorable to the Cristiani government, while publicly calling upon the FMLN to drop some of its demands and to move away from a military option. *Killing of Dr. Ignacio Ellacuría*, Declassified Document EL00281 from the U.S. Central Intelligence Agency (Nov. 17, 1989), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

<sup>45</sup> The notion of a “new phase” can be found in *Una Nueva Fase en el Proceso Salvadoreño*, ECA, no. 485, March, 1989.

<sup>46</sup> In his view, both ARENA and the FMLN had inched towards the center; his chosen role was to encourage the creation of a “third force” made up of civilians that could help to achieve a negotiated settlement. Mediating between the government and the FMLN, Ellacuría succeeded in encouraging the FMLN’s most hard-line military commander to publicly state his willingness to entertain negotiations for the first time. In meetings with President Cristiani, he pushed for dialogue, commenting afterwards that ARENA’s changes were “not superficial.” For a report on Ellacuría’s views, see *Ambassador’s Meeting with UCA Rector Ellacuría*, Declassified Document EL01017 from Ambassador William Walker to Department of State (April 5, 1989), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>. See also this author’s interviews with Rector Ignacio Ellacuría, Rector of UCA, San Salvador, (1983 & 1985). See *Conversation with UCA Rector Father Ellacuría*, Declassified Document EL00866 from David Passage, U.S. Embassy in El Salvador to Department of State (Feb. 19, 1985); *Conversation with UCA Rector Ellacuría*, Declassified Document EL00875 from Ambassador Thomas Pickering to Department of State (May 22, 1985), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

assembled as part of a rapidly growing National Debate for Peace: “We have never been so close to peace. We cannot let this opportunity escape us.”<sup>47</sup>

For the *Tandona*, the role of UCA Rector Ellacuría in the peace agreements was a disaster. Salvadoran officers already had a long history of threatening the Catholic Church, and especially the Jesuits. In 1980, a military-civilian death squad had gunned down El Salvador’s Archbishop, Oscar Romero, precisely because he tried to mediate the conflict to end the war. Now Ellacuría and the Jesuits were viewed as a menace at least equal in the threat they represented to the power of the *Tandona*. Not only had this the university rector and internationally-known scholar managed to influence ARENA President Cristiani through his negotiations tutelage,<sup>48</sup> thereby seeming to remove a key *Tandona* ally, but also negotiations now centered on the future of the *Tandona* itself. The FMLN’s demand in negotiations to remove the *Tandona* quickly gained widespread popular and international support, and huge demonstrations supporting peace were held in front of the National Cathedral. But the *Tandona* remained intransigent.<sup>49</sup> Given that the power and pecuniary privilege of these senior officers was at stake, they strongly rejected the idea of a “self-purge” involving the dismissal of all 16 active duty members of the *Tandona*.<sup>50</sup>

The *Tandona* had become a power unto itself.<sup>51</sup> By 1989, its senior officers had developed an exaggerated sense of their own autonomy and privilege and acted with total impunity.<sup>52</sup> For the *Tandona*’s leaders, a political settlement meant the end of military dominance just when they had finally arrived into the top command positions.<sup>53</sup> As one Salvadoran officer put it, negotiations were “no more and no less than a long term suicide... like

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<sup>47</sup> El Mundo, March 9, 1989. (Copy not available).

<sup>48</sup> Lee Hockstader, *Judge in Jesuits Case to Flee El Salvador*, Washington Post, Sept. 30, 1991.

<sup>49</sup> In what was an obvious threat, Defense Minister Larios, surrounded by his senior staff and the commanders of almost all the units in the country (in other words, the *Tandona*), appeared on all media expressing “grave doubts” about negotiations.

<sup>50</sup> The Defense Minister called the idea of *depuración* (purging [of the Armed Forces]) “absurd,” “ridiculous,” and “impossible.” *El Proceso de Dialogo-Negociacion Durante el Primer Año de ARENA*, ECA 448 June-July 1989.

<sup>51</sup> On the “power grab” of the *Tandona* and the problems this caused within the ESAF, see cable from the Office of the Defense Attache, “Chief of Staff Attempting to Reaffirm His Authority,” Classification Excised, Cable, Excised Copy, June 15, 1988. [EL00435].

<sup>52</sup> As one U.S. document described, “The Salvadoran Armed Forces [are] accountable to no one. The money provided by the United States over the last ten years has enabled the military to establish itself as an independent power in society, acting with impunity against those who displease them.” Draft National Policy Agenda, Moakley Commission: Resources at the Moakley Archive and Institute, MS 100-3.4, Folder 281, doc. 6 (Jan. 12, 1990).

<sup>53</sup> *Military Unease Growing*, Declassified Document 00252, Intelligence Report (Feb. 27, 1989), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>. For *Tandona* opposition to the 1989 Mexico talks, see *ESAF Reaction to Mexico Meeting of FMLN and Political Parties*, Declassified Document EL00099 from the State Department (Feb. 22, 1989), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

taking poison every day, a little bit at a time.”<sup>54</sup> Ending the war also threatened to terminate the gravy train of foreign aid that was enriching officers at the top.<sup>55</sup> The *Tandona* leadership would not stand for a negotiated settlement.<sup>56</sup> As U.S. Lt. Colonel Fred Berger put it in an interview with Massachusetts Congressman Joseph Moakley: “The “*Tandona*” had all the power locked in concrete. They had everything.”<sup>57</sup> They would not willingly give it up.

## V. COLONEL MONTANO AND THE JESUIT MASSACRE (NOVEMBER 16, 1989)

**Colonel Montano’s Command Position:** From June 1, 1989 until March 2, 1992, Colonel Inocente Orlando Montano was the **Vice Minister of Public Security** – part of the High Command of the El Salvador Armed Forces.<sup>58</sup> He was also part of the *Tandona*’s “inner circle”<sup>59</sup> and one of the key leaders making decisions for the entire class.<sup>60</sup> By this time, the *Tandona* comprised only about 20 senior officers,<sup>61</sup> and its “inner circle” numbered a mere eight men who

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<sup>54</sup> See “Negotiations as a Form of Insurgent Conflict: Interview by Col. Carlos Reynaldo Lopez Nuila,” in Max Manwaring & Court Prisk, *El Salvador at War: An Oral History of the Conflict from the 1979 Insurrection to the Present*, (1988).

<sup>55</sup> The Rand Corporation’s study is especially damning in this regard. It notes that “the greed and apparent tactical incompetence of Salvadoran military officers has so exasperated American experts posted in El Salvador that all the individuals interviewed for this report . . . believe that the Salvadoran military does not wish to win the war because in doing so it would lose the American aid that has enriched it for the past decade.” Benjamin Schwarz, *American Counterinsurgency Doctrine and El Salvador*, RAND (1991).

<sup>56</sup> Interview with Col. John D. Waghelstein, Commander, U.S. Military Group in El Salvador, 1982-83. Washington (Feb. 23, 1987), in Max Manwaring & Court Prisk, *El Salvador at War: An Oral History of the Conflict from the 1979 Insurrection to the Present*, (1988).

<sup>57</sup> Interview of Lt. Col. Fred Berger (MS 100-3.4 Folder 255) of the U.S. Congressional investigation of the Jesuit assassinations headed by Congressman John Joseph Moakley of the Ninth District of the State of Massachusetts. This forms part of the “Moakley Report” documents from the so-called Moakley Commission investigation into the 1989 murders of six Jesuit priests and two women at the University of Central America in San Salvador.

<sup>58</sup> The High Command consists of the Minister of Defense, two Vice Ministers, and the Chief of Staff of the *Estado Mayor*.

<sup>59</sup> See “[**Excised**] **Priority Tandona Politics--"Ponce Is Not the; Tandona" (Bio Data)** “[Page Six Missing], Classification Excised, Cable, Excised Copy, February 22, 1990. This is a highly redacted cable that describes the “inner circle” of the *Tandona*, including Colonel Montano. Minister of Defense Ponce led the *Tandona*, and both vice-ministers (Montano and Zepeda) were decision-makers with him.

<sup>60</sup> This leadership is traditionally established by performance in the Military Academy, that is, the best graduates become the leaders of their *tanda*, and Colonel Montano ranked third in his class. On this class rank, see “[Excised] Perception of Some of His Fellow Officers”, Classification Excised, Cable to the Department of Defense, December 11, 1986. EL00421, which notes that Montano was third after Ponce (Minister of Defense) and Rubio (Chief of Staff). As a leader of his 1966 class, he was among a small group of top officers known as the “*compadres*” (literally, men who act as godfathers to each others’ children).

<sup>61</sup> The *Tandona* officers, originally 47, were approximately 27 at this time, but only about 20 were in active duty senior positions. The total number of senior field officers from all *tandas* numbered about 106. *Graduation of 35th Class at Military Academy*, Declassified Document EL00373 from Defense Intelligence Agency (November 14, 1966), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>. The inner circle included: Vice

were exceptionally close and made key decisions through consensus.<sup>62</sup> As Vice Minister of Public Security, Colonel Montano was not only one of the leaders of his 1966 class but also one of the very top decision-makers in the ESAF.

Vice Minister Montano had great authority to both command and issue orders to the security forces. He was the chief executive officer of the Minister responsible for the actions and daily operations of three security forces: the National Police, the Treasury Police and the National Guard, thus he had the capacity to lower the level of torture and extrajudicial killings by the security forces.<sup>63</sup> But this did not happen. To the contrary, his appointment as Vice Minister of Public Security coincided with a strong resurgence of extrajudicial killings, torture, deaths in custody, and urban terror campaigns by the security forces aimed at blocking prospects for a negotiated settlement to the conflict.

In this context, Vice Minister Montano was one of the key figures involved in preparing the terrain for and making the actual decision to kill Fathers Ignacio Ellacuría, (Rector of the Universidad Centroamericana, the UCA, and prominent philosopher/theologian); Ignacio Martín-Baró (Vice-Rector of the UCA and leading social psychologist); Segundo Montes, (Director of the Human Rights Institute and social anthropologist); Amando López, Joaquín López y López and Juan Ramón Moreno (all teachers at UCA) as well as Julia Elba Ramos and her daughter, Celina Ramos, who had sought shelter with them.

**Vice Minister Montano’s Role in Sabotaging Peace Talks:** After Montano’s June appointment, and especially after successful peace talks were held in September and mid-October, some of the worst acts of terror of the war occurred on his watch: severe torture increased to levels not seen since the early 1980s in all three branches of the security forces, and the rate of increase of people arrested for “subversive” (e.g., political) crimes rose 12.5 percent

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Minister of Defense Juan Orlando Zepeda, **Vice Minister of Defense for Public Security Inocente Orlando Montano**, Army Chief of Staff Rene Emilio Ponce, Deputy Chief of Staff Gilberto Rubio Rubio, Commander of the 1<sup>st</sup> Brigade Francisco Elena Fuentes, and Carlos Carrillo Schlenker – almost all of whom have been indicted for the Jesuit murder in Spain.

<sup>62</sup> See [*El Salvador: Who Will be the Next Minister of Defense?*], Declassified Document EL00462 (May 1, 1989), which describes how President Cristiani, when contemplating the appointment of the Minister of Defense wanted to appoint Ponce, Zepeda, Montano, and Rubio to the highest positions because they were the “top echelon” of the military, otherwise known as the *compadres*.

<sup>63</sup> One vice minister, for example, responding to strong U.S. pressure brought directly by then Vice President George Bush was able to almost single-handedly remove key violators from the Treasury Police and National Guard and lower abuses – even though this did not last. Like the decline in death squad killings at the end of 1983, this illustrates that major drops in human rights violations were within the capacity of the leadership of the armed forces when the top commanders wished to do so – even if it was “aimed exclusively at placating Washington,” See “Vice President Bush’s Meetings with Salvadoran Officials,” Secret cable of Department of State, December 14, 1983, the U.N. Truth Commission Report, and “El Salvador: Dealing with Death Squads,” Directorate of Intelligence of the CIA, January 20, 1984.

over 1988.<sup>64</sup> During Colonel Montano's tenure as Vice Minister of Public Security, the security forces also adopted a pattern of responding to FMLN attacks on military targets by killing and terrorizing civilian non-combatants.<sup>65</sup>

Especially after the surprising success of September and mid-October peace talks in working towards a consensus regarding the removal of the *Tandona*, the restructuring of the military, and the potential dismantling of the security forces,<sup>66</sup> spoilers in both the ESAF and the FMLN tried to wreck the prospects for peace. The security forces under Colonel Montano's authority became a center of state terror aimed at blocking a negotiated settlement to the conflict.<sup>67</sup> On October 13, 1989, Vice Minister Montano publicly warned that accepting FMLN proposals to restructure the military and remove officers might put national security at risk and would not be accepted by the government.<sup>68</sup> This was followed by intensive military and security force actions throughout October and November aimed against civilian non-combatant groups that strongly supported peace. In addition to the increase in torture, arrests and disappearances, members of human rights organizations and victims' groups like Co-Madres, which represented the families of the "disappeared," were tortured and beaten by the Treasury Police.<sup>69</sup>

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<sup>64</sup> James Goldston and Jemera Rone, "A Year of Reckoning: El Salvador a Decade After the Assassination of Archbishop Romero," *Americas Watch*, March 1990. *Americas Watch* is now renamed as Human Rights Watch. This report includes extensive documentation of human rights abuses by the security forces during the period that they were under the authority of Colonel Montano.

<sup>65</sup> The FMLN also targeted civilians, assassinating a number of prominent right-wing government and civilian figures. Most of its documented abuses are considered violations of the laws of war and involved armed personnel. See "A Year of Reckoning" cited above.

<sup>66</sup> Later in the U.N. peace talks, the security forces were deemed "irremediable" and disbanded entirely due to their long history of human rights abuses. See Terry Lynn Karl, "El Salvador's Negotiated Revolution," *Foreign Affairs* 71, N° 2, spring 1992.

<sup>67</sup> Regarding the National Guard, for example, one cable describes the special S-2 section that carries out the extrajudicial executions, while another included a diagram of the areas of operation of death squads from all of the three security forces in the month prior to Montano taking command. The other security forces had a similar record. See United States Bureau of Citizenship and Immigration Services, *El Salvador: Human Rights Record of the National Guard (Guardia Nacional) and the Liberators Battalion of the Treasury Police (Batallón de Libertadores, Policía de Hacienda) During the 1980s*, February 22, 2000, available at <http://www.unhcr.org/refworld/docid/3ae6a6a68.html>. Also see "Reply to Request for Bio Information, Secret Cable 225815, July 17, 1989. [EL01028].

<sup>68</sup> See "Salvadoran government and rebels prepare for peace talks," *United Press International*, Oct 14, 1989.

<sup>69</sup> On November 15, 1989, for example, Salvadoran security forces raided COMADRES offices, which represented the families of the disappeared. Nine members of COMADRES were arrested and forced to pose for photographs in front of an FMLN flag. All were blindfolded, handcuffed, and taken to Treasury Police headquarters, where they were beaten. Two US citizens were also taken and beaten, though they were released after 53 hours while the Salvadoran women were held illegally for four months. See *Report No. 13/96; Case No. 10/948*, Inter-American Commission on Human Rights, March 1, 1996. Also See *Annual Report of the Inter-American on Human Rights 1989-1990: El Salvador*, Inter-American Commission on Human Rights (May 17, 1990).

All three security forces under Colonel Montano's authority also focused state terror tactics on representatives of labor unions – an important indication that this was directed from the top. Labor union phones were tapped, organizations were bombed, and leaders were disappeared. The main labor confederation, FENASTRAS, was especially targeted. For example, two FENASTRAS members were arrested by the Air Force and then supposedly transferred to the Treasury Police, never to be seen again; their families' written requests to Vice Minister Montano and others for an investigation were never answered.<sup>70</sup> The National Guard arrested at least ten FENASTRAS members on September 17, and the National Police arrested 64 members of the labor confederation the next day, many of whom were either raped and/or tortured.<sup>71</sup> The culmination of this anti-labor campaign was a spectacular bombing on October 31, 1989, which destroyed the FENASTRAS headquarters in San Salvador, killed El Salvador's most important labor leader and resulted in nine other deaths as well as over 50 wounded, including at least one American. While the actual bomber was never identified, the building was under constant surveillance by the National Police.<sup>72</sup> When surviving FENASTRAS members blamed the security forces for the bombing, one *Tandona* colonel replied by charging FENASTRAS members themselves with the bombing of their own headquarters and the deaths of their own leaders.<sup>73</sup>

The resurgence of attacks against prominent civilians and the shocking FENASTRAS bombing had its intended effect: the FMLN immediately ended peace negotiations and, on November 11, 1989, it launched a major offensive in the city of San Salvador -- named after the popular union leader killed in the FENASTRAS bombings. As the military and security forces responded, all major civilian leaders went into hiding -- except the Jesuits at the UCA and Father Ellacuría who was in his native Spain to receive a human rights prize. Warned by others to remain in Europe, his return was requested personally by President Cristiani, who asked him to conduct an investigation of the FENASTRAS bombing. The Jesuit killings occurred in this immediate context. Ellacuría, joined especially by priests Ignacio Martín Baró and Segundo Montes, was the fulcrum of possible peace agreements -- the only intermediary who talked with all sides from the FMLN to ARENA to the U.S. Embassy.<sup>74</sup> On November 13, 1989, the day of

<sup>70</sup> See "Chan Chan and Massi Summary of the Case," in the U.N. Truth Commission Report, 107.

<sup>71</sup> Terrified, only one woman agreed to file a formal complaint, saying that her interrogating officer raped her twice following her refusal to admit being part of a subversive organization. See *Update on FENASTRAS Rape and Assault Charges*, Confidential, Cable, Annotated Copy, 13188, October 11, 1989, EL01308.

<sup>72</sup> The FENASTRAS bombing, described in the *New York Times* as "total carnage," killed nine labor leaders and one bystander and wounded 50, including one American. The security forces were almost certainly involved in some form since the building was under constant surveillance, but the National Police claimed that its troops saw nothing, and the National Police subsequently did nothing about the bombing. See *A/S Aronson's Meeting with FENASTRAS*, Confidential, Cable, November 8, 1989, EL01042. Also see the *New York Times*, November 1, 1989.

<sup>73</sup> See the words of Colonel Elena Fuentes, who was subsequently charged with conspiracy to murder the Jesuits. "A Year of Reckoning," 172.

<sup>74</sup> See Philip Bennett, *Massacre Left a Void in El Salvador, Jesuit Rector was Key Bridge Between Cristiani and the Rebels*, Boston Globe, November 19, 1989.

his return, the UCA rector was in contact with President Cristiani, the FMLN and a number of younger officers who wanted the *Tandona* leadership removed.<sup>75</sup> That same day, as noted below, the High Command launched a reconnaissance operation against the UCA in preparation for the assassination of Ellacuría in an order signed by President Cristiani and *Tandona* leader, Chief of Staff Ponce.<sup>76</sup>

**Vice Minister Montano's Threat and the Build-Up to Murder:** By late 1989, attacks against religious leaders had grown exponentially, and charges against the leaders of the UCA became even more virulent: the Jesuits were "foreigners" sent by Spain to re-colonize the country;<sup>77</sup> they commanded "hoards of terrorists," and most important they were the intellectual leadership or the "brains," behind the FMLN.<sup>78</sup> Their university was "a refugee for terrorists."<sup>79</sup> By mid-November 1989, these were not merely verbal attacks, one Salvadoran intelligence officer explained, but a "Psych-Ops" tactic launched during the FMLN offensive whose aim was to prepare soldiers and at least some part of the public to view the priests as enemies to be destroyed.<sup>80</sup>

Colonel Montano was an active participant in these attacks. He denounced Catholic officials as "playing into the hands of guerrillas" even before he became Vice Minister of Public Security.<sup>81</sup> But as Vice Minister, his repetition of these public charges in the context of war

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<sup>75</sup> *Movement of 1,000 Fresh FMLN Troops to San Salvador; Planned Role of Ellacuría in Effecting New Negotiations Between the FMLN and the Government*, Declassified Document EL00279, n. 140. Also see the CIA document, *16 May 1990 Meeting [Excised]*, Declassified Document EL00317, *supra*.

<sup>76</sup> See Philip Bennett, "Burying the Jesuits, *Vanity Fair*, November 1990, which also appears as a Department of State document available at <http://www.scribd.com/doc/97815021/Le-Re-Burying-the-Jesuits-466e>.

<sup>77</sup> As one colonel said: "The true leaders, the true thinkers are in the universities. For example, Father Ellacuría, a Jesuit priest of the Central American University, is a Spaniard who, along with all his entourage of Spanish communists from liberation theology, is here... foreigners who come to subvert order and implant the seeds of communism in the minds of the youth." Interview with Sigfrido Ochoa, Colonel, Salvadoran Military (March 1988), cited in Stanley, n. 27 at 248.

<sup>78</sup> As U.S. military Col. Fred Berger answered Congressman Moakley when asked what he heard the military say about the Jesuits: "That they were the intellectual leadership of the FMLN, I heard that an awful lot." Interview of Lt. Col. Fred Berger, Moakley Commission: Resources at the Moakley Archive and Institute, MS 100-3.4, Folder 255, doc. 2 (Dec. 21, 1990).

<sup>79</sup> Words of Vice Minister of Defense Juan Orlando Zepeda of the *Tandona*, quoted in Philip Bennett cited in note 74.

<sup>80</sup> "It is not easy to get soldiers to kill priests," one Salvadoran Intelligence officer explained to this author. "They cannot just be sent out to kill; they need to be groomed." Interview conducted in San Salvador in 2009 with DNI officer working in November 1989 when the Jesuits were killed.

<sup>81</sup> In 1988, for example, Montano accused Archbishop Arturo Rivera y Damas and Auxiliary Bishop Gregorio Rosa Chávez of "playing into the hands of the guerrillas" and "tilting the human rights statistics in favor of the guerrillas." See Dean Peerman, *Romero: Evolution of a Martyr*, Christian Century, October 4, 1988. Also See Canal Seis Television, San Salvador, September 4, 1989, text available at <http://nlp-project-muc34-ie.googlecode.com/svn-history/r15/nlp-ie/texts/developmentset.txt>

carried even greater weight. He repeatedly accused the UCA of being a “front group,” publishing “lies to discredit the army.”<sup>82</sup> In July 1989, for example, Vice Minister Montano accused the UCA Jesuits of “trying to discredit the public security forces and the armed forces.” In August he specifically named Rector Ignacio Ellacuría as a person “fully identified with subversive movements”<sup>83</sup> – an especially dangerous accusation in the context of El Salvador, which he later repeated.<sup>84</sup> Others later echoed the charges of Vice Minister Montano and his *Tandona* colleague, Vice Minister Zepeda, in a public campaign of threats broadcast on Radio Cuscatlán, the official station of *La Fuerza Armada*. From November 11, 1989,<sup>85</sup> these accusations especially singled out Rector Ignacio Ellacuría as a “terrorist” and “the brains behind the FMLM.”<sup>86</sup> Virulent attacks against Ellacuría and other Jesuits continued from November 11-14, helping to create the climate for killing the priests by portraying them as “the enemy” – even falsely portraying them as potentially armed and dangerous.<sup>87</sup>

The intense militarized focus on the Jesuits continued to build, with Colonel Montano’s participation. On November 12, a military patrol searched the UCA for weapons. Troops then were posted at the entrance of the university complex and throughout the surrounding neighborhood,<sup>88</sup> leaving the area around the UCA as one of the most heavily guarded in the city.<sup>89</sup> That same day, ten Treasury Police, whose director reported all troop movements to Vice Minister for Public Security Montano, occupied the nearby Jesuit Loyola Center. On November 13, the university was searched again despite the fact that it was already surrounded, and no one

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<sup>82</sup> On the Jesuit threats, *See Barriers to Reform: A Profile of El Salvador’s Military Leaders*, Report to the U.S. House of Representatives *Arms Control and Foreign Policy* Caucus, May 21, 1990,20,

<sup>83</sup> *See* “El Salvador 1992 Ad Hoc Commission Documents,” Box 5, pg. 20-21. Also see “El Salvador 1992 Ad Hoc Commission Documents,” Box 5, pg. 17-18.

<sup>84</sup> *See La Conyuntura Política Después de la Ofensiva*, Revista Estudios Centroamericanos (January/February 1990) and *From Madness to Hope: The 12 Year War in El Salvador*, U.N. Doc S/25500 (1993).

<sup>85</sup> By the late evening, all radio stations in the country had been compelled to tie into Radio Cuscatlan’s national network. When the Catholic Church’s station, YSAX, initially refused, the station’s announcer reported receiving threatening phone calls from what he called “fanatics.” *See* Martha Doggett, *Death Foretold: The Jesuit Murders in El Salvador*, Lawyers Committee for Human Rights 38, (1993).

<sup>86</sup> The Armed forces refused to make available the transcripts of these threats, but witnesses report virtually the same words: “Ellacuría es un guerrillero. Que le corten la cabeza.” Also, “Deberian sacar a Ellacuría para matarlo a escupidas.” *See Killing of Dr. Ignacio Ellacuría*, Declassified Document EL00281 from the U.S. Central Intelligence Agency (Nov. 17, 1989), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

<sup>87</sup> *La Prensa Gráfica*, November 13, 1989.

<sup>88</sup> A one-page description of these events was found in Father Ignacio Martín Baró’s computer after his death. “From this moment,” he wrote, “a group of soldiers were posted at the entrance to the university complex, checking [registrando] of everyone who entered or exited, and from Monday, November 13, prohibiting the entrance or departure of anyone. *See* Ignacio Martín Baró, *Cateo de la Universidad Centroamericana y la Comunidad Universitaria Jesuitica*, San Salvador, November 14, 1989.

<sup>89</sup> Joseph J. Moakley [et al.], *Interim Report of the Speaker’s Task Force on El Salvador*, US House Speaker’s Special Task Force on El Salvador to Thomas S. Foley, 44 (April 30, 1990), Document EL01375, available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

could enter or leave without permission. This was a reconnaissance mission in preparation for the killing of the priests,<sup>90</sup> though the troops involved the search were unaware of this at the time. It concentrated almost entirely on the Jesuit residence itself instead of the rest of the UCA and was conducted by the same commando unit of the Atlacatl Battalion of the ESAF that would carry out the massacre two days later.<sup>91</sup> This second search is evidence of premeditation not only because it targeted the Jesuit residence, but also because it lacked any reasonable rationale. It also operated under an unusual dual command from the High Command<sup>92</sup> as well as the director of the Military School, Colonel Benavides. Finally, it was timed to coincide with Ellacuría's return; it included the telling presence of an intelligence officer whose job was to collect actionable intelligence for military operations,<sup>93</sup> and it involved the one of the best commando

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<sup>90</sup> The High Command has always denied this was a reconnaissance mission, but the rationale given for this second search after the priests, their housekeeper and her daughter were murdered made little sense -- even within the military's own mode of thinking. When pushed to justify the search, Chief of Staff Ponce stated that the Armed Forces Joint Operations Center (COFJA) had been advised of "terrorist elements" penetrating the UCA campus that were firing on military personnel. Yet he claimed to have no idea of the origin of the reports that supposedly had provoked the mobilization of search, and as the central person in charge of mobilizing troops during an offensive, he must have known that access to the UCA had already been secured by the military on November 12. As Arthur M. Sedillo, a seasoned U.S. military investigator temporarily assigned to the Embassy in El Salvador, concluded: From this moment, "the concerned military authorities had a reasonable assurance that there were no terrorists on the UCA campus." Sedillo, a former U.S. Drug Enforcement Agency agent assigned by the State Department's Bureau of International Narcotics Matters to the U.S. Embassy in Mexico City, was sent to El Salvador to investigate the murders. His report is especially valuable because it was written before any systematic cover-up or effort of damage control was in full swing. See *Jesuit Murder Investigation*, Declassified Document EL01119 from US Embassy, Mexico, Arthur M. Sedillo to Richard Chidester (Feb. 28, 1990), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

<sup>91</sup> See *Jesuit Murder Investigation*, Declassified Document EL01119 from US Embassy, Mexico, Arthur M. Sedillo to Richard Chidester (Feb. 28, 1990), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

<sup>92</sup> Testimony of Lt. Col. Oscar Alberto Leon Linares, Fourth Criminal Court, Sept. 26, 1990, provided in the Court Record of the Proceso Penal en El Salvador (1991) at 2472. See also *Jesuit Case: LO Meeting with MOD Ponce*, Declassified Document EL01191 from William G. Walker, U.S. Embassy to Peter F. Romero (Sept. 8, 1990); *The Jesuit Case: On Reflection*, Declassified Document EL01171 from William G. Walker, U.S. Embassy to Peter F. Romero (Aug. 19, 1990), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

<sup>93</sup> The presence of a National Intelligence Directorate (DNI) agent, Hector Ulises Cuenca Ocampo, was a complete surprise to Lt. Espinoza and the Atlacatl commando unit, who did not understand why a DNI agent had been assigned to them. The DNI, which reported directly on the Defense Ministry and the Combined General Staff of the Armed Forces, was the country's most important intelligence agency. In the words of Vice Minister of Defense Col. Zepeda, who had formerly headed the agency; its purpose was to "produce intelligence for military operations... all of its efforts, its equipment and personnel training, are geared towards developing intelligence *exclusively for military operations*." Thus, its presence on Nov. 13 is an indication that DNI was gathering actionable intelligence to support plans for a future military operation at the UCA. Cuenca Ocampo told Lt. Espinoza that he had been sent by "headquarters" to participate in the search. Interview with Col. Juan Orlando Zepeda, 1987, in Max Manwaring & Court Prisk, *El Salvador at War: An Oral History of the Conflict from the 1979 Insurrection to the Present* (1988). Also see *Staff Del O'Neill Visits Benavides*, Declassified Document EL01175 from William G. Walker, U.S. Embassy to U.S. Department of State (Aug. 18, 1990), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

units of the ESAF, the Atlacatl unit,<sup>94</sup> which had been removed from its normal command structure.<sup>95</sup>

Even in the face of this build-up of threats -- with their University surrounded and access tightly controlled<sup>96</sup> and with attacks by military and security forces against religious persons and churches increasing exponentially<sup>97</sup> -- Ellacuría did not stop his constant dialogue with both sides. On November 13, he was in contact with President Cristiani, the FMLN and a number of younger officers who wanted the *Tandona* leadership removed.<sup>98</sup> On November 15, 1989, the day before he was murdered, junior officers told Ellacuría that their group had approved negotiations and was willing to move against the senior command from inside the military; the university rector subsequently reported to the FMLN that “arrangements seemed to be going well.”<sup>99</sup> That same day, the *Tandona* leadership, blaming Ellacuría for being “the brains” behind the negotiations,<sup>100</sup> targeted him for killing in order to remove “the only person worthy of the

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<sup>94</sup> Taken together, these factors point to a premeditated action. With less information available to him than is available today, U.S. military investigator Arthur M. Sedillo wrote: “I firmly believe that circumstantial evidence exists indicating that the November 13-16 incidents are interrelated... it would appear that the Atlacatl Commando Company was preselected for the UCA special mission.” See *Jesuit Murder Investigation*, Declassified Document EL01119 from US Embassy, Mexico, Arthur M. Sedillo to Richard Chidester (Feb. 28, 1990), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>. Also see, *Assistant Secretary Aronson Conversation with Judge Zamora*, Declassified Document EL01265 from James A. Baker III, U.S. Department of State to U.S. Embassy (Mar. 5, 1991), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

<sup>95</sup> The head of the search, Lt. Espinoza was told to conduct a general search of the UCA facilities, especially the building where the Jesuit residence was housed. He was given a radio frequency to communicate directly with the *Estado Mayor* – a fact that *Tandona* leader Col. Ponce initially denied but later admitted it in a conversation at the U.S. Embassy. Lt. Espinoza, using the radio frequency given to him, asked permission to enter the Jesuit residence, and this was granted by his commander. *Jesuit Case: LO Meeting with MOD Ponce*, Declassified Document EL01191 from William G. Walker, U.S. Embassy to Peter F. Romero (Sept. 8, 1990), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>. It is also revealing that no senior officer ever accepted the final authority for issuing the order for the search, forcing President Cristiani to eventually assume this responsibility, and all records of this operation were subsequently destroyed.

<sup>96</sup> Members of the Treasury Police testified to the presence of the Atlacatl soldiers behind the UCA in interviews the day after the murders, but weeks later, when their statements were officially recorded, they no longer mentioned the Atlacatl presence. See Doggett, 53.

<sup>97</sup> On November 14, for example, these attacks included the bombing and strafing of San Antonio de Padua Parish, shots and threats against church workers at Maria Madre de los Pobres, anonymous death threats against two U.S. pastors living in Soyopango, and the search of San Antonio de Padua parish in which soldiers stole cash, food, all the medicines and clinic equipment, the furniture and a television.

<sup>98</sup> *Movement of 1,000 Fresh FMLN Troops to San Salvador; Planned Role of Ellacuría in Effecting New Negotiations Between the FMLN and the Government*, Declassified Document EL00279, n. 140. Also see the CIA document, *16 May 1990 Meeting [Excised]*, Declassified Document EL00317, *supra*.

<sup>99</sup> *Movement of 1,000 Fresh FMLN Troops to San Salvador; Planned Role of Ellacuría in Effecting New Negotiations Between the FMLN and the Government*, Declassified Document EL00279, *supra* n. 140.

<sup>100</sup> Ellacuría had called for the end of the *Tandona* before the FMLN demand. See his statement: “No habrá democracia sin la democratización de la Fuerza Armada.” *El Proceso de Dialogo-Negociacion Durante el Primer Año de ARENA*, ECA, n. 143.

FMLN's trust who was capable of achieving an agreement between the FMLN and the Salvadoran government."<sup>101</sup>

**Colonel Montano and the Order to Kill:** Colonel Montano was part of the small core group of elite officers, one of whom gave the official order to "kill Ellacuría and leave no witnesses" on November 15, 1989.<sup>102</sup> But even before this official order was given by the High Command, pressure was being exerted to carry out these and other murders.<sup>103</sup> That some planning had already taken place is indicated by how many people outside the main military compound (*Estado Mayor*) had some advance knowledge that the Jesuits would be murdered -- even before the direct order was given.<sup>104</sup> Another meeting, reported by the U.S. Embassy and the CIA as well as Salvadoran officers, took place at the Military Academy at 1400 hours and

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<sup>101</sup> This is a CIA analysis. See *Temporary FMLN Halt to Offensive Military Activity to Allow Baena Soares to Attempt to Bring about Cease-Fire Negotiations*, Declassified Document from CIA (November 19, 1989), available in CIA collection in Library of Congress.

<sup>102</sup> See *From Madness to Hope: The 12 Year War in El Salvador*. United Nations Commission on the Truth for El Salvador (March 15, 1993). Also see *Jesuit Update: Alleged Espinoza Letter May Implicate Bustillo and Others*, Declassified Document EL01299 from U.S. Embassy, (Sept. 20, 1991), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>, *An Update on the Jesuits Case*: folder 283. Also see, *Jesuit Update – Ponce Initiative Creates New Options*, Declassified Document EL01268 from William G. Walker, U.S. Embassy to Peter F. Romero, U.S. Department of State, (March 18, 1991), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

<sup>103</sup> For example, around noon, a meeting of the powerful ultra-rightist "Los Manequés" group, a civilian-military group that included Vice Minister Montano, decided to pressure President Cristiani to move towards "war by assassination" as a way of regaining the military initiative from the FMLN. Los Manequés included various members of the 1966 graduating class, for example, Cols. Zepeda, Innocente Montao and Roberto Mauricio Staben, and its activities were supported by some of El Salvador's richest and most ultra-rightist families. Other participants included Vice President Francisco Merino and the Secretary of the President, Arturo Tona. What is exceptional about this meeting was the insistence of those present that the military should eschew the more restrained tactics promoted by the United States and return to the mass killings of civilians that marked the early years of the war. Note that there is no evidence that Montano, was at this meeting, but there is a report that Ellacuría was specifically mentioned. See Linda Garrett, (ed.), *Los Escuadrones de la Muerte en El Salvador*, N.P, 1993, whose informants may or may not have been some of the same "Los Manequés" death squad participants that were interviewed by this author. Karl interviews with death squad participants, San Salvador, 2009.

<sup>104</sup> For example, somewhere in the late afternoon the Majority Leader of the National Assembly and President for Life of ARENA, Roberto D'Aubuisson, held separate meetings at the National Assembly and National Executive Committee of the ARENA Party (COENA), virtually announcing their deaths. According to a CIA report of the COENA meeting, D'Aubuisson reassured the top leaders of the party that the following day, meaning November 16, everything would "be taken care of." Trying to calm the fears of the ultra-rightists present, D'Aubuisson, who was known for publicly "outing" leaders about to be killed as part of his direction of civilian death squads, accused the Jesuits of inventing lies, "brainwashing students" and of "being responsible for them joining the FMLN." Firing up his supporters with tales of subversive activities at the UCA, D'Aubuisson reportedly went to the chalkboard and diagramed groups that he claimed were formed on campus at the instigation of the priests and had joined with the FMLN against the government. He specifically named as most responsible Fathers Ignacio Ellacuría, Ignacio Martín Baró and Segundo Montes, who had come, he said, to El Salvador only to seize power. The CIA author describing this meeting wrote that D'Aubuisson's action just hours before the execution of the Jesuits "is difficult to dismiss as mere coincidence." See *Killing of Dr. Ignacio Ellacuría*, Declassified Document EL00281 from the U.S. Central Intelligence Agency (Nov. 17, 1989), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

constituted a major decision-making gathering.<sup>105</sup> Afterwards, smaller meetings of the top commanders and the inner circle of the *Tandona*, including Vice Minister Montano, were held throughout the afternoon and early evening to implement actual plans for bombings, attacks against political leaders, and an action against the UCA Jesuits.<sup>106</sup> These included the creation of a perimeter of security force personnel on the outside of the UCA.

Late on November 15, in a general meeting, Chief of Staff Ponce (the acknowledged leader of the *Tandona* who was known for his consultative style with his inner circle) authorized the elimination of ringleaders, trade unionists and known leaders of the FMLN. Later, as the jurists of the Truth Commission recount based on their confidential interviews with witnesses:

After the meeting, the officers stayed in the room talking in groups. One of these groups consisted of Colonel Réne Emilio Ponce, General Juan Rafael Bustillo, Colonel Francisco Elena Fuentes, Colonel Juan Orlando Zepeda and Colonel Inocente Orlando Montano. Colonel Ponce called over Colonel Guillermo Alfredo Benavides and, in front of the four other officers, ordered him to eliminate Father Ellacuría and to leave no witnesses.<sup>107</sup>

According to subsequent confessions by soldiers charged with the murders, Colonel Benavides emerged from this High Command meetings and informed the officers at the Military College that he had been given the following order: “He [Ellacuría] must be eliminated and I don’t want witnesses.”<sup>108</sup>

The entire operation took about an hour. The commando unit of the Atlacatl took the five-minute trip from the military compound to the UCA, doing little to conceal its operation in an area patrolled by scores of other military and security force troops and surrounded by a

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<sup>105</sup> *Demarche to the Armed Forces*, Declassified Document EL01165 from William M. Dietrich, U.S. Embassy (July 27, 1990), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

<sup>106</sup> These plans were put in motion before the formal order to kill was given. One example of evidence is the bragging of one member of the Atlacatl Battalion in the Loyola Center, who said well prior to the killings: “We’re going to look for Ellacuría, and if we find him we’re going to be given a prize!” Father Fermin Saínz, (unpublished manuscript, on file with the (former) Lawyers Committee for Human Rights, also cited in Doggett, 54 and given to the Moakley Commission.

<sup>107</sup> U.N. Commission on the Truth, Section on the murder of the Jesuits.

<sup>108</sup> Turning to Espinoza, and referring to the search of the Jesuit residence conducted two days earlier, Benavides recounted: “You did the search and your men know the site. Use the same layout as the day of the search. They must be eliminated – and I don’t want witnesses.” When Espinoza pointed out the seriousness of what he had just been ordered to do, Benavides assured him that “You have my support.” Also see report of US Embassy, which claims that Benavides told his lieutenants “It’s either them or us. They have been bleeding our country and we have to break them. Ellacuría is one of them and he must die. I don’t want any witnesses . . . This is an order and you will do it.” See the confessions of the killers in their testimonies to the Fourth Court of El Salvador. Also see *Best Guess on Facts of Jesuit Case*, Declassified document EL01098 from William G. Walker, U.S. Embassy to Bernard Aronson, U.S. Department of State (January 26, 1990), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

security perimeter.<sup>109</sup> Father Martín-Baró unlocked the door to their residence area, voluntarily letting in the soldiers. After ordering five of the priests to lie face down on a grassy knoll, two soldiers shot them one by one.<sup>110</sup> A few yards away, another soldier shot Elba Ramos who was embracing her daughter, Celina. Lieutenant Jose Ricardo Espinoza Guerra, the only soldier who had covered his face with camouflage grease, later confessed that he left the campus in tears: Father Segundo Montes, now lying dead on the ground, had been his headmaster when he was a student at the Jesuit high school Externado San José. Another of the actual murderers recalled that the priests did not look dangerous since they were “quite old, unarmed” and “in their pajamas.” But he said that his colonel had told him the priests were “delinquent terrorists,” and it was “their brains that mattered.”<sup>111</sup> All were found shot in the head. A sixth priest died while pleading for his life as the soldiers staged a confrontation to try to place blame on the FMLN.<sup>112</sup>

**Colonel Montano’s Participation in the Cover-up and Obstruction of Justice:** That the military and security forces had killed six priests, their housekeeper and her daughter was immediately apparent -- at least to those inside the high command headquarters and to some U.S. officials.<sup>113</sup> U.S. Colonel Buckland later testified that the shots fired from the UCA, which was surrounded by troops, could be heard from General Staff headquarters (*Estado Mayor*)

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<sup>109</sup> The operation was organized by then Major Carlos Camilo Hernández Barahona and carried out around two in the morning on November 16, 1989 by a group of soldiers from the Atlacatl Battalion under the command of Lieutenant José Ricardo Espinoza Guerra. See the extrajudicial confessions of the gunmen in their testimonies in the Fourth Court of El Salvador and other documents; see e.g., Joseph J. Moakley [et al.], *Interim Report of the Speaker’s Task Force on El Salvador*, US House Speaker’s Special Task Force on El Salvador to Thomas S. Foley, 44 (April 30, 1990), and Document EL01375; *Chronology of Events Surrounding the Murder of Jesuit Priests at the University of Central America*, Declassified Document EL00323 from U.S. Central Intelligence Agency (June 20, 1990), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv>.

<sup>110</sup> The lieutenant in command, José Ricardo Espinoza Guerra, gave the order to kill the priests. Fathers Ellacuría, Martín-Baró and Montes were shot and killed by Private Oscar Mariano Amaya Grimaldi, Fathers López and Moreno by Deputy Sergeant Antonio Ramiro Avalos Vargas. Shortly afterwards, the soldiers, including Corporal Angel Pérez Vásquez, found Father Joaquín López y López inside the residence and killed him. Deputy Sergeant Tomás Zarpate Castillo shot Julia Elva Ramos, who was working in the residence, and her 16-year-old daughter, Celina Mariceth Ramos. Private José Alberto Sierra Ascencio shot them again, finally killing them. See the confessions of the killers in their testimonies to the Fourth Court of El Salvador. See *From Madness to Hope: The 12-Year War in El Salvador*. United Nations Commission on the Truth for El Salvador (March 15, 1993). The section on the Jesuit murders is based on the confessions of the murderers and witnesses.

<sup>111</sup> See the extrajudicial confessions of the gunmen previously provided to the Court, testimonies in the Fourth Court, and other documents. This is from Gonzalo Guevara Cerritos.

<sup>112</sup> Downstairs other soldiers went on a rampage, burning books, computers and documents. Finding a large portrait of Archbishop Romero, who had been murdered in 1980 while saying mass, they shot him through his heart. At that moment, a sixth priest, Father Joaquin López y López, older than the others and quite frail, emerged from the corridor. Seeing his dead companions, he called out: “Don’t kill me,” but he was immediately shot.

<sup>113</sup> The Moakley investigation notes: “Many in the armed forces knew almost immediately which unit had committed the crime and under whose control that unit was – Benavides.” January 31<sup>st</sup> Memo, Moakley Commission: Resources at the Moakley Archive and Institute, MS 100-3.4, Folder 260, doc. 5 (Jan. 31, 1990).

headquarters, where he had been sleeping and where the *Tandona* leadership was gathered.<sup>114</sup> Other evidence that the military and security forces were involved quickly surfaced.<sup>115</sup> To hide their involvement, Col. Benavides ordered his soldiers to maintain total silence about the murders, informing them that the official story, which they all would repeat, was that the FMLN was responsible. Benavides warned repeatedly that the “soldiers were not to speak to anyone about the murders or “we will all be dead.”<sup>116</sup>

The ESAF *Tandona* leadership, including Vice Minister Montano, quickly engaged in a cover-up, insisting that the FMLN had killed the Jesuits even though they knew otherwise. Thus, almost a month after the killings, when even low-level officers far from the killings were aware of the responsibility of the *Tandona* leadership, Vice Minister Montano suggested publicly that the assassination could have been perpetrated by the FMLN to “internationally discredit the Government and the Armed Forces...” While knowing otherwise, Montano stated: “We don’t know the truth, but we are certain that no members of our forces are implicated in these deeds.”<sup>117</sup> Vice Minister Montano also obstructed justice in other ways. For example, as the authority overseeing the Special Investigative Unit (SIU) in the National Police that had been appointed to examine the murders of the priests and two women, he permitted the intimidation of witnesses by the head of the SIU and later delayed issuing requests for further investigation.<sup>118</sup>

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<sup>114</sup> Buckland Testimony, Declassified Document EL01205 from the U.S. Embassy (Oct. 12, 1990), *available at* The National Security Archive, <http://www.gwu.edu/~nsarchiv>

<sup>115</sup> In the early morning, well before the bodies were discovered, some officials clearly knew they were dead. The First Brigade, headed by Elena Fuentes who had been present when Benavides received his direct order, broadcast well before the news of the murders had become public: “Ellacuría and Martín Baró have fallen. We are going to continue killing communists.” Early that same morning and again well before the bodies were discovered, the daily meeting of the National Intelligence Directorate (DNI) convened at the *Estado Mayor*. Captain Carlos Fernando Herrera Carranza, who had transmitted the order to DNI agent Hector Cuenca Ocampo to attend the November 13, 1989 reconnaissance of the UCA, interrupted the proceedings to announce that Father Ellacuría had been killed “while resisting arrest.” Philip Bennett, “Burying the Jesuits,” *Vanity Fair*, Nov. 1, 1990. Furthermore, there is evidence that two officers involved in the killings went personally to Chief of Staff Ponce’s office to report what had happened at the UCA. They carried a small suitcase with some of the possessions of the Jesuits and the prize money that Ellacuría had been awarded from Spain, evidence of the responsibility of the armed forces. The suitcase was subsequently destroyed at the Military School. See *From Madness to Hope: The 12-Year War in El Salvador*. United Nations Commission on the Truth for El Salvador (March 15, 1993).

<sup>116</sup> *Chronology of Events Surrounding the Murder of Jesuit Priests at the University of Central America*, Declassified Document EL00323 from U.S. Central Intelligence Agency (June 20, 1990), *available at* The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

<sup>117</sup> The actual quote in Spanish is: “desprestigiar internacionalmente al Góberino y las Fuerzas Armadas, en vista de la derrota que el Ejército le infligió a la ofensiva terrorista del 11 de noviembre.” ...“No le tememos a la verdad, pues estamos seguros que no hay miembros de nuestras filas implicados en estos hechos.” See *Diario de Hoy*, December 13, 1989, Translation by this author.

<sup>118</sup> The details of the extensive cover-up are complicated and are not recounted in their entirety here except as they relate to Colonel Montano. They are discussed in the Truth Commission Report and in Martha Doggett, *Death Foretold: The Jesuit Murders in El Salvador*, Lawyers Committee for Human Rights 38, (1993). See also “The Special Investigative Unit: Wrestling with Civilianization,” Confidential, Cable, December 12, 1991, EL01308.

Senior officers at first appear to have assumed they could protect themselves from being implicated in “any [further] military involvement in the crime or any subsequent cover-up,” believing that “U.S. fervor in pursuit of the Jesuit case would eventually wane.”<sup>119</sup> But they had not counted on the extent of widespread outrage, as the murders became an international *cause célèbre*. Nor had they anticipated the persistence of Massachusetts Congressman Joseph Moakley, who headed a U.S. commission to investigate the Jesuit murders,<sup>120</sup> or the strong demand inside the U.S. congress to tie assistance to progress on the Jesuit investigation. As external pressures for accountability built, and an unexpected break in the case pointed directly to the involvement of at least one member of the *Tandona*, Colonel Benavides,<sup>121</sup> some type of trial could no longer be avoided. Eventually, four officers and five soldiers were arrested; Lieutenants Espinoza and Mendoza and Second Lieutenant Guevara, as well as the soldiers who had participated in the murders, confessed their crime and were brought to trial.

But *Tandona* senior officers continued to do everything they could to protect themselves from prosecution for the Jesuit massacre. After the soldiers involved in the operation had confessed, the High Command directly threatened lower level officers to keep quiet; those who knew something about the murders were transferred elsewhere or mysteriously died.<sup>122</sup> Vice

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<sup>119</sup> The U.S. Embassy reported a meeting of senior military officers in which they adopted a strategy of “subtle obstruction” in the belief that the international firestorm, including within the United States, would burn out. These senior officers reportedly concurred in their judgment that political events, particularly the continued armed activities of the FMLN, would “prevent the U.S. Congress from cutting off serious assistance.” They adopted a strategy to “maintain the appearance of effective collaboration with the judiciary, presumably for the benefit of U.S. and other foreign observers but would allow no new evidence which could prejudice military interests. The *Tandona* members were said to have expressed the belief that since most senior U.S. Embassy officials would be reassigned within 12 months, U.S. perseverance in the case would eventually slacken as its institutional memory was lost.” *El Salvador: Jesuit Priest Case Update*, Declassified Document EL00526 from U.S. Defense Intelligence Agency (July 31, 1990), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

<sup>120</sup> Moakley was deeply moved by the Jesuit killings. In a Public Broadcasting interview, he said the followings: “The senseless Jesuit murders of 1989 is an event that literally changed the war in El Salvador, and likewise changed my life forever. For my entire public life, over some 40 years, I have remained what people call a “bread and butter” politician. Taking care of the everyday local problems of my constituents in the greater Boston area is what has always been important to me...However, despite my inclinations to work on local problems, no other event has affected my life as the Jesuit murders have. I believe the investigation of that horrible event, and subsequent efforts of my colleagues and I to end the war, is the greatest cause I have ever been involved in. Stopping the endless killing and working to return a sense of humanity to Salvadorans - those are the accomplishments that hold the greatest meaning in my heart.” See Joseph Moakley, “El Salvador’s Dignity and Humanity,” cited on PBS and available at <http://www.pbs.org/itvs/enemiesofwar/perspectivesH.html>

<sup>121</sup> On 2 January 1990, a month and a half after the murders, Major Eric Warren Buckland, an officer of the United States Army and an adviser to the ESAF, reported to his superior a conversation he had with Colonel Carlos Armando Avilés Buitrago. During that conversation, Avilés Buitrago had told him that he had learned, through Colonel López y López, that Benavides had arranged the murders and that a unit from the Atlacatl Battalion had carried them out. This explosive report broke open the direct involvement of a colonel and member of the *Tandona* and it made efforts to limit involvement to lower level officers impossible,

<sup>122</sup> For example, Captain Carlos Fernando Herrera Carranza, who had ordered DNI agent Cuenca Ocampo’s participation in the November 13<sup>th</sup> reconnaissance mission, stated after the murders that he was following the

Minister Montano was named, along with the other members of the High Command, as one of the main figures pressuring lower level officers not to talk about orders from above in their testimony.<sup>123</sup> He was also one of the few members of the High Command who refused to cooperate with or be interviewed by the investigative judge.<sup>124</sup> Speaking as a top official from the Ministry of Defense, he denounced the testimony of an Argentinean military expert, who concluded that a cover-up existed in the Jesuit case, as “foreign intervention” that “could harm the military institution and set a bad precedent for the country.”<sup>125</sup> Vice Minister Montano also supported members of his *Tandona* in intimidating the Court.<sup>126</sup> When the case finally went to court in a trial the United States Court of Appeals for the Seventh Circuit has called “a kangaroo court to make kangaroos blush,”<sup>127</sup> it was apparent that the High Command had at least partially succeeded in a cover-up. Although *Tandona* member Colonel Guillermo Alfredo Benavides was convicted of all eight murders, responsibility was contained within the Military Academy and did not extend to the High Command. To ensure that the Military Academy was held responsible and

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instructions of DNI Director and *Tandona* member, Col. Carlos Mauricio Guzmán Aguilar. As one of the only junior officers to implicate his commander against orders to protect the higher-ups, Herrera Carranza was subsequently transferred to the Atlacatl Battalion, where he was mysteriously shot in the head on his first day in his new job. His colleagues believe he was murdered for talking – a lesson that was not lost on other members of the ESAF. Interview with two former DNI agents, San Salvador, 2009.

<sup>123</sup> The High Command arranged for its own legal adviser to represent the soldiers directly involved in the operation. This attorney altered their statements to hide any information pointing to superior orders. *See From Madness to Hope: The 12-Year War in El Salvador*. United Nations Commission on the Truth for El Salvador (March 15, 1993). See the section on the Jesuit murders.

<sup>124</sup> As the U.S. Embassy expressed it: “Little significant progress is evident in the Jesuit assassination case investigation. The investigative judge is having difficulty obtaining military cooperation, and there are indications that the powerful “*Tandona*” – the 1966 military graduating class – is actively protecting fellow classmates who may be implicated as well as using delaying tactics to slow the judicial process.” Jesuit Priest Case Update, Moakley Commission: Resources at the Moakley Archive and Institute (Aug. 1, 1990),

<sup>125</sup> *See El Rescate Human Rights Department Report from El Salvador May 27-June 3, 1991*, El Rescate Human Rights Department (June 5, 1991).

<sup>126</sup> Intimidation was most evident at the final day of the trial when about 200 family members of armed forces officers, led by a high-ranking colonel, marched on the courthouse praising the armed forces and denouncing the Jesuits. An air force plane also buzzed the area. This was audible inside the courtroom. *See* Lee Hockstader, *Judge in Jesuits Case to Flee El Salvador: Exit to Follow Sentencing of Two Convicted Army Officers, Sources Say*, Washington Post, September 30, 1991.

<sup>127</sup> *Doe v. Gonzales*, 484 F.3d 445, 451 (7d Cir. 2007). The result of the trial --the conviction of one colonel and one lieutenant -- can best be understood as an internal deal in the ESAF to hold one high officer and one lower officer accountable, choosing those with the weakest support. This left intact the prestigious Atlacatl Battalion. The deal is especially striking because, for the first time in the war, lower level officers refused to take all of the blame for extrajudicial killings and insisted that an actual commander be held to account. *See generally, Jesuit Case Update--ESAF Log Chronicles Murder at 12:30 A.M.*, Declassified Document EL01200 from the U.S. Embassy (Sept. 28, 1990); *Jesuit Case: Increasing the Pressure on GOES and ESAF*, Declassified Document EL01173 from the U.S. Department of State, (Aug. 17, 1990); *Presidential Report to Congress on Military Assistance to El Salvador*, Declassified Document EL01293 from the U.S. Department of State (July 7, 1991); *Draft Report on 1989 Jesuit Murders*, Declassified Document EL01315 from the U.S. Department of State (Aug. 13, 1992), available at The National Security Archive, <http://www.gwu.edu/~nsarchiv/>.

not the powerful Atlacatl Battalion, Lt. Yussly Rene Mendoza Vallecillos, also from the Military Academy, was found guilty of killing Celina Ramos – even though two other soldiers already had confessed to carrying out this act. Seven of the nine men originally charged with murder were acquitted -- including all of the confessed killers. Less than two years later, the *Tandona's* Colonel Benavides was released by the 1993 Law of General Amnesty.

In his August 1992 testimony before the Ad Hoc Commission, Vice Minister Montano continued his pattern of lying. He denied the involvement of any colonels, including Benavides, saying that that the decision to kill the Jesuits could have been made by “the sub-lieutenants in charge of the UCA operation” even though he knew full well that no low-level officer or soldier could make a decision of this magnitude without an order from higher-ups. In the face of this evident falsehood, the Ad Hoc Commission members unanimously observed the following regarding Montano’s role in the Jesuit murders and other human rights crimes.

It is worth saying that in his capacity as Vice Minister of Public Security, [Col. Montano] never ordered nor initiated, in any immediate way, a deep investigation of the deeds of the security forces... The role played by Colonel Montano, in his capacity as Vice Minister of Public Security, by not assuring a complete investigation of these deeds nor the proper comportment of the security forces under his responsibility... is absolutely incompatible with any ethical and moral code as well as with his responsibilities in the High Command and in the Executive Government.<sup>128</sup>

The Ad Hoc Commission, in its U.N.-backed purge of officers that committed grave human rights abuses, subsequently called for Vice Minister Montano’s removal from the military. While falsely portraying himself as a supporter of the peace accords to the Ad Hoc Commission and in public statements,<sup>129</sup> behind the scenes Montano and other top commanders resisted complying with the very heart of these agreements: the forced resignation from the military of the entire *Tandona*. It took the combined intervention of the U.N. Secretary General and the George H. W. Bush administration, pushed by a Congress that would no longer give aid to the assassins of priests, to implement their purge of from the armed forces.<sup>130</sup> Ironically, the

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<sup>128</sup> The quote in Spanish is: “El papel desempeñado por el coronel Montano, en su calidad de Viceministro de Seguridad Pública, al no asegurar una investigación completa e integral de los hechos, ni el debido comportamiento de los integrantes de los cuerpos bajo su responsabilidad en sus tareas de investigación, es absolutamente incompatible con todo código de ética y moral, así como con sus serias responsabilidades en el Alto Mando y en el Organismo Ejecutivo gubernamental.” “El Salvador 1992 Ad Hoc Commission Documents,” Box 5, pg. 20-21.

<sup>129</sup> In Montano’s audience before the Ad Hoc Commission on August 10, 1992, he testified that he participated as part of the high command in many of the decisions that were part of the peace negotiations and was always in “every moment in accord with them.” Translation: “Ha estado en todo momento de acuerdo con estos Acuerdos de Paz, estuvo presente en todas las negociaciones.” El Salvador 1992 Ad Hoc Commission Documents,” Box 5, pg. 1, 3-4.

<sup>130</sup> The Ad Hoc Commission recommended the removal of 102 military officers for egregious human rights abuses – a relatively small number given that over 75,000 civilians died in the conflict and most of these deaths were attributable to the armed forces. In January 1993, the United Nations Secretary General strongly warned President Alfredo Cristiani of El Salvador that he appeared to have violated the agreement by not meeting the deadline for the

Jesuit massacre led to the very goal that Rector Ellacuría had sought.

## **VI. LEGAL AND POLITICAL DEVELOPMENTS IN LATIN AMERICA AND INSIDE EL SALVADOR, CULMINATING IN 2001, MADE COLONEL MONTANO'S PROSECUTION FOR THE JESUIT MASSACRE APPEAR LIKELIER THAN AT ANY PREVIOUS TIME**

The Jesuit Massacre is one of the most notorious cases in El Salvador and one of the most infamous in Latin America. The growing prospect of prosecution -- once deemed impossible due to an amnesty law passed in 1993 by the rightist ARENA government in response to the Truth Commission's decision to name actual perpetrators -- appeared far greater by 2001. A number of legal and political developments changed the prospects for accountability, including the trials of military officers throughout Latin America as well as efforts to hold trials inside El Salvador. Together, external and internal pressure to end the Law of Amnesty eroded the certainty that Colonel Montano ultimately could avoid prosecution and personally affected his situation inside El Salvador.<sup>131</sup>

**Trials of High Military Officers and the Erosion of Amnesty in Latin America:** Latin America has been in the forefront of human rights trials against military officers, accounting for well more than half of such trials in the world. All of these trials meant overcoming the challenge of self-amnesties by militaries leaving power. As Figure 1 demonstrates below, this "justice cascade" of domestic, foreign (third country) and international trials came to a peak exactly in the period when Colonel Montano left his country in mid-2001.<sup>132</sup> Domestic trials held inside Latin American countries are the most significant factor in this peak period.

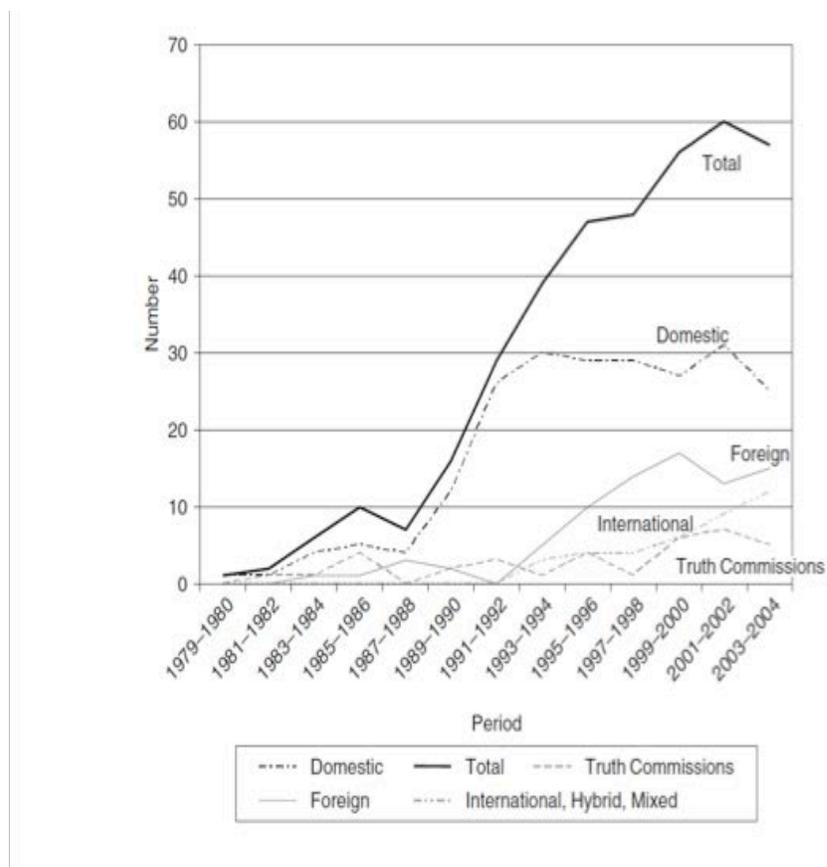
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purge of army officers accused of human-rights abuses. Secretary General Boutros Boutros-Ghali said that the movements of officers described in a general order issued to the country's armed forces by the Salvadoran Defense Ministry on Thursday "do not conform to the recommendations of the Ad Hoc Commission on the purification of the armed forces for the discharge or transfer of a specific list of officers which President Cristiani agreed to carry out in full." See *New York Times*, "El Salvador Warned on Purge Deadline," January 2, 1993. Later, as the *Tandona* leadership balked again, Cristiani agreed to try to retain eight officers and send seven out of the country to diplomatic posts, telling the U.N. that he was unable to remove 15 of the 102 officers scheduled for removal, including Colonel Montano, Defense Minister, Gen. Rene Emilio Ponce, and other top commanders until at least next year. But the United Nations and the U. S. Government insisted that the purge go ahead, and Cristiani backed down when faced with strong pressure from the U.S. as well as the U.N. Reluctantly, he removed the inner circle of the *Tandona* and all officers named in the killings of the Jesuits -- with some like Montano eventually receiving "gilded exile" as Military Attaché in Mexico. See "Purge of Officers is Begun," *Reuters* May 4, 1993.

<sup>131</sup> When the announcement that the Jesuit case would be reopened was made in March 2000, for example, Montano held a press conference in which he said that the accusation against him was "affecting his family and friends." See "Militares Acusan Jesuitas de Apoyar Plan Izquierda Internacional" Spanish Newswire Service, March 29, 2000.

<sup>132</sup> Political scientists use "justice cascade" as a description for this phenomenon. The figure above is from Kathryn Sikkink and Carrie Booth Walling, "The Impact of Human Rights Trials in Latin America," *2007 Journal of Peace Research*, vol. 44, no. 4, 2007, pp. 427-44. Note that this rise in trials includes domestic, foreign and international judicial processes. This figure is based on the data of these two scholars.

Figure 1: Trends in Transitional Justice Mechanisms



Most prominent among these domestic trials was certainly the case of General Pinochet, the former military dictator of Chile who had served as a model to the Salvadoran military and once seemed legally untouchable. General Pinochet was arrested in London (October 17, 1998) on an international warrant from the Spanish National Court, lost his appeal for immunity in the UK's highest court (March 24, 1999) and was returned to Chile. But instead of finding safe haven at home, as expected, he was stripped of his immunity in Chile refused protection from the Chilean President, charged with kidnapping, arrested and ordered to stand trial for covering up murder and kidnappings (March 9, 2001). This was completely unprecedented in Latin America.<sup>133</sup> The impending trial of a general and Head of State made a strong impact on the

<sup>133</sup> After Montano left, the Pinochet case continued to fill the news, demonstrating the end of impunity for Chile's top military leader. The Supreme Court confirmed that he no longer had immunity from prosecution (August 26, 2004), his family's assets were frozen (November 2004); he was indicted for human rights crimes (December 2004), and indicted for kidnapping and murder (January 4, 2005). He was subsequently charged with fraud and disappearances (November 2005), his daughter was arrested and his wife denied political asylum in the United States (January 28, 2006); he died before his trial. See *Timeline: The Pinochet legal saga*, BBC News (December 11, 2006) <http://news.bbc.co.uk/2/hi/americas/1209914.stm>. See also Naomi, Roht-Arriaza, *The Pinochet Effect: Transnational Justice in the Age of Human Rights*. Philadelphia, PA: University of Pennsylvania Press, 2005.

region, on Latin American militaries generally and on Montano himself. As a young officer Montano had studied in Chile, which was known as the center of intelligence and interrogation training at the time, and is reported to have greatly admired Pinochet.<sup>134</sup> Pinochet's unexpected fate was widely covered in El Salvador's newspapers,<sup>135</sup> and Montano himself referred to the Pinochet trial as part of "an international leftist conspiracy" to destroy the military in a press conference in March 2000.<sup>136</sup>

Concurrent with the Pinochet saga were the trials and imprisonment of the top military officers throughout Latin America along with consistent rulings against amnesty laws as "invalid," "unconstitutional," and "null and void."<sup>137</sup> One prominent Argentine officer, who had taught death squad organization and techniques to Salvadorans, was arrested in December 1999, along with 10 former military commanders, on charges of the theft of children, suppression of identity, illegal custody and concealment – the same charges that were being leveled in El Salvador against the Belloso Battalion and other army units.<sup>138</sup> In Honduras next door, courts lifted the amnesty in 1999 and permitted the criminal prosecution of the country's leading general who had been part of the ruling junta between 1978-1980.<sup>139</sup>

**Trying A Bishop's Murderers in Next-Door Guatemala:** Events in neighboring Guatemala certainly had an impact on any Salvadoran officer accused in the massacre of six Jesuit priests. Guatemala's parallel case to the Jesuit massacre was the April 1998 assassination of Bishop Juan Gerardi, who presided over the first of two truth commissions for that country

<sup>134</sup> Telephone interview with a former colonel, October 2012 and interview with a *Tandona* member, El Salvador, 2009.

<sup>135</sup> See, for example, "Internacionalizando Linchamientos," *El Diario de Hoy*, November 5, 2000. This is the newspaper most widely read by military officers, and it calls the Pinochet trial in Chile an "international lynching."

<sup>136</sup> See *Militares Acusan Jesuitas de Apoyar Plan Izquierda Internacional*, EFE Spanish Newswire Services (March 29, 2000).

<sup>137</sup> See *Federal Judge Declares Due Obedience, Amnesty Laws Null and Void*, BBC Summary of World Broadcasts (March 9, 2001); *Reluctant Partners: The Argentine Government's Failure to Back Trials of Human Rights Violators*, Human Rights Watch (December 2001).

<sup>138</sup> One of the nine military officers arrested, General Carlos Guillermo Suarez Mason, had supervised the training of Salvadorans in death squad techniques and was regarded by one of Montano's senior officers when he served in intelligence in the *Estado Mayor* as "the best trainer we have ever had." Major Roberto D'Aubuisson, who moved said that he learned more from Suarez Mason than "almost anyone else." It is likely that Suarez Mason brought to El Salvador the practices of forced disappearance of children and kidnapping for profit that had proved so lucrative in Argentina.

<sup>139</sup> Amnesty laws were no longer applicable to 11 military officers, including General Amilcar Zelaya Rodriguez, the country's top officer. See *Country Reports on Human Rights Practices: Honduras*, Bureau of Democracy, Human Rights and Labor (February 23, 2001), available at <http://www.state.gov/j/drl/rls/hrrpt/2000/wha/801.htm>.

and was murdered two days after handing in his four volume report on military atrocities.<sup>140</sup> As in Chile, Argentina and Honduras, the January 2000 assumption of the presidency by an opposition politician, Alfonso Portillo Cabrera, proved to be the tipping point for challenging military impunity. Days after the new president assumed office, charges were filed against three military officers who had been implicated for some time in the killing of Bishop Gerardi. On June 9, 2001, the three were convicted of “extrajudicial execution” and sentenced to 30 years in prison.<sup>141</sup> The murder of this prominent bishop set the precedent for the first trial, conviction and extended imprisonment of military officers for human rights crimes in Guatemalan history.

In El Salvador, convictions for the assassination of Bishop Gerardi hit close to home. Guatemalan and Salvadoran militaries had been intertwined for years; officers sometimes were related through family ties; and Colonel Montano had shared intelligence ties with Guatemalan officers. The parallels with the Jesuit case were evident. Especially striking is the resemblance between Montano’s own career and the 30-year military profile of retired Col. Byron Disrael Lima Estrada, the most senior officer convicted of Bishop Gerardi’s murder. Both were involved in military intelligence with similar highly-motivated, ultra-reactionary and anti-democratic profiles.<sup>142</sup> Both began their careers in the 1970s in special Intelligence units located at the top of the military hierarchy and were later seen as leaders of their respective armed forces.<sup>143</sup> Both served as senior officers in key operational units during their armies’ “scorched earth” campaigns in rural areas;<sup>144</sup> and both ended up in high-level intelligence/security positions that were responsible for the murders, torture and disappearance of countless of their citizens.<sup>145</sup> Both

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<sup>140</sup> Two days after presenting *Guatemala: Nunca Más*, the four-volume report of The Guatemalan Catholic Church's REMHI project (Recovery of Historical Memory) that attributed the great majority of murders to the Guatemalan armed forces, Bishop Gerardi was found beaten to death in the garage of his home.

<sup>141</sup> See Megan Feldman and Frances Robles, *Guatemalan Officers Guilty in Murder of Bishop*, Miami Herald (June 9, 2001); Maite Rico, *Cuatro Condenas en Guatemala Por El Asesinato del Obispo Gerardi: Tres Militares y un Sacerdote Participaron en la Ejecución Extrajudicial*, El País (June 9, 2001).

<sup>142</sup> The Guatemalan documentation is provided here. See Section VII below for Montano’s career record. As one U.S. cable describes: Lima Estrada’s very conservative philosophy and ideology makes him a bit dangerous in a budding democracy.”<sup>142</sup> “Second Echelon Movers and Shakers in the Guatemalan Military, Secret cable, Excised Copy, April 8, 1988. GU01153.

<sup>143</sup> “Second Echelon Movers and Shakers in the Guatemalan Military, Secret cable, Excised Copy, April 8, 1988. GU01153.

<sup>144</sup> See “Colonel Byron Disrael Lima Estrada,” classification excised, biographic sketch, June 1985. GU01048. Also see Defense Intelligence Agency Intelligence Information Report, Biographic Information on LTC Elias Osmundo Ramirez Cervantes, Guatemalan Army, November 1, 1974.

<sup>145</sup> The Guatemalan military kept detailed records of its death squad operations. One army log reveals the fate of scores of Guatemalan citizens who were "disappeared" by security forces during the mid-1980s, along with their photos and coded references to their executions. This 54-page document was smuggled out of the Guatemalan army’s intelligence files and provided to human rights advocates in February, just two days before a UN-sponsored truth commission released its report on Guatemala’s bloody 35-year civil war. This log identifies D-2, with Colonel Lima as its director, as one of the units interrogating and disappearing victims. The entire death squad dossier can

were persistently linked to allegations of corruption and illegal activities,<sup>146</sup> and both colonels ended their careers in disguised disgrace by being sent into “gilded exile” as military attachés to Mexico (Montano) and Peru (Lima Estrada). Colonel Lima Estrada returned to Guatemala only to be later convicted and imprisoned for the murder of a Catholic priest.

**The Jesuit Massacre and the Erosion of Amnesty in El Salvador:** By 2001, the same dynamics that elsewhere in the region had ended amnesty and led to prosecutions were beginning in El Salvador. Despite the fact that El Salvador’s General Amnesty Law has not been overturned to this date, self- amnesties of exactly this sort were being overturned and ruled illegal throughout Latin America, and this appeared likely to be the case in El Salvador in mid-2001. The Jesuit massacre case was very much alive, and in Colonel Montano’s last year in El Salvador the threat of prosecution hung over his head.

The General Amnesty Law in El Salvador, passed by the rightist dominated ARENA Party two days after the U.N. Truth Commission issued its report naming specific military perpetrators (including Colonel Montano) for specific crimes (including the Jesuit massacre case), initially came under legal challenge through the Inter-American Commission of Human Rights (IACHR). Several cases brought before the IACHR ruled the General Amnesty Law illegal, but these cases did not specifically reference Colonel Montano.<sup>147</sup> On December 22, 1999, however, the IACHR Report on the Massacre of the Jesuits in El Salvador specifically named Montano and strongly recommended that the State of El Salvador “adjust its domestic legislation to the American Convention and thereby render null and void the General Amnesty Law.”<sup>148</sup> The conclusions of the IACHR ruling were especially arresting. In finding the

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be accessed at <http://www.gwu.edu/~nsarchiv/NSAEBB/NSAEBB15/press.html> See also “Possible Replace for the GT Director of Intelligence, Confidential Cable, June 28, 1984. GU01017.

<sup>146</sup> Interestingly, Lima Estrada was investigated for defrauding the military through the creation of “ghost soldiers” and other fraudulent practices, just like most members of the Tandon. See “Defense Intelligence Agency Information Report: “Army Investigating Reports of Corruption on the part of Three Senior Officers,” April 1988. GU01154.

<sup>147</sup> This was the first of several such rulings, but each became more specific. On January 27, 1999, for example, the IACHR ruled that the General Amnesty must be lifted in specific cases on the grounds that it contradicted Article 50 of the American Convention and the Fourth Protocol of the Geneva Accords, which El Salvador had signed. In February, 1999, the Secretariat of the IACHR did receive a petition (No. 12,132) to open a case against the State of El Salvador for the “capture, abduction and forced disappearance of the then children Ernestina and Erlinda Serrano Cruz.” Because Colonel Montano was the commander of the Belloso Battalion, this case could eventually have involved him directly. On April 13, 2000: Inter-American Commission ruled in Archbishop Romero assassination case, saying Amnesty must be lifted and that El Salvador was in violation of its treaty obligations. This follows a series of other rulings Monsignor Romero v. El Salvador, Rep. No. 37/00 (IACHR Case No. 11.481, April 13, 2000); Vasquez v. El Salvador, Rep. No. 65/99 (IACHR Case No. 10.228 Apr. 13, 1999).

<sup>148</sup> IACHR REPORT ON THE MASSACRE OF THE JESUITS IN EL SALVADOR REPORT N136/99, CASE 10.488. ruled: “The Salvadoran State, through agents of the Armed Forces who perpetrated the extra-judicial executions described herein has violated the right to life enshrined in Article 4 of the American Convention, together with the principles recognized in common Article 3 of the Geneva Conventions of 1949, to the prejudice of the Jesuit priests Ignacio Ellacuría, Ignacio Martín-Baró, Segundo Montes, Armando López, Joaquín López y López and Juan Ramón Moreno; and of Mrs. Julia Elba Ramos and her daughter Celina Ramos, a minor.”... It “has failed

evidence credible against Montano and other *Tandona* members, it noted: “The intellectual authors who have been identified to date, i.e. those who gave the order to kill the Jesuit priests, Mrs. Ramos and her daughter, belonging to the High Command of the Salvadoran Armed Forces, were never investigated, prosecuted or punished.” The IACHR recommended that the government of El Salvador conduct an “expeditious, effective investigation” and “prosecute and punish those who were involved.”<sup>149</sup> This ruling, which had a powerful impact in El Salvador, coincided in time with a suit filed in Spain against eight senior Guatemalan military officials.<sup>150</sup> It also coincided with Colonel Montano’s termination as Military Attaché in Mexico (September 1999), which he had been given to gild his forced resignation from the ESAF. This meant that any explicit protection from the reformed Salvadoran military was also likely to be over.

Changes inside El Salvador compounded the gravity of the situation of those implicated in the Jesuit massacre. On March 12, 2000, the FMLN, the opposition party to the military-allied ARENA Party, won a legislative majority – exactly the type of political change that had foretold the collapse of self-amnesties in Chile, Argentina, Honduras and Guatemala. Two weeks later, the Rector of the UCA, where the six murdered priests had lives and worked, petitioned the attorney general to reopen the Jesuit case. Sentiment for a Jesuit trial in El Salvador had grown since the murders, even among some on the right who had been shocked by the deed into supporting peace negotiations at the time of the crime.<sup>151</sup> By early 2001, the Jesuit massacre case looked as if it would be the first to actually come to trial.

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in its obligation to conduct a diligent and effective investigation into the violations that occurred, and in its obligation to prosecute and punish those responsible by means of impartial and effective procedures such as the American Convention demands.”... “As a consequence of its approval of the amnesty law, the Salvadoran State has violated Article 2 the American Convention. Moreover, by applying it to the present case, the State has violated the right to justice and has failed in its obligation to investigate, prosecute and make reparations, as established in Articles 1.1, 8 and 25 of the American Convention, to the prejudice of the victims' relatives and of members of the religious and academic community to which the victims belonged.”

<sup>149</sup> See *International Criminal Justice: The Jesuits Case Before the Inter-American Commission on Human Rights* DWK Commentaries (June 13, 2011), available at <http://dwkcommentaries.wordpress.com/2011/06/13/international-criminal-justice-the-jesuits-case-before-the-inter-american-commission-on-human-rights/>; See *Informe n° 136/99 CASO 10.488: Ignacio Ellacuría, S.J.; Segundo Montes, S.J.; Armando López, S.J.; Ignacio Martín Baró, S.J.; Joaquín López Y López, S.J.; Juan Ramón Moreno, S.J.; Julia Elba Ramos; Y Celina Mariceth Ramos*, Inter-American Commission of Human Rights (December 22, 1999). Also see *Ignacio Ellacuría, et al. v El Salvador* Rep. No. 136/99 (IACHR Case No. 10.488, Dec. 22, 1999);

<sup>150</sup> In December 1999, in the wake of the arrest in London of former Chilean dictator Augusto Pinochet, Nobel prizewinner Rigoberta Menchú and a group of Spanish and Guatemalan non-governmental organizations filed a suit in the Spanish National Court (SNC) against eight senior Guatemalan government officials. The complaint charged the defendants with terrorism, genocide, and systematic torture. See Naomi Roht-Arriaza, *Prosecuting Genocide in Guatemala: The Case Before the Spanish Courts and the Limits to Extradition*, Center for Global Studies (2009).

<sup>151</sup> On April 9, 2000, for example, the conservative Archbishop of San Salvador, Fernando Saenz Lacalle, called for prosecution and declared that “las leyes nacionales estan hechas para todos y no se puede hacer una excepci3n para nadie”[“national lawas are made for all and no exception can be made for anyone.”] See *Arzobispo Aboga por Atacaar La Ley Si Prohiben Reabrir El Caso*, EFE Spanish Newswire Services (April 9, 2000).

Nonetheless, with terrible memories still alive of the appalling consequences meted out to judges who had challenged the military in the 1980s<sup>152</sup> and the death squad assassination of the sole Attorney General ever brave enough to file a complaint against the security forces,<sup>153</sup> judges appeared reluctant to assume personal risk in a country that still had one of the highest homicide rates in the world. While some judges wanted to prosecute the Jesuit case, some of the accused former *Tandona* members were now very powerful businessmen including a few who were reputedly involved in illegal and violent activities as part of a transnational criminal network of money laundering, drug trafficking, and the transport of illegal contraband of all types.<sup>154</sup> Montano denied any knowledge of these activities in testimony to the Ad Hoc Commission,<sup>155</sup> but commissioners documented allegations to the contrary.<sup>156</sup> The ongoing power and continued fear of certain officers slowed down efforts of prosecution.

Thus the Jesuit massacre case was passed around the legal system like a hot potato, but was nonetheless kept alive and, in some ways, advanced.<sup>157</sup> A series of court decisions kept

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<sup>152</sup> At least 28 judges were murdered in the 1980s in El Salvador. The consequences of any risks judges might think of taking were made horrifyingly clear in one case. According to a report by the International Commission of Jurists cited by the (then called) Lawyers Committee for Human Rights, “Five relatives of a judge of San Salvador, including two adolescents and a woman of 28, were assassinated on April 14, 1981. Their heads were severed from their bodies and laid at the doorstep of the judge’s home.” See “A Report on the Investigation into the Killing of Four American Churchwomen in El Salvador,” Lawyers Committee on Human Rights, non-classified, September 1, 1981, ES02005. There were many more attempted murders. For example, Judge Amaya, who tried to investigate the murder of El Salvador’s Archbishop Romero, was forced to leave the country, narrowly escaping with his life, after members of the National Police tried to kill him in his home. [http://www.leagle.com/xmlResult.aspx?page=13&xmlDoc=20041460348FSupp2d1112\\_11369.xml&docbase=CSLWAR2-1986-2006&SizeDisp=7](http://www.leagle.com/xmlResult.aspx?page=13&xmlDoc=20041460348FSupp2d1112_11369.xml&docbase=CSLWAR2-1986-2006&SizeDisp=7)

<sup>153</sup> On February 22, 1980, on the request of Attorney General Mario Zamora, the Supreme Court authorized the judge of the Second Criminal Court to initiate an investigation into the whereabouts of two law students who had been “disappeared” from the parking lot of the U.S. Embassy. The same night that charges were filed, Attorney General Mario Zamora was murdered. After that, no further investigations were carried out in this case or most other cases. Karl interview with family members of the Attorney General, 1987. Also see United Nations Commission on the Truth for El Salvador, *From Madness to Hope: The 12 Year War in El Salvador*, U.N. Doc S/25500 (March, 1993).

1. <sup>154</sup> See Douglas Farah, “[Organized crime in El Salvador: The homegrown and transnational dimensions](#),” Woodrow Wilson Center, Washington, D.C., 2011.

<sup>155</sup> Latin American Studies Library, “El Salvador 1992 Ad Hoc Commission Documents,” Box 5, pg. 4. Montano denied any knowledge of corruption within the armed forces: “Cuando fue Vice-Ministro de la Defensa y Seguridad Pública, no tiene [sic, probably tenía] ninguna información respecto a casos de corrupción o de narcotráfico.” [“When I was Vice Minister of Defense and Public Security, I had no information about cases of corruption or narco-trafficking.”]

<sup>156</sup> Narcotrafficker Jesús Adalberto Dueñas Cabezas, called Montano “un gran chero mío, chupa conmigo,” [“a dear friend and drinking buddy”] and bragged that he could get papers from Montano for another trafficker to enter the country without problems. El Salvador 1992 Ad Hoc Commission Documents,” Box 5, pg. 17-18.

<sup>157</sup> For the impact of terror on El Salvador’s judicial system, see Margaret Popkin, *Peace without Justice: Obstacles to Building the Rule of Law in El Salvador* (Pennsylvania State University Press, 2000).

shifting the case to new authorities and other jurisdictions while also keeping the door open for prosecution and gradually nibbling away at Colonel Montano's impunity. On April 12, 2000, the Attorney General ruled that the Constitutional Chambers of the Supreme Court would have to resolve whether or not the General Amnesty Law was contrary to the international and regional accords, of which El Salvador was signatory. Noting that the General Amnesty Law did not have the status of a constitutional amendment, he also referred the Jesuit case to the Criminal Court of First Instance.<sup>158</sup> On September 26, 2000 the Constitutional Chambers of the Supreme Court ruled in favor of the Jesuit petitioners that the General Amnesty Law could not be applied to human rights violations committed by public officials while in office, but that each concrete case had to be reviewed by the courts on a case-by-case basis. This made it clear that the Jesuit case could go forward. In December 2000, the Third Justice of the Peace, the Criminal Court of First Instance, ruled that the "statute of limitations" for murder (twenty years under Salvadoran law) had run out in the Jesuit case, but then reserved *amparo* (a type of constitutional relief like a writ of habeas corpus) as a potential means of further action, thus once again leaving the door open for prosecution.<sup>159</sup>

That Colonel Montano was affected by these legal rulings is unquestionable. On March 29, 2000, after the Jesuit case was first reopened, the retired military leader held a press conference with several other accused officers of the *Tandona* to reject the claim that he was an "autor mediato" of the Jesuit massacre. Charging the Jesuits at the UCA with "raking up the past that we all want to forget in order to encourage situations that favor their ideologies," he once again relied on the same rhetoric that the armed forces had used in the 1980s to justify the killings of thousands. In a striking echo of his labeling of Rector Ellacuría as "fully identified with subversive movements" prior to the 1989 killings, Montano derided the search for justice by his successor and the Jesuit religious order as "a thing orchestrated by the left" ... and an "international leftist plan." Using the former language of state terror, he warned that the Pinochet case in Chile ["lo de Pinochet"], the Guatemalan human rights case filed in Spain ["lo de Senora Menchu"], and the Jesuits ["los hermanos jesuitas"] together "demonstrate dark forces that, in my opinion, are not convenient for sustaining peace."<sup>160</sup> Montano reiterated these ideas on

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<sup>158</sup> See *Escrito de la Fiscalía General de la República de El Salvador absteniéndose de acceder a las peticiones de investigación formuladas por José María Tojeira Pelayo para la reapertura del caso de los Jesuitas de la UCA*, Equipo Nizkor (April 12, 2000), available at <http://www.derechos.org/nizkor/salvador/doc/fiscalia.html>

<sup>159</sup> See *Camara Confirma Sobreseimiento Cristiani y Militares Matanza 1989*, EFE Spanish Newswire Services (January 31, 2001).

<sup>160</sup> Text in Spanish: "Menciono las acusaciones de graves violaciones de los derechos humanos de que fue objeto en Espana el general chileno Augusto Pinochet y las denuncias que ha presentado ante la Audiencia Nacional espanola contra militares guatemaltecos la Premio Nobel de la Paz Rigoberta Menchu.'Esto parece una cosa orquestada por la izquierda y precisamente a raiz de lo de Pinochet, despuesviene la senora Menchu y aqui los hermanos jesuitas, lo que demuestra que hay pretensiones oscurasque no me parece que sean convenientes para el logro de la paz,' afirmo." See *Militares Acusan Jesuitas de Apoyar Plan Izquierda Internacional*, EFE Spanish Newswire Services, March 29, 2000.

December 15, 2000. By pursuing justice for the murdered Jesuits, he said, “the left-wing will not rest in its attempt to gain power.”<sup>161</sup>

But the Jesuit Massacre case would not go away. The UCA leadership, convinced that powerful interests inside El Salvador were blocking the Jesuit trial for reasons of their own, announced that it would pursue a two-pronged strategy to seek justice for its slain rector and its other professors. On the one hand, because all but one of the priests were Spanish as well as Salvadoran citizens, it would file a case with the Audiencia Nacional (National Court) of Spain that had proved so important in moving forward the Pinochet and Guatemalan cases against top military officials. On the other hand, it would file *amparos* as well as seek a new ruling with the Procurator of the Human Rights Legal Office. The advantage of this strategy was obvious. None of these institutions were as susceptible to fear or pressure as an individual judge in El Salvador’s still flawed legal system, and given the evidence against the top leaders of the *Tandona*, a more fair and impartial verdict could be expected. Indeed, in 2002, the Procurator issued her report in 2002, calling for the lifting of amnesty and prosecutions in the Jesuit massacre.<sup>162</sup>

## VII. COLONEL MONTANO’S CAREER AND HUMAN RIGHTS VIOLATIONS

Colonel Inocente Orlando Montano’s involvement in the Jesuit case was not an aberration. He had a reputation as an extreme hardliner and human rights abuser from the earliest days of his career. This section traces his human rights record in the positions he held the longest: 1) S-2/S-3 Intelligence and Operations for the General Staff of the Armed Forces, 2) military command positions in the Destacamento No.6, the Belloso Battalion, the Engineering School or DMIFA, and the Sixth Infantry Brigade, and 3) the Vice Ministry of Public Security. It should be read in conjunction with **Appendix II**, which, as noted previously, is a partial list of named victims murdered, tortured, and/or disappeared by military and security forces during the period Colonel Montano held these positions.

**The Beginning: Montano in Intelligence:** Working inside the Ministry of Defense during the regime of General Romero (1977-1979), Montano was sent to Chile where “the officers who admired General Pinochet went to study intelligence methods, among other topics.”<sup>163</sup> When an October 1979 coup ended General Romero’s rule, then -Major Montano was switched from the Defense Ministry to the General Staff (*Estado Mayor*), where he worked in Intelligence/ Operations. This was a central position, a secret unit that was established for the surveillance of political targets and the elimination of specific individuals. Replacing the widely

<sup>161</sup> See “Military top brass fear wave of ‘left-wing’ human rights cases,” *BBC Summary of World Broadcasts*, 19 Dec 2000. Taken from El Diario de Hoy website, December 15, 2000.

<sup>162</sup> Procuraduria Report: October 2002: <http://www.scribd.com/doc/22642063/Caso-jesuitas>

<sup>163</sup> Interview with a colonel who was one of Montano’s commanders, October 2012 via telephone. Only hard-line officers studied in Chile. Both of Colonel Montano’s previous leaders, Minister of Defense Jose Guillermo Garcia Merino and Minister of Defense Carlos Eugenio Vides Casanova, were trained in command and intelligence by the Pinochet regime in Chile.

feared Salvadoran National Security Agency (ANSESAL) of previous military regimes,<sup>164</sup> the General Staff Intelligence section was essentially the same agency under a different name.<sup>165</sup> This unit not only had its own files but also received information from the intelligence (S-2) and operations (S-3) sections of each of the security forces (the National Guard, Treasury Police, and National Police). Whatever Montano's specific involvement might have been, this was the central control unit of a military-led death squad apparatus that eliminated civilians alleged to be opposed to the regime.<sup>166</sup>

In this respect, Montano's first important workplace cemented his relationships not just with the most dangerous members of his 1966 graduating class, according to U.S. intelligence reports,<sup>167</sup> but also with higher-ups engaged in death squad activities, especially in the Special Investigations section of the National Police.<sup>168</sup> Because he worked in this unit during the period

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<sup>164</sup> The Salvadoran National Security Agency (ANSESAL) was organized originally under the auspices of General Jose Alberto "Chele" Medrano, senior officer in the National Guard and Armed Forces High Command of El Salvador and an admitted assassin himself. It kept elaborate files on anyone the military considered to be a "subversive" and sometimes sent out special kill squads. ANSESAL was to have been disbanded after the October 1979 coup in El Salvador, but instead these files were moved inside S-2/S-3 in the *Estado Mayor* four days after the coup by Roberto D'Aubuisson, one of the leaders and central organizers of El Salvador's death squads. He had received orders "from the highest level" to put the files in the *Estado Mayor* in the unit where Montano was subsequently assigned. See my interview with "Chele" Medrano, San Salvador, 1984 and with Roberto D'Aubuisson, San Salvador, 1983. Also see William Stanley, *The Protection Racket State. Elite Politics, Military Extortion, and Civil War in El Salvador*, Temple University Press, Philadelphia, 1996. Also see William LeoGrande, *Our Own Back Yard: The United States and Central America*, University of North Carolina Press: 1998.

<sup>165</sup> See Captain Robert Chamberlain, "With Friends Like These," *Parameters*, summer 2008.

<sup>166</sup> As Brian Bosch, U.S. military attaché at the time, noted: intelligence increasingly became "more associated with repression..." Brian Bosch, *The Salvadoran Officer Corps and the Final Offensive of 1981*, McFarland & Co., Jefferson, North Carolina, 1999. Much has been written on El Salvador's death squad apparatus, both military and civilian. In the declassified U.S. government documents, see especially "Briefing Paper on Right-Wing Terrorism" declassified document of the CIA, October 27, 1983; "El Salvador: The Right Wing," Classification Excised, Intelligence Memorandum, Excised Copy, March 18, 1981 [EL00059]; CIA, "El Salvador: Dealing with Death Squads," a report prepared by the Directorate of Intelligence of the Central Intelligence Agency, January 20, 1984. Also see Cynthia J. Arnson, "Window on the Past: A Declassified History of Death Squads in El Salvador" in *Death Squads in Global Perspective: Murder with Deniability*, eds., Bruce B. Campbell and Arthur D. Brenner (New York: Palgrave Macmillan, 2000) and Julie Mazzei, *Death Squads Or Self-Defense Forces?* University of North Carolina Press, 2009.

<sup>167</sup> In these early years, U.S. declassified documents put Montano in the same network with his Tandon colleague, Roberto Mauricio Staben, head of National Police Operations (S-3) until July 1980. Staben proved to be one the most notorious death squad leaders among the senior officers in the 1966 class and later was the principle figure implicated in a 'kidnap-for-profit' ring. This network also included the head of the Tandon, Rene Emilio Ponce, who provided transportation to death squads. See "[Excised] Perception of Some of His Fellow Officers, Classification Excised, Cable to the Department of Defense, December 11, 1986. EL00421" "El Salvador: Dealing with Death Squads, Classification Excised, Intelligence Memorandum, January 20, 1984 [EL00117]; and "El Salvador: Military Seizes Investigation," Classification Excised, Intelligence Report, May 27, 1986, [EL00208]. CIA/State Department, "Briefing Paper on Right-wing Terrorism," October 27, 1983, pp.3-4.

<sup>168</sup> U.S. declassified intelligence documents note Montano's network with Aristides Márquez, the head of Special Investigations of the National Police. The police death squad drew its killers mostly from the Criminal Investigation

of formation and launching of this murderous apparatus (12/31/79-9/1/80), Montano was repeatedly linked to support for death squads throughout his military career.<sup>169</sup>

**Command Positions:** Major Inocente Montano received his first important command in 1981, when he became second in command or “**executive officer**” of **Destacamento Militar No. 6.**, located in Sonsonate. As executive officer, he was directly below the commander, where he was responsible for translating the commander’s orders into action. While the content of Montano’s actual orders from his commander is unknown, the translation of these orders resulted in a number of killings of civilians despite the fact that Sonsonate was a quiet location relatively unaffected by El Salvador’s armed conflict. On October 19, 1981, for example, DM 6, troops illegally detained and subsequently disappeared Vicente Magana Marroquin.<sup>170</sup> The most egregious mass killing in this region, known as the “Armenia” or “Well of Death” massacre, also occurred during Montano’s tenure as “executive officer. After killing every single member of a soccer team and some of their family members, then dragging the bodies into the street, DM6 troops then attempted a cover-up of at least 23 murders by throwing most of the bodies in a well.<sup>171</sup> Even though witnesses positively identified the killers as local army soldiers and testified that there had been no combat activity in the area,<sup>172</sup> no investigation of this atrocity was ever held and no military officers were ever punished. In the end, one journalist noted, “the soccer team had to be eliminated from the league because there were no members left.”<sup>173</sup>

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Section (SIC), the Special Political Investigation Section (SIE) and the Narcotics Control Section of the National Police and “engaged in numerous political assassinations. The CIA prepared a detailed report on the request of the Secretary of State, which gave the names of the detectives involved in the National Police death squad. See, respectively, “[Excised] Perception of Some of His Fellow Officers, Classification Excised, Cable to the Department of Defense, December 11, 1986. EL00421, See “Existence of Rightist Death Squad within the Salvadoran National Police; Location of Clandestine Prison,” declassified cable of the CIA, March 19, 1983, EL00091, and “Briefing Paper on Right-Wing Terrorism” declassified document of the CIA, October 27, 1983. See also “Magaña on Rough Stuff,” confidential cable 03828, May 3, 1983, EL00788.

<sup>169</sup> See Linda Garrett, (ed.), *Los Escuadrones de la Muerte en El Salvador*, N.P., 1993.

<sup>170</sup> “El Salvador 1992 Ad Hoc Commission Documents,” Box 5, pg. 61.

<sup>171</sup> Later, the army returned to take away bodies, throwing them in the river or down the “well of death.” When family members attempted to collect the remains of loved ones, the army told them: “If you try to do this, you will be killed like pigs.” Families were also told that they “could not have the bodies for burial because it might defame the army. Dial Torgerson, “Salvador Team Reported Slain by Government Troops.” *Los Angeles Times*. 18 Aug 1981: 1.

<sup>172</sup> The Armenia massacre only became public when Msgr. Arturo Rivera y Damas, acting archbishop of El Salvador, condemned the events during his Sunday service, noting that the massacre occurred after 11 p.m. when only the army and police could be out on the streets. Thus, it was reported in U.S. declassified documents, which blamed the massacre on the army. “Detailed Evidence of Government Violence Against Non-Guerilla Elements”. [Soyopango and Armenia Massacres; Churchwomen Murders and FDR Leaders Murders], Confidential, Internal Paper, Excised Copy, August 1, 1981. [ES01912].

<sup>173</sup> William Overend, “Getting Justice in El Salvador Is Impossible, Expert Says: RIGHTS: Salvadoran Victims Deserted by Law, Expert Says,” *Los Angeles Times* 13 Oct 1986: B1.

Major Montano was then made **Executive Officer of the Belloso Battalion**, a BIRI (*Batallón de Infantería de Reacción Inmediata*) formed on December 31, 1981. As second in command, he was once again tasked with implementing military orders. A position of command of one of these newly formed rapid action battalions was considered exceptionally prestigious, but the Belloso Battalion, from its beginning, earned an appalling human rights record<sup>174</sup> [See, for example, Table I on Belloso in Appendix II, which documents 26 killings and two disappearances during Montano's tenure as executive officer].

One of the largest mass killings, a military operation officially titled "Operación Limpieza" ("Operation Clean-Up") but called "La Guinda de Mayo" (the Flight of May) by peasants, was a 'scorched earth' campaign in late May and June 1982. Belloso troops "killed hundreds of civilians, torched villages, burned crops, and chased thousands of peasants into the mountains."<sup>175</sup> Survivor testimony affirms that at no point did the Salvadoran army seek to distinguish between guerrilla fighters and civilians.<sup>176</sup> The "Guinda de Mayo" was also the setting for continuing a pattern of forced disappearances of children by soldiers in the Belloso Battalion and other units of the Salvadoran army. At least 54 cases of specific child disappearances have been documented from this operation alone,<sup>177</sup> although testimonial evidence presented to the Inter-American Court suggests that even more were abducted.<sup>178</sup>

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<sup>174</sup> The *New York Times* labeled it "among the army's most frequent violators of human rights;" See Lindsey Gruson, *Salvador Asks Renewed Talks*, *The New York Times* (November 4, 1989), available at <http://www.nytimes.com/1989/11/04/world/salvador-asks-renewed-talks.html>.

<sup>175</sup> Over 7,000 villagers were forced from their homes, and uncounted numbers died not only from being gunned down but also from lack of food or water while hiding from the military. See *El Salvador: Belloso Battalion*, United States Bureau of Citizenship and Immigration Services (August 14, 2000), available at <http://www.unhcr.org/refworld/country..USCIS..SLV..3dee01af4.0.html>

<sup>176</sup> Informe Sobre El Operativo Militar de Mayo 1982. Colaboradores de la Oficina de Derechos Humanos de la Coordinadora de Comunidades Repobladas. November 1992. See Beatrice Alamanni de Carrillo, Procuradora para la Defensa de los Derechos Humanos, *Caso Ernestina y Erlinda Serrano Cruz* (September 2, 2004).

<sup>177</sup> These are some of the disappeared children: *Nora Cavaría Rivera* (age 3): Originally from Manaquil, Nueva Trinidad, Chalatenango, she disappeared May 31, 1982 in Manaquil; *Delta Chávez Huevo* (age 11) and *Angélica Chávez Huevo* (age 2): Originally from Arcatao, Chalatenango, they disappeared on May 31, 1982; *Rafael Chávez Navarrete* (age 6): Originally from Arcatao, Chalatenango, he disappeared on June 1, 1982 in Cerro Grande, Arcatao; *Paz Ifigenia Ponce* (age 1): Originally from San Francisco Angulo, Tecoluca, San Vicente, she disappeared on June 9, 1982 in Loma La Raya, San Francisco. She was taken with a group of about 25 other children after a massacre leaving 120 dead; *José Ángel López* (age 3) and *Marcos López* (age 3): Originally from Arcatao, Chalatenango, they disappeared on June 1, 1982 in Cerro Grande, Arcatao. *Marina López Rivera* (age 3) and *Francisca López Rivera* (age 2): Originally from El Sitio, Arcatao, Chalatenango, she disappeared on June 1, 1982 in Arcatao. They were fleeing with their parents when they were surrounded and their parents killed; *José Ricardo Sosa* (age 3) and *Roberto Sosa Sosa* (months old): Originally from Palo Verde, San José Las Flores, Chalatenango, they disappeared on November 14, 1982 in Cantón Palo Verde. *María Roxana Orellana* (age 2) and *María Dinora Orellana* (age 2): Born in San Antonio Los Ranchos, Chalatenango, they disappeared on June 2, 1982 at the Caserio El Bajío, Nueva Trinidad, Chalatenango.

<sup>178</sup> Some were later adopted in "fly by night" agencies established by the military at the going rate of \$20,000 per child. Jones, Lucy. "Hunt for Stolen War Children: An El Salvador Priest is Striving to Unite Families Split by Kidnap," *The Guardian* 19 Jun 2000: 15; Alamanni de Carrillo, Beatrice. Caso Ernestina e Erlinda Serrano Cruz:

Other massacres involving the Belloso Battalion followed in a pattern, and in each one Montano was the executive officer giving operational instructions. In August 1982, for example, the Belloso Battalion participated in another scorched earth operation that resulted in the massacre at El Calabozo. One survivor recalled that “the people tried to leave through the valleys and they [soldiers] cornered them. They killed “a mountain of people, children, old people and women.”<sup>179</sup> A civil defense commander corroborated this account, recalling how Belloso troops “machine-gunned about 60 old women who had sought refuge in a house.”<sup>180</sup> In another example, on November 13, 1982, a massacre in Cerro Cuyas Cumbres, San Labrador, Chalatenango by Belloso troops left 40 civilians dead.<sup>181</sup> In February 1983, a massacre in Canton Tenango, Cuscatlán, which involved both the Belloso and Atlacatl Battalions, left 43 dead, including at least 15 children who were later exhumed.<sup>182</sup>

As the operational commander of the Belloso Battalion, Montano apparently carried out his orders well; he was promoted to Lt. Colonel on December 31, 1982,<sup>183</sup> then moved to first in command of the ARCE Battalion in March 1983, where he remained for only a few months until he was removed.<sup>184</sup> At the ARCE Battalion, Lt. Colonel Montano clearly stated his understanding of how to fight a war: contrary to international and Salvadoran law, unarmed civilians indeed constituted a military target. As Montano stated: “We are more concerned now with eradicating the guerrillas’ support systems than we are in holding a town for a few days.” “The type of war we are fighting now ... is a two-pronged war, one against the guerrillas and the other against the people who support them.”<sup>185</sup>

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Informe de la Señora Procuradora para la Defensa de los Derechos Humanos Sobre las Desapariciones Forzadas de las Niñas Ernestina y Erlinda Serrano Cruz. Su Impunidad Actual y el Patrón de la Violencia En Que Occurieron Tales Desapariciones. September 2, 2004.

<sup>179</sup> As part of this operation, troops converged on the Amatitán River in the Department of San Vicente and killed between 200-300 men, women, and children. According to witness testimonials, the soldiers made everyone form lines, proclaimed them subversives, and begun to kill everyone with machine guns and machetes. “Salvadoran Peasants Claim Troops Massacred Villagers”. *Chicago Tribune* 08 Sep 1982: 3.

<sup>180</sup> “Salvador soldiers massacre civilians,” *The Jerusalem Post* [Jerusalem, Israel] 09 Sep 1982: 4. When survivors returned to bury the bodies of loved ones, some found that acid had been poured over the bodies, disfiguring the remains. Muñoz, Miriam. “Nota: Exhuman Víctimas de Masacre El Calabozo”. *Contra Punto* 6 February 2012.

<sup>181</sup> See *Masacre Cerro Cuyas Cumbres, 13 de noviembre de 1982*, Retazos de Memoria, available at <http://retazosdememoria.blogspot.com/2011/11/masacre-cerro-cuyas-cumbres-13-de.html>.

<sup>182</sup> *Massacres: Trazos de la historia salvadoreña contados por las víctimas*, compiled by Centro para la Promoción de Derechos Humanos “Madelaine Lagedec,” 2<sup>nd</sup> edition, 2007. This group has been carrying out exhumations since 1992.

<sup>183</sup> See *El Salvador/Year-End 1982 Promotions*, Unclassified, Cable, 00375, January 13, 1983, ES03709.

<sup>184</sup> See *El Salvador/March Reassignments*, Unclassified, Cable, 02287, March 15, 1983, ES03867.

<sup>185</sup> See Chris Hedges, *El Salvador: turning teen-age recruits into effective fighters*, *Christian Science Monitor* (October 6, 1983).

In May 1984, Lt. Col. Montano was moved to **the Armed Forces Engineering School (Centro de Ingenieria de las Fuerzas Armadas or CIIFA)**, where he stayed a full three years until May 31, 1987.<sup>186</sup> In CIIFA, he commanded the **Destacamento Militar de Ingenieros de la Fuerza Armada (DMIFA)**, utilizing the intelligence background he had acquired in the General Staff. The Engineering School, although harmlessly named, served as a center for death squad members from the armed forces.<sup>187</sup> Long held practices of torture, extrajudicial killings, and disappearances continued at CIIFA under Lt. Colonel Montano's directorship. **Appendix II**, Table 2, documents 32 such violations, including 3 killings and 12 instances of torture committed by DMIFA, the armed detachment of the Engineering School.<sup>188</sup> In one especially well-documented case, soldiers from CIIFA invaded and searched the home of Felipe Bernal Martinez and also captured his two brothers, Julian Bernal Martinez and Domingo Bernal Martinez. They were found dead the next day with their throats cut; one brother had his tongue cut out.<sup>189</sup> The commandant at headquarters later asserted that the three brothers had been killed under orders from CIIFA "to set an example because they were accused of collaboration with the guerrillas."<sup>190</sup>

In his final position as a direct commander of actual military forces, now Colonel Montano assumed command of the **6<sup>th</sup> Infantry Brigade** on May 31, 1987, and held it until June 1, 1989. **Appendix II**, Table 3, documents 33 violations of human rights by forces under his

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<sup>186</sup> This was his fifth move in six months: from Commander of Arce, to the Director of Transito, to the Director of the National Police School, and finally Executive Officer (2<sup>nd</sup> in command) of the 4<sup>th</sup> Brigade. See *Late May Officer Reassignments/Bio Data*, Classification Excised, Cable, May 24, 1984, EL0400.

<sup>187</sup> Death squad practices began under former CIIFA commander, Cols. Edgar Casanova Vejar (known for his involvement in the murders of four American churchwomen). As commander, Edgar Casanova Vejar, permitted the Treasury Police to step in and build a special building inside CIFA facilities, which became functional in 1981 and became a center of death squad operations. See "Update on Cases of U.S. Citizens Missing or Murdered in El Salvador," Confidential, Memorandum, Excised Copy 657, May 23, 1984. ES05258. Another CIFA commander, Denis Moran Echeverria also helped to organize death squads at CIFA. In July 1983, an excised source reported that TLC Moran, then commander of CIIFA, was attempting to recruit rightist officers to work for him; he was able to convince Lt. Francisco Amaya Rosa, a death squad member implicated with him in the "Sheraton murders" of the head of the land reform agency and his two U.S. advisors, to resign from his position as chief of security for the ministry of agriculture to accept work at CIIFA. Moran was replaced by Montano, See *Reluctance of the Salvadoran Minister of Defense to Prosecute Military Officers for Alleged Human Rights Violations*, Classification Excised, Cable, Excised Copy, July 20, 1983, EL00101. Also see [Excised] *Mario Denis Moran Echeverria*, Classification Excised, Cable, May 2, 1990, EL00310.

<sup>188</sup> This is not a complete record, and other examples of these violations can be found in the documentation of the Ad Hoc Commission, which ultimately recommended Colonel Montano's purge from the military.

<sup>189</sup> See *Barriers to Reform: A Profile of El Salvador's Military Leaders*, Report to the arms control and Foreign Policy Caucus prepared by the Staff of the Arms Control and Foreign Policy Caucus (May 20, 1990).

<sup>190</sup> See *Annual Report of the Inter-American Commission on Human Rights 1989-1990: Resolution No. 25/89*, Inter-American Commission on Human Rights (May 17, 1990), available at <http://www.cidh.oas.org/annualrep/89.90eng/ElSalvador9811.htm>.

command, including 13 extrajudicial killings and 10 cases of torture. Many more incidents of killing, arbitrary detention and torture conducted by the soldiers of the 6<sup>th</sup> Brigade are included in Ad Hoc and Truth Commission documents.<sup>191</sup> There is no record that Brigade Commander, Colonel Montano, ever investigated any abuses.

Some examples from other documentation include the following incidents:

- While Colonel Montano was commander of the 6<sup>th</sup> Brigade on July 5, 1987, his soldiers threw a grenade into a house in Usulután, injuring 9 people inside, six of whom were children. One 48-year old man died in the hospital.<sup>192</sup>
- On July 6, 1987: soldiers from Montano's 6th Brigade and the Atonal Battalion (which was under the Brigade's command) threatened a man in Usulután when he refused to sell them bread. Five days later, soldiers went to his house at night and shot him, staging a firefight outside his house. The public statement issued by the command center was that soldiers had fought a rebel and killed him.<sup>193</sup>
- In an action that forecast his position towards FENASTRAS leaders two years later, on October 30, 1987, just as the harvest was beginning at a coffee-processing factory in Santiago de Maria in Usulután, Colonel Montano arrived by helicopter followed by two hundred Sixth Brigade troops in trucks. Gathering together the leadership of the newly created union there, he warned that if they were to engage in strikes or protests, "he would cut off their heads." He then called together all of the workers at the plant, some 400 in total, and repeated his warnings against strikes. He returned two weeks later to repeat this message, and local leadership subsequently reported constant surveillance by the National Police and the National Guard.<sup>194</sup>

Colonel Montano's final military position was **Vice Minister of Public Security**, where he had operational authority for the three security forces. In addition to the Jesuit massacre discussed previously, **Appendix II** presents other violations of the National Police, Treasury Police and National Guard during his tenure. It documents 498 episodes of torture, 23 extrajudicial killings, and 47 disappearances for a total of 1075 human rights violations when arbitrary detention is included. Suffice it to note that the record of the security forces was deemed so terrible and reform so hopeless that the U.N. peace accords resulted in the permanent disbanding of all three of these forces.

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<sup>191</sup> "El Salvador 1992 Ad Hoc Commission Documents," Box 5, pg. 57.

<sup>192</sup> See *Barriers to Reform: A Profile of El Salvador's Military Leaders*, Report to the arms control and Foreign Policy Caucus prepared by the Staff of the Arms Control and Foreign Policy Caucus (May 20, 1990).

<sup>193</sup> See *Barriers to Reform: A Profile of El Salvador's Military Leaders*, Report to the arms control and Foreign Policy Caucus prepared by the Staff of the Arms Control and Foreign Policy Caucus (May 20, 1990).

<sup>194</sup> See James Goldston, Holly Burkhalter, *Labor Rights in El Salvador*, Americas Watch (March 1988).

### VIII: LEGAL AND IMMIGRATION DEVELOPMENTS IN THE U.S. AFFECTING HIGH-RANKING MILITARY OFFICERS AFTER 2002

Several important legal developments and events after Colonel Montano's arrival in the U.S. affected military officers from other countries residing here who have histories of human rights violations. These include: two federal civil cases that had found three of Colonel Montano's former Salvadoran commanders residing in the U.S. liable for human rights abuses and new Department of Homeland Security practices that led to vigorous enforcement of the human rights criteria in determining immigration status.

First, in July 2002, a Miami jury found two of Montano's former commanders, both previous Ministers of Defense in the ESAF who were living in the U.S., liable for torture and awarded the plaintiffs \$54.6 million dollars in compensatory and punitive damages. Upheld by the 11<sup>th</sup> Circuit Court in 2006, *Romagoza Arce et al. v. Garcia* and *Vides Casanova* was a watershed trial, opening the door for civil suits based on the doctrine of command responsibility.<sup>195</sup> Montano knew both of these generals: Jose Guillermo Garcia had been his commander from October 16, 1979-May 16, 1983, and Montano had worked in the same compound with the former Defense Minister early in his career; Vides Casanova had been his commander from 1983-1989, appointing him to several command positions. Another case, *Chavez v Carranza*, involved another former commander. Vice Minister of Defense, Nicolas Carranza, was a direct supervisor of all intelligence and security units, working in the same compound when Montano started his career. On November 18, 2005, a Memphis jury rendered a verdict against Carranza for torture, marking the first time that a U.S. jury in a contested case found a commander liable for crimes against humanity – a verdict that was also upheld on appeal.<sup>196</sup> All of these cases were covered extensively in the Salvadoran, Spanish language and U.S. media.

Second, beginning in 2004, the Department of Homeland Security made the removal of human rights violators a new priority.<sup>197</sup> One of Immigration and Customs Enforcement's most publicized cases occurred in July 2006 in the Boston area, where Montano lives, when Marko Boskic was convicted of two counts of visa fraud in Federal District Court and sentenced to 63 months in prison based on lying about his military service in the 10th Sabotage Detachment of the Army of the Republika Srpska.<sup>198</sup>

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<sup>195</sup> 434 F.3d 1254 (11th Cir. 2006).

<sup>196</sup> 413 F. Supp. 2d 891 (W.D. Tenn. 2005) (6th Cir. 2009).

<sup>197</sup> Since 2004, ICE has arrested more than 250 individuals for human rights-related violations under various criminal and/or immigration statutes. During that same period, ICE has denied more than 110 individuals from obtaining entry visas to the United States and created more than 18,800 subject records, which prevented identified human-rights violators from attempting to enter the United States. In addition, ICE successfully obtained deportation orders to physically remove more than 540 known or suspected human rights violators from the United States.

<sup>198</sup> See "Fact Sheet: Human Rights Investigations," ICE, available at <http://www.ice.gov/news/library/factsheets/hrv.htm>

Another especially relevant case was the deportation of former Salvadoran Army Lieutenant, Gonzalo Guevara Cerritos, who had confessed to his participation in the 1989 Jesuit killings but been freed by a Salvadoran court. Having entered the U.S. illegally, he had reportedly been “living in terror of being discovered and killed by fellow Salvadorans.”<sup>199</sup> His capture (October 2006) and deportation (May 2007) by ICE was accompanied by official warnings that the United States could not become a place of refuge for those “seeking to escape a violent criminal past,”<sup>200</sup> which was quoted in El Salvador’s Spanish press,<sup>201</sup> as well as earlier editorials saying “A Salvadoran Officer Responsible for War Crimes Shouldn’t find Sanctuary in America.”<sup>202</sup> All of these events were reported in both the Spanish language and El Salvador press. When Guevara Cerritos was returned to El Salvador, an UCA spokesman stated that no effort would be made to prosecute him because “We are really only interested in the prosecution of those who gave the order for this crime.”<sup>203</sup>

ICE enforcement of its pledge to prosecute those who hide their past in order to stay in the U.S. was noticeably stronger after the U.S. Senate Judiciary Subcommittee on Human Rights & the Law held bipartisan “No Safe Haven” hearings in November 2007, with El Salvador once again providing a central focus of these hearings. Having been affected by the moving testimony of Salvadoran Juan Romagoza during the hearings, a torture survivor who had initiated the civil trials against Generals Garcia and Vides Casanova, Senators Coburn and Durbin, in a bipartisan effort, raised public questions to ICE regarding the continued presence of these two generals in the United States. In April 2008, the Human Rights Violators and War Crimes Center (HRVWCC) was initiated to increase the efficiency of the complex investigative and litigation actions involving human rights violators. Taken together, these actions meant that ICE’s stated commitment to “identify and prosecute individuals who have been involved and/or responsible

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<sup>199</sup> “Justice: A Salvadoran Officer Responsible for War Crimes Shouldn’t find Sanctuary in America,” *Houston Chronicle*, October 31, 2006.

<sup>200</sup> See the declaration by ICE field officer director Jim Hayes in “Immigration and Customs Enforcement Deports Former Salvadoran Army Lieutenant Linked to Massacre of Priests,” U.S. Federal News, May 1, 2007.

<sup>201</sup> See the Spanish translation of ICE field officer director Jim Hayes’ warning, which was picked up in numerous international cables: “No permitiremos que Estados Unidos sirva de refugio a los extranjeros que buscan escapar de su pasado violento y criminal” quoted in “No abriremos ningún proceso judicial contra Guevara Cerritos,” *Diario CoLatino*, May 2, 2007.

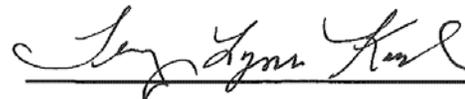
<sup>202</sup> See “Immigration and Customs Enforcement Deports Former Salvadoran Army Lieutenant Linked to Massacre of Priests,” U.S. Federal News, May 1, 2007.

<sup>203</sup> The actual quote in Spanish: “A nosotros, realmente lo que nos interesaría sería la condena de los que dieron la orden de ese crimen.” The UCA spokesperson added that the case was being pursued in the Inter-American Court and, while not yet public, UCA representatives knew about the forthcoming filing in Spain, thus there was little interest in pursuing a Jesuit case against a lower level officer. See “No abriremos ningún proceso judicial contra Guevara Cerritos,” *Diario CoLatino*, May 2, 2007.

for the commission of human rights abuses across the globe” had gained real momentum, lending greater urgency for human rights abusers to hide their military service and human rights records.

## IX. CONCLUSION

Colonel Inocente Orlando Montano achieved one of the highest and most important leadership positions in the El Salvador Armed Forces (ESAF) – the Vice Minister of Defense for Public Security. Though presenting himself as merely an engineer, he was actually part of the ruling “inner circle” at the end of his military career, rising to occupy one of the top three positions in the armed forces. In this position, he conspired with other high-ranking officers to incite to kill and then murder six Jesuit priests, their housekeeper and her young daughter. He then engaged with these officers in a campaign of lying, intimidation and obstruction to cover-up of the crime. These acts were was not an aberration. Throughout his 30-year military career, Colonel Montano demonstrated a pattern of ordering, abetting and assisting, and/or commanding troops that participated in state terror against civilians. Documented human rights abuses include extrajudicial killings, torture, disappearance and arbitrary detention, the toleration of military-led death squads operating inside units under his command, rural massacres of hundreds civilian non-combatants at a time, and the forced disappearance of children. These abuses were accompanied by the consistent failure to investigate acts committed by troops under his command. Lies and dissembling to protect himself and other officers followed these crimes, based on an exaggerated sense of impunity. Colonel Montano continued this pattern by lying about his entry date into the U.S. and later concealing his record of military service and participation in widespread human rights abuses. The Jesuit Massacre, one of the most notorious crimes in contemporary Latin American history, is but one of the many abuses attributed to him.



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Terry Lynn Karl  
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