

REPORT Nº 13/94
CASE 10.437
HONDURAS
February 2, 1994

BACKGROUND:

1. On August 7, 1989, the Inter-American Commission on Human Rights received the following petition, the pertinent parts of which are as follows:

Miguel Angel Pavón Salazar, 45 and Moisés Landaverde Recarte, 33, were assassinated on January 14, 1988, at approximately 6:30 p.m., in the city of San Pedro Sula, Department of Cortés.

The circumstances surrounding the crime indicate that the victims were inside of Professor Miguel Angel Pavón's car, with the motor running and the headlights on, when a motorcycle carrying two men approached. One of the men got off of the motorcycle, walked over to the left front window of the parked car and shot Miguel Angel Pavón and Moisés Landaverde, killing them instantly.

Professor Miguel Angel Pavón Salazar was Chairman of the Honduran Human Rights Defense Committee (CODEH) in the city of San Pedro Sula; he was a Deputy to the National Congress for the Department of Cortés, representing the Partido Innovación y Unidad-Social Demócrata (PINU-SD); he was also a professor, specializing in technical education.

Moisés Landaverde Recarte was a high school teacher, and was a union leader in the Cortés branch of the Association of Secondary School Teachers of Honduras.

Miguel Angel Pavón had received death threats on a number of occasions as a result of the testimony he gave before the Inter-American Court of Human Rights, where he appeared in September 1987 as a witness for the Commission in the proceedings conducted in connection with the case of the disappearance of Manfredo Velásquez and Saúl Godínez Cruz.

In December 1988, a former member of Squadron 3-16, Mr. Fausto Reyes Caballero, made statements to Washington Post journalist Julia Preston, to the effect that two military men, Police Lieutenant Mario Asdrúbal Quiñónez and Sergeant Jaime Rosales, were the material authors of the crime. Mr. Reyes Caballero was even more specific, stating that the driver of the motorcycle was Jaime Rosales, while Lieutenant Mario Quiñónez was the one who actually fired the shots. This same assertion

was made later to Dr. Anne Manuel from Americas Watch and signed as a sworn statement before a notary public as follows:

AFFIDAVIT OF FAUSTO RAMON REYES CABALLERO

STATE OF NEW YORK)

) ss.:

COUNTY OF NEW YORK)

I, Fausto Ramón Reyes Caballero, being duly sworn, hereby deposes and says:

1. I am a native and citizen of Honduras. I was born in the town of Calloarenal, province of Yoro, on April 14, 1956, and I now reside in Randolph, New Jersey.
2. In 1969, at thirteen years of age, I became a member of Police Department in San Pedro Sula. I began my services as a bugler. After eight months I began formal training to become a police officer at the School for Training of Security Officers, and I received a diploma in 1973. At night I attended José Trinidad Reyes High School, where I graduated in 1974.
3. From 1973 to 1977 I was an instructor at the José Trinidad Cabanas Police Academy in Tegucigalpa. During the same years I received anti-guerrilla training at the School of the Americas in the Panamá Canal Zone.
4. From late 1977 to 1980 I was transit chief of La Lima.
5. From 1980 to February 1986 I was Chief of Motorcycle Police in San Pedro Sula. It was my duty to protect visiting dignitaries, including President Reagan and the Pope. My salary at this position was \$225 per month, paid by the Armed Forces. In February 1982, I was recruited to be a collaborator with Battalion 3-16, a specialized unit of 500 members, the primary function of which is death squad activities. I was paid \$300 per month by Rafael Canales Nuñez and by Alexander Hernández. Payments were made in both Honduran and U.S. currency. I continued to work as a collaborator, and to receive these payments, until I became a full-time member of 3-16.
6. From February 1986 to August 9, 1988, I was a full-time member of Battalion 3-16. My salary was \$300 per month in regular pay, but with extra payments, extra per diem pay and other benefits, my average total monthly income was over \$1000.

7. I was personally informed by Lieutenant Mario Quiñonez and First Class Sergeant Jaime Rosales (alias Quico) --both are members of Battalion 3-16-- that they assassinated Miguel Angel Pavón and Moisés Landaverde on January 14, 1988 in the Colonia Florencia, a neighborhood of San Pedro Sula. After Pavón testified before the Inter-American Human Rights Court (October 1987) I had seen Pavón's name on a death list in the office of Battalion 3-16 in San Pedro Sula.

8. I provided information on the foregoing and related topics to journalist Julia Preston of the Washington Post. An article based thereon was published on November 1, 1988, a copy of which is attached hereto. Based on my personal observations, and upon information and belief, all statements and allegations contained in this article are true and correct.

Fausto Ramón Reyes Caballero

Americas Watch sent a letter to the President of the Republic so that the necessary measures might be taken, specifying the names of the perpetrators of the crime. Though no reply was received.

2. In a note dated August 9, 1989, the pertinent parts of the complaint were conveyed to the Government of Honduras, which was asked to supply whatever information it deemed necessary with regard to the subject of that communication and any information that would make it possible to determine whether, in the particular case of this petition, the remedies under domestic law had been exhausted; the Government was given the statutory 90 days in which to reply to the Commission's request.

3. When no response was received and when that 90 day period had long since passed, on December 5, 1990, the Inter-American Commission on Human Rights repeated its request for information from the Government of Honduras.

4. When the Commission failed to receive any reply to that note, on January 31, 1991, it sent the Government of Honduras another communication, repeating its request for information and advising it that if the requested information was not received within 30 days, it would consider application of Article 42 of the Commission's Regulations, whereby the facts reported in a petition are presumed to be true, as long as other evidence does not lead to a different conclusion.

5. During the 79th session of the Commission, held in Washington , D.C., February 11 through 22, 1991, Dr. Ramón Custodio López, Chairman of the Committee for the Defense of Human Rights in Honduras, appeared before the commission for a hearing on the situation of human rights in that country. There, Dr. Custodio discussed the case of Miguel Angel Pavón, stating that the murder of Mr. Pavón was due to the fact that he had appeared as a witness of the Inter-American Commission on Human

Rights in the Velásquez Rodríguez and Godínez Cruz cases before the Inter-American Court of Human Rights in 1987. Dr. Custodio further stated that as evidence of this, he had presented before the World Interparliamentary Union the sworn statement of Fausto Reyes Caballero, wherein he accused members of the armed services as the authors of the crime. Other evidence mentioned by Dr. Custodio was the testimony given by Florencio Caballero, who said that he had been Mario Asdrúbal Quiñónez's subordinate in Squadron 3-16 of the armed services. Finally, he stressed the fact that all certifications that he has requested of the corresponding courts of San Pedro Sula in connection with this case had been denied him.

6. In a communication dated February 27, 1991, the Government of Honduras sent its reply, referring to a summary of the Third Criminal Court Judge of San Pedro Sula, Department of Cortés, as follows:

On January 15, 1988, at 9:00 a.m., because of a report that appeared on the first page of the newspaper Tiempo, published in that city, the respective investigation was launched and a resolution passed that same day ordered that the summary proceedings be kept confidential.

At page 3 of the Court records there is official communication N° 78, dated January 15, 1988, and signed by the First Criminal Judge of that city, conveying to the examining judge the urgent telegram sent by the Supreme Court ordering a diligent investigation into the crime committed against the persons of Miguel Angel Pavón and Moisés Landaverde, further ordering that the Supreme Court be kept abreast of the proceedings.

At page 4 in the Court records, dated January 15, 1988, is the document prepared on the occasion of the on-sight inspection conducted by the examining judge in the company of his secretary at the scene of the events, which states: "... all that was found were some blood stains on the cement outside the residence." This was all that could be confirmed.

At page 5, front and back, of the Court records, is the designation of Court experts and their opinion on the identification and assessment of the Peugeot, light green, four door sedan, license plates P-61536, the property of Mr. Miguel Angel Pavón, and owned on January 21, 1988, by Mr. Constantino Pavón Salazar, as shown at page 32.

Statements were taken from the following persons: Jorge Martínez, Gonzalo Valle, Constantino Pavón Salazar, Carlota Zavala Ramos - Pavón's widow, Ana Rubenia Pavón Salazar, Sandra Luz Jovel López, Sandra Gisella Pavón Zavala, Blanca Alicia Castro Raudales, Luis Alonso Jovel Iraheta, Graciela Reyes, Ana Francisca Elvir Valle, Héctor Henrique Velásquez, Héctor Orlando Vásquez Ortiz, Mario Ochoa

Bronfield, Juan José Reyes Mejía, José Aníbal Delgado Fiallos, Trinidad Guadalupe Maldonado Macedo, Mario Asdrúbal Quiñónez Aguilar, Carmen Lizeth Reyes Gutiérrez, Oscar Rolando Galindo, Danalid Jackson Garbott, Ligia Marlin Guerrero, Yancie Virginia Villegas Murillo, Nelson Leonardo Lanza Fiallos; thus far there is no reference to the names or physical description of the person or persons who may be held responsible for the acts that are being investigated.

The Court records also contain a number of legal documents, such as opinions from the forensic physician of the city at the time of the identification he made of the bodies; the record of the exhumation done in the presence of the proper authorities; the identification by experts of material objects on the person of Miguel Angel Pavón and Moisés Landaverde at the time of their death; the ruling issued by the Department of Forensic Medicine of the Supreme Court in connection with pieces of lead found at the time the exhumation and autopsy were conducted, the finding being that they were copper bullet fragments, weighing 0.9 mg, which would be from an armored projectile of 0.9 mm; certification of the death certificates of Moisés Landaverde Recarte and Miguel Angel Pavón Salazar, certifying the actual cause of their deaths and other proceedings recorded in the report dated the 20th of August 1989, signed by the Attorney Joaquín A. Muñoz F., as Third Criminal Judge, a copy of which is in the Court records.

Third Criminal Judge - San Pedro Sula, Cortés, March 10, 1989. This Court has learned that Ing. Alfredo Landaverde Recarte and Lic. Efraim Díaz Arrivillaga, Deputies to the National Congress, have conducted an investigation to ascertain who killed Mr. Miguel Angel Pavón Salazar and Mr. Moisés Landaverde Recarte, an investigation that can help this Court clear up the murders that it is investigating; with the proper insertions, let notification be made to the Honorable Representatives to the National Congress, so that they may report to this Court, in writing, the findings of their investigation. Article 13,335, paragraph 2, of the Code of Criminal Procedure. Let it be executed. Stamp -F. Pineda B. Judge - Stamp - R. Simón de Coto, Secretary, Third Criminal Court, San Pedro Sula, Cortés, March 10, 1989. Adding to the preceding Court record, and to legally establish that Mr. Miguel Angel Pavón Salazar was an Alternate Deputy for the Department of Cortés, with the proper insertions let notification be made to the National Electoral Tribunal, so that it may certify, through the appropriate person, the election won by Mr. Pavón Salazar. Also, through the Supreme Court of Justice, with the proper insertions, let a letter-rogatory be sent to the President of the Inter-American Court of Human Rights, with its seat in San José, Costa Rica, so that through the appropriate organ, he may attest to the statement made before that Court by Mr. Miguel Angel Pavón Salazar and Mr. Fausto Reyes Caballero in

the proceedings initiated to investigate the disappearance of Manuel Velásquez et al, which measures are necessary in the investigation being conducted to clear up the violent death of Professors Miguel Angel Pavón Salazar and Moisés Landaverde Recarte. Let it be so implemented - Stamp - F. Pineda B., Judge - Stamp - R. Simón de Coto, Secretary.

On this date notification was made to Ing. Alfredo Landaverde Recarte and Lic. Efraín Díaz Arrivillaga, Deputies of the National Congress, and to the National Electoral Tribunal, respectively. San Pedro Sula, Cortés. March 10, 1989. Stamp - R. Simón Coto - Secretary. In the evidentiary proceedings and specifically in reference to the communications that were sent, as the record shows, there is nothing in the case file to show that those court notifications have either been returned or answered.

On August 30 of last year, the undersigned, as Chairman of the Interinstitutional Human Rights Commission, sent notes 58 and 59 to Lic. Efraín Díaz Arrivillaga and Lic. Alfredo Landaverde Recarte, respectively, enlisting their cooperation so that they might forward to the judge hearing case the findings of their investigations, all for the sake of shedding light on the crimes that the court is investigating.

The most recent document in the court records is its decision of January 16, 1990, whereby Mr. Aníbal Delgado Fiallos was formally summoned to make a statement, which statement appears in the court records of January 18, 1990, while on February 7 of that year, Mr. Adán Melgar Santos appeared before the Court to make a statement. On August 31, 1990, an official communication was sent to the President of the National Electoral Tribunal, and was duly answered on September 27, 1990. The Court continues to conduct legal proceedings. This year the letter-rogatory that was sent to the President of the Inter-American Court of Human Rights in Costa Rica was answered.

7. By a note dated April 2, 1991, the petitioner presented his observations on the Government's reply, and stated the following:

If the Government's source sent the Commission a summary of the court records of the case being heard in the Third Criminal Court of San Pedro Sula, Department of Cortés, this means that it has some certification of the proceedings of that tribunal in relation to this case, a document that the brother of the victim --Professor Constantino Pavón-- had been denied, as we have proven to this Commission. Therefore, he can demand that document of the civil servant who represented the Government in the communication to which we reply. Moreover, Dr. Ramón Custodio is not among the individuals that he mentions as having made statements; in his statement, Dr. Custodio López mentioned the

head of the Northwest Section of Battalion 3-16, two of whose members have been accused by the witness Fausto Reyes Caballero. They are (now) Captain Mario Asdrúbal Quiñónez and Sergeant Jaime Rosales, both denounced by the witness Fausto Reyes Caballero and also named publicly on several occasions. Though Captain Quiñónez has been accused, he is not named as one of the ones being investigated; Sergeant Rosales (alias Quico) is not even mentioned. The official spokesman casts all the burden of proof on the then Deputies to the National Congress, Efraín Díaz Arrivillaga and Alfredo Landaverde. Even though Captain Quiñónez denies being a member of 3-16, the witness Florencio Caballero has told us that he was the subordinate of Captain Mario Asdrúbal Quiñónez (alias Lic. Quintero) in that Battalion, according to a sworn statement that I turned over to the Commission at that hearing held on February 8, 1991.

On that occasion, the petitioner asked the Government of Honduras for the following documents:

- A certification of all the competent legal proceedings in the cases discussed herein.
- The full text of all the proceedings and minutes of the Armed Services Commission of Honduras which, between June 1984 and March 1985, investigated the case of the forced disappearances that had occurred as of those dates.
- Information pertaining to the appointment of the Commission to Investigate Disappearances in Honduras.

8. On May 21, 1991, the Commission received a communication from FEDEFAM (the Latin American Federation of Associations of Relatives of Detainees-Disappeared), reporting that Mr. Constantino Pavón Salazar, brother of Miguel Angel Pavón, was being persecuted and watched by persons unknown and that he believed them to be the same men who assassinated his brother.

9. In a note dated June 19, 1991, the Commission requested protection from the Honduran Government to safeguard the individual guarantees of Mr. Constantino Pavón Salazar and that it inform the Commission on this regard as soon as possible. On that occasion, the Commission again asked the Government for observations and to forward to the Commission the documents requested by the petitioner in a note dated April 2, 1991.

10. The Government of Honduras, in a note dated July 24, 1991, sent the Commission a correction to its reply of February 8, 1991, as follows: "By mistake, the name of Sandra Giselle Pavón Zavala appears under item 5; the correct name is Sandra Liceth Pavón Zavala. Furthermore, the names of the following witnesses were

omitted: Héctor Orlando Vásquez Canales, Rolando Tábora Tábora, Daysi Marina Brocato and Ramón Abad Custodio López. Under item 6, there was an omission in reference to the copper bullet fragments, as follows: 'weighing 0.9 milligrams, which corresponds to an armored projectile of 0.9 mm.'"

11. Thus far, the Government of Honduras has not made any comments on the petitioner's observations and has not sent the certifications of the court proceedings and other documents that were requested of it. Nor has the Commission received any information regarding its request for protection to safeguard the individual guarantees of Mr. Constantino Pavón Salazar.

WHEREAS:

1. The Commission is competent to hear the instant case, in accordance with the provisions of Article 44 of the American Convention on Human Rights, inasmuch as it concerns the right to life, upheld in Article 4 of that Convention;

2. The petition satisfies the formal requirements of admissibility, as contained in Article 46, paragraph 1, of the American Convention on Human Rights;

3. For the reasons explained above, the petitioner has been unable to secure effective protection from the agencies with jurisdiction, so that the requirements concerning exhaustion of the remedies under domestic law are not applicable, in accordance with Article 46.2 of the American Convention;

4. The friendly settlement procedure to which Article 48.f of the American Convention and Article 45 of the Regulations of the Commission refer does not apply in this case.

5. The petition is not pending settlement in another procedure under an international organization and, therefore, the incompatibilities contemplated in Article 47.d of the American Convention and Article 39 of the Regulations of the Commission do not apply:

6. The petition does not duplicate a petition already examined by the Commission and therefore also meets the test of Article 47.d and Article 39.1.b of the Regulations of the Commission;

7. In the instant case, all of the measures necessary to obtain adequate information from the Honduran Government in connection with the judicial proceedings into the murders of Miguel Angel Pavón and Moisés Landaverde have been taken. On July 19, 1990, in testimony before the Permanent Court of the Peoples, Mr. Constantino Pavón said again that the Government had no interest in clearing up the murder of his brother, Miguel Angel Pavón, and noted that despite all his efforts, he

had been denied any information on the judicial investigations into the case;

8. The Government of Honduras has not made the necessary efforts to properly investigate the facts denounced, and has confined itself to confirming their occurrence.

9. In particular, the Government of Honduras has not taken into account or investigated the evidence provided in the testimony of Mr. Reyes Caballero, a former member of Battalion 3-16, who declared that he had seen Professor Pavón's name on the black list of that battalion, as a result of his having testified before the Inter-American Court of Human Rights in the case of the disappearance of Manfredo Velásquez Rodríguez and Saúl Godínez Cruz.

10. The Commission adopted on February 11, 1992, Provisional Report 18/92, produced under the provisions of Article 50 of the American Convention on Human Rights, according to which, after referring to the events that gave rise to the petition, the Commission was to make recommendations to the Government, giving it ninety days to fulfill them and inform the Commission. That report was referred to the Government on February 19, 1992.

11. The Government replied on February 27, 1992, attaching copies of the findings of the judicial enquiries carried out in this case.

12. Neither that reply nor the factors it mentions offer new evidence disproving the events denounced, nor do they show that adequate steps have been taken to solve the situation denounced, as requested in Provisional Report 18/92.

13. There are no further elements at the disposal of the Commission to lead it to alter the conclusions of the original report.

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

CONCLUDES:

1. That the Government of Honduras has failed to comply with its obligation to respect and guarantee Articles 4 (Right to Life); 8 (Right to a Fair Trial), and 25 (Right to Judicial Protection) in conjunction with Article 1.1 of the American Convention on Human Rights, to which Honduras is a state party, with regard to the assassination of Mr. Miguel Angel Pavón and Mr. Moisés Landaverde Recarte.

2. That the Government of Honduras did not carry out a thorough and impartial enquiry to detect the persons responsible for the deeds denounced, nor has it punished them or paid compensation to the relatives of the victims.

3. To publish this report pursuant to Article 48 of the Commission's Regulations and Article 53.1 of the Convention, because the Government of Honduras did not adopt measures to correct the situation denounced within the time period.