

# amnesty international

## EL SALVADOR

### INVESTIGATION INTO KILLING OF HERBERT ANAYA: NEW DEVELOPMENTS

FEBRUARY 1988

SUMMARY

AI INDEX: AMR 29/07/88

DISTR: SC/CO/GR

Herbert Ernesto Anaya Sanabria, Coordinator of the Comisión de Derechos Humanos de El Salvador (no-gubernamental) (CDHES) non-governmental Human Rights Commission of El Salvador was shot and killed at approximately 6:35am on the morning of 26 October 1987 in the Salvadorian capital, San Salvador. His killing, carried out by men in plain clothes using silencers on their guns, followed repeated harassment and threats directed at Herbert Anaya himself and at other independent human rights monitors in El Salvador. Herbert Anaya had been arrested in May 1986 on charges of collaboration with the armed opposition, and was released without trial in February 1987.

In December 1987, a young man was arrested on another charge and according to the police, voluntarily admitted to complicity in the killing of Herbert Anaya. He was Jorge Alberto Miranda Arévalo. Despite the fact that constitutional guarantees should now be in force in El Salvador limiting administrative detention to 72 hours, he was held for twelve days virtually incommunicado, during which time he made an extrajudicial confession (one made to security forces, rather than a judge) to having acted as look-out while two others actually carried out the killing. His family has testified that he was home at the time the murder took place, and that they believe he confessed under duress. Amnesty International is asking for investigations into the allegations that Jorge Miranda was subjected to ill-treatment including extended sleep deprivation to secure his confession. Amnesty International is also asking that further inquiries into the killing of Herbert Anaya be conducted by people recognized for their impartiality, independence and competence and that their methods of work and the information on which the inquiry bases its findings should be made public.

This summarizes a 6-page document, El Salvador: Investigation into Killing of Herbert Anaya : New Developments, [AI Index: AMR 29/07/88], issued by Amnesty International in February 1988. Anyone wishing to have further details or to take action on this issue should consult the full document.

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 8DJ, UNITED KINGDOM



EXTERNAL (for general distribution)

AI Index: AMR 29/07/88

Distr: SC/CO/GR

Amnesty International  
International Secretariat  
1 Easton Street  
London WC1X 8DJ  
United Kingdom

February 1988

**EL SALVADOR: INVESTIGATION INTO KILLING OF HERBERT ANAYA :  
===== NEW DEVELOPMENTS =====**

Killing of Herbert Ernesto Anaya Sanabria

Herbert Ernesto Anaya Sanabria, Coordinator of the Comisión de Derechos Humanos de El Salvador (no-gubernamental) (CDHES) non-governmental Human Rights Commission of El Salvador was shot and killed at approximately 6:35am on the morning of 26 October, 1987 in the Salvadorian capital, San Salvador. His killing, carried out by men in plain clothes using silencers on their guns, followed repeated harassment and threats directed at Anaya himself and at other independent human rights monitors in El Salvador. Anaya had previously been arrested in May 1986 on charges of collaboration with the armed opposition, and was released without trial in February 1987.

In March 1987, Herbert Anaya's 65-year-old father, Rafael López Anaya García, was detained for two days, during which he was interrogated about his son's work.

In August 1987 Amnesty International had telexed President José Napoleón Duarte, expressing serious concern at the renewed threats against Herbert Anaya and a co-worker, Reynaldo Leonidas Blanco Rojas, by agents of both the Policía de Hacienda (Treasury Police) and plain clothes security police who had been observing the CDHES office, and had periodically forced their way into the building to threaten workers there. Threats against the two men were also said to have been broadcast over a clandestine radio station calling itself "Radio Libertad". At the same time, the national press and television publicized police and armed forces press releases accusing the two men of being members of the armed opposition. Amnesty International received no reply from the government.

On the day of Anaya's murder, Amnesty International telexed Salvadorian President José Napoleón Duarte calling for a full investigation into the killing. The Salvadorian government promised such an inquiry both in public statements in El Salvador and in telexed messages to Amnesty International and other international human rights groups, and announced that Anaya's killers would not be covered by the amnesty which had been agreed only days before his murder. The amnesty, described by the Salvadorian authorities as in partial compliance with the Central American Peace Plan signed by El Salvador in August provided for absolute amnesty for those implicated in the commission of political crimes and common



for those implicated in the commission of political crimes and common crimes connected with them, including persons not yet charged. Only Anaya's murder and that of Archbishop Oscar Romero, murdered in "death squad style" as he said mass in March 1980, were not to be covered by the amnesty measure.

#### Arrest of Jorge Alberto Miranda Arévalo

Both within El Salvador and abroad, lack of progress on the Anaya killing was criticized as indicative of the government's failure or inability to comply with the terms of the Central American Peace Plan. Then, in January, only days before a United Nations Commission of Verification and Follow-up was to visit El Salvador to monitor compliance with the Plan, the Salvadorian authorities announced that a young man had confessed to involvement in the Anaya murder during routine questioning after he had been detained on other charges. He was student Jorge Alberto Miranda Arévalo, arrested on 23 December 1987 by the Salvadorian National Police when he allegedly tried to damage a soft drinks truck. Jorge Miranda was then held virtually incommunicado (1) in National Police custody for 12 days until 4 January, (2) when he was brought before a judge to be filmed as he ratified the extrajudicial confession which he

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- (1) Jorge Miranda was arrested on 23 December 1987 for alleged commission of an act unrelated to the Anaya slaying. According to the Salvadorian authorities, during initial questioning regarding the other crime, he made a voluntary extrajudicial confession (e.g. made to the security forces rather than to a judge) to involvement in Anaya's killing. However, he was not brought before a judge to ratify this statement until 4 January. During this period, he did not to AI's knowledge have access to a lawyer, and was only seen by his family for short periods, on 30 December when he was brought to his home to point out alleged arms caches, but was prevented by his armed police escort from speaking to his family; on 2 January when his family saw him for a few moments only at police headquarters, again in the presence of a heavy guard, and on 3 January when his family saw him again in police headquarters, for some 5-6 minutes only during which time he reportedly had time to tell them briefly that he had been interrogated continuously and not permitted to sleep.
  - (2) El Salvador's long-term state of siege was allowed to lapse in January 1987 for reasons unrelated to human rights concerns, and the following month the Salvadorian legislature failed to renew Decree 50, the emergency legislation passed under it to govern proceedings in cases of those suspected of offences against the state while constitutional guarantees were suspended. This means that constitutional guarantees should now be in force which limit administrative detention to 72 hours only. (The passage of Decree 618 in March, 1987 which duplicates almost in their entirety the provisions of the defunct Decree 50 should not be relevant, as it is to be enforced only in the event of imposition of another state of siege.)



had already made to the police. (1) Also present were journalists and his family, who had been brought to the court by armed members of the security forces in plainclothes. Miranda's family were unable to hear his declaration however because of the crowd surrounding him, and state that they only learned on the news that evening that he had confessed to the Anaya slaying.

In his statement, Miranda confessed to having acted as look-out while two others carried out Anaya's murder. (Neighbours who witnessed the shooting have stated that only two men were involved, one of which actually fired on Anaya while the other acted as look-out.) He stated that the killing had been ordered by the Ejército Revolucionario del Pueblo (ERP), Revolutionary People's Army, one of the armed groups belonging to the opposition coalition, the Frente Farabundo Martí para la Liberación Nacional (FMLN), Farabundo Martí National Liberation Front. According to Miranda's statement, the killing had been ordered because Anaya had given information to the security forces during and after his May 1986 detention. Human rights groups in El Salvador have denied this allegation, pointing out that in fact both Anaya and his family had been long-term targets of human rights violations by the official security forces and that up to the time of his death, Anaya had regularly spoken out on human rights issues. The FMLN has also denied that Anaya was affiliated to them. Miranda's full confession was shown on television, an example of the Salvadorian practice which Salvadorian and international human rights groups refer to as "trial by television".

Miranda's family meanwhile have given evidence which they maintain makes clear that Miranda could not have been implicated in the killing. They state that in fact he was home in bed at the time the killing took place, having stayed up late the night before to study for a school examination. They have evidence to prove that Miranda did take the school examination on the day of Anaya's killing, maintaining that he could not have had time to participate in the murder and then arrive at college to take the test. They also feel it was unlikely that Miranda could have calmly sat an examination had he actually just been involved in a murder. Family members have also testified that when they had the opportunity to see him at police headquarters briefly on 2 January in the presence of the police that he appeared uncharacteristically withdrawn and downcast, and

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- (1) These are defined as statements given to the security forces as opposed to a confession made to a judge. Under El Salvador's Penal Code, a suspect's extrajudicial declaration is to be recognized as sufficient proof to justify continued detention when it is in conformity with other corroborative evidence. To Amnesty International's knowledge, no information has as yet been made public as to any physical or other evidence linking Miranda to Anaya's murder. (Often, the Salvadorian authorities have maintained that the signature of two witnesses affirming that a suspect made his extrajudicial declaration of his own free will constitutes sufficient corroboration of the confession. However, local human rights groups have documented numerous cases where those signing as witnesses were themselves members of the security forces, sometimes the very people accused of torturing the suspect into making his confession.) See for example the Pedro Alvarado case discussed on P. 5 of this circular.



that when they were able to speak with him for some 5/6 minutes on 3 January, he told them he had been continuously deprived of sleep since his arrest. He also appeared distraught and disoriented when he was brought home by the police on 30 December to point out supposed arms caches in the house. The family states that although Miranda was forced to point out places where arms were supposedly hidden, nothing was actually found. Nonetheless, a sister was forced to sign and Jorge Miranda's mother to put her mark to a statement that she could not read, that arms had been recovered from the house. In fact, according to the family, all that the police recovered from the house had been taken during a search carried out on 27 December when they took away an appointments diary and a picture of Archbishop Oscar Romero. The police said that it was "bad" for the family that they had found the Archbishop's picture at their home, and removed it as "evidence." (Archbishop Romero had been known for his support for social programs for El Salvador's poor).

Jorge Miranda's family also say that they were offered money in return for their agreement to "cooperate" by supporting their son's confession. A person described to them as a representative of the judge who had heard their son's judicial declaration offered them money (which they refused) which he said they should use to pay a lawyer so their son could go free and to buy the "little things" he would need while still in prison. Relatives also claim that they were told that they should not worry, that Jorge Alberto would be "held in a special cell," where he would "lack for nothing."

Jorge Miranda himself, in interviews with foreign journalists and human rights monitors, has stuck to his story, that he did act as look-out during the Anaya murder. He told an international news agency interviewer that he was injected with drugs after a doctor told him he was suffering from a bad throat, and that the drugs made him "feel good", and like talking about the Anaya killing. According to the news agency correspondent, Miranda had 2,400 dollars worth of local currency in his cell which he said was given him after he told officials where to find two arms caches. He said he revealed their whereabouts after being shown a newspaper advertisement of a government offer of cash for guerrillas who surrendered. The police have described the money as the normal payment to anyone who gives them information concerning arms caches, but the family and local human rights groups suggest that this money formed part of a bribe (they state that Miranda has also been promised that he will eventually be sent abroad) in exchange for his confession to a crime which has been a great political embarrassment for the Salvadorian authorities, and for which they were seeking a quick and politically expedient solution.

#### Discrediting of past extrajudicial confessions: The Pedro Daniel Alvarado Rivera case

In other controversial cases in the past, initial confessions under similar circumstances have subsequently been questioned. Student Pedro Daniel Alvarado Rivera was arrested on 25 August 1983 for example for the murder of US military advisor, Lieutenant Comander Albert Schaufelberger, shot and killed on 25 May, 1983. As in the Miranda case, Pedro Daniel Alvarado made a full confession, both extrajudicially and in a later statement before a judge in the presence of invited journalists and foreign observers. However, the US Federal Bureau of Investigation (FBI) carried out its own investigation of the case, including the administration of a polygraph (lie detector) test to Alvarado. The FBI concluded that based on the physical



evidence that they had collected, combined with the results of the lie detector test, that Daniel Alvarado could not have been responsible for the killing. Public statements by Department of State (DOS) officials made clear that they believed that Alvarado's statement had been obtained under physical duress, and that they feared for his physical security. According to the DOS statements, the FBI had concluded that Alvarado had "confessed" after five days of torture at Treasury Police Headquarters, including beatings and electric shocks, and that those who tortured him were present when he was forced to ratify his initial declaration before a judge. He was then held in secret detention at Treasury Police headquarters under continued torture for some five more months before his eventual transfer to La Esperanza prison, Mariona, outside the capital.

In response to the FBI's findings and the Department of State's conclusions, Salvadorian officials announced that an investigation would be carried out and that it would take appropriate action with respect to officials found to have coerced Alvarado's false confession. However no information was ever made public as to the findings of any such inquiry, and Alvarado himself remained in detention at Mariona prison until April, 1986. He eventually won his release after he made a declaration to the military judge of first instance explaining that his original confession had been the product of torture. In an unprecedented case, he was able to bring in other witnesses who testified that they had been detained in the Treasury Police while he was being interrogated and could support his allegation that he had been tortured.

#### Continuing investigations into Herbert Anaya's murder

In the Anaya case as well, the Salvadorian authorities have announced that investigations will continue, to be carried out by the Comisión de Hechos Delictivos (Unlawful Acts Commission). This Commission was one of the elements of a US-funded Judicial Reform Project ratified by the Salvadorian Assembly in July 1985. It was to look into cases where it was deemed that their gravity or "transcendental" nature constituted a serious threat to the integrity and security of Salvadorian society. The case of Archbishop Romero was, for example, one of the cases assigned to this Commission for continuing inquiries.

An Amnesty International delegation to El Salvador which had the opportunity to meet with prominent members of the Commission in March 1987 was disappointed to find that little progress had been made in the cases that had been assigned to it, and that those with whom it spoke professed ignorance of information concerning a number of these cases which had long been in the public domain. Amnesty International also shared the criticisms voiced by other human rights groups, local as well as international, that it was unlikely that the Commission would be able to resolve those cases assigned to it in which official security force responsibility had been suggested as long as it was dependent upon staff drawn from the security forces as is currently the case, and as long as genuine political will is not evidenced by the government and its law enforcement agencies to identify and bring to justice those responsible for human rights violations, whatever their position.

Amnesty International has also been concerned at the effect which the terms of El Salvador's November amnesty could have upon the Commission's inquiries into cases referred to it. Amnesty International fears that the amnesty will preclude investigation into past abuses, investigations which



Amnesty International believes are necessary to establish the fate of victims of past human rights violations, and as a clear signal that no future abuses will be tolerated. The amnesty has already led to the release of some of the few official personnel who had been convicted for human rights violations, including the soldiers sentenced to thirty years imprisonment for the murders of the two US labor advisors and the head of the Salvadorian Institute of Agrarian Reform in January, 1981. (This case had also been among those designated "symbolic" and assigned to the Commission for investigation. However, the Commission apparently did not make a significant contribution to the US-generated investigation or prosecution of the case, against either those eventually convicted of actually carrying out the murders, or in the thus far unsuccessful attempts to also bring to justice later the officials who allegedly ordered the killings. Instead, much of what has been learned about the killings appears to have been the result of the FBI and DOS's own investigations carried out in response to pressure from the US trade union confederation the American Federation of Labour - Confederation of Industrial Organizations, (AFL-CIO) to bring all those responsible to justice.)

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In the years since the 1981-82 investigation, the Commission has continued to receive information from various sources, including the US military, the US State Department, and the US Congress. This information has been used to identify individuals who were involved in the investigation. The Commission has also received information from the US military, the US State Department, and the US Congress. This information has been used to identify individuals who were involved in the investigation. The Commission has also received information from the US military, the US State Department, and the US Congress. This information has been used to identify individuals who were involved in the investigation.

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Amnesty International has also been concerned by the effect which the failure of El Salvador's military to identify those responsible for the investigation has had on the public's confidence in the Commission. The Commission has also received information from the US military, the US State Department, and the US Congress. This information has been used to identify individuals who were involved in the investigation. The Commission has also received information from the US military, the US State Department, and the US Congress. This information has been used to identify individuals who were involved in the investigation.