

VI. U.S. Policy

Despite the U.S. government's insistence that a resolution of the Jesuit case is a central objective of U.S. policy, the actions of some U.S. officials have called that commitment into doubt. The State Department and Embassy in San Salvador, for example, withheld key evidence from Salvadoran and congressional investigators that pointed to foreknowledge by senior Salvadoran and U.S. military officers of a plot to kill the priests. The Bush Administration vigorously opposed congressional efforts to reduce military aid in 1990 as a way of punishing the Salvadoran government for the lack of progress in the Jesuit case. And once that reduction was written into law over the objections of the Bush Administration, the State Department made recourse to provisions in the law to restore military aid in response to actions by the FMLN, ignoring provisions that required aid to be cut in full depending on Salvadoran government behavior. The Bush Administration has thus fallen into the trap of its predecessor, allowing the needs of the Salvadoran military to dictate policy even as other key U.S. objectives are sacrificed.

A. U.S. Policy and the Jesuit Case

Early leads in the Jesuit case were provided by a U.S. military adviser, Major Eric W. Buckland, who passed information to his superiors that Colonel Benavides had confessed his participation in the crime to a Salvadoran officer heading the SIU. That information, as well as the name of Buckland's source, were shared with members of the Salvadoran high command, and ultimately resulted in the detention of Colonel Benavides and the burning of Buckland's source.¹²⁷

Kept secret for ten months, however, was an addendum to the affidavit Buckland gave to the FBI on January 11, 1990 which discussed prior knowledge of a plot to kill the priests. According to Buckland's handwritten addendum, then-Chief of Staff (and now Minister of Defense) René Emilio Ponce sent Colonel Carlos Avilés, head of C-V, Army Civic Affairs (formerly Psychological Operations), to the military school to "solve a problem with Col. Benavidez (sic)." Avilés met with Benavides and an unknown officer for about 15 minutes. This occurred, according

¹²⁷ **Americas Watch, *A Year of Reckoning: El Salvador A Decade After the Assassination of Archbishop Romero*, March 1990; pp. 13-15; Speaker's Task Force on El Salvador, "Interim Report," April 30, 1990, pp. 26-34; Lawyers Committee For Human Rights, "The Jesuit Case A Year Later: An Interim Report," November 15, 1990, pp. 2-3.**

to Buckland's affidavit, approximately ten days before the murders of the priests (and before the guerrilla offensive of November 1989). Avilés told Buckland that, in Buckland's words:

Col. Benavidez is from the old school, he liked to handle things in his own way in the old style. Benavidez stated to Aviles that he wanted to do something about the priests and things coming of [the] UCA. Benavidez told Aviles that Ella Coria (sic) was a problem. Aviles told me they wanted to handle it the old way by killing some of the priests...

Buckland concluded by stating, "I didn't think they would do something that foolish."¹²⁸

In a videotaped interrogation the next day, Buckland added that Colonel Avilés told him on the afternoon before the murders that the military was going to carry out an operation against the UCA that night.¹²⁹ Buckland was polygraphed by the FBI on January 11 and 12, 1990, the results of which were "inconclusive," according to the FBI. The FBI informed the U.S. Embassy in San Salvador and Assistant Secretary of State Bernard Aronson of the contents of Buckland's statements, and later provided the Embassy with the videotape and the signed statements.

Under circumstances which have not been clarified, Buckland recanted his statement about prior knowledge on January 18, 1990. In formal, legalistic prose, which contrasted with the stream-of-consciousness style of his handwritten affidavit, Buckland stated that:

I do not recall and am not aware of any specific information regarding any proposed threat to or attack on the University of Central America, including any of the Jesuit priests prior to the incident on November 16, 1989. I wish to specifically retract information or comments or statements made to FBI Agents last week to that effect.¹³⁰

¹²⁸ Affidavit, Eric Warren Buckland, Washington, D.C., January 11, 1990.

¹²⁹ Memorandum to Hon. Joe Moakley from Jim McGovern and Bill Woodward, "Staff Trip to El Salvador," January 7, 1991, pp. 10-11.

¹³⁰ Affidavit, Eric Warren Buckland, Fort Bragg, North Carolina, January 18, 1990, p.1; Christopher Marquis, "Soldier's Story Brings Nightmare," Miami Herald, December 9, 1990.

Press accounts have suggested that Buckland was "grilled and grilled" until "finally he cracked" and recanted his January 11 statement,¹³¹ a version denied by Administration officials.

None of the information Buckland provided about prior knowledge, or the fact of his recanting, were shared with Salvadoran judicial officials or with members of Congress monitoring the Jesuit investigation. The Embassy did, however, share the videotape with President Cristiani in February 1990.¹³² Cristiani did not make it available to Salvadoran investigators, nor did he insist that the Embassy do so. When Buckland testified before Judge Zamora on the Jesuit case on September 28, 1990 in San Salvador, the issue of prior knowledge did not come up.

The information about prior knowledge was leaked to Rep. Moakley in October 1990; he called it "an unbelievable and inexcusable error in judgment" not to have shared the information with Salvadoran judicial and law enforcement authorities.¹³³

Embassy officials defend their decision to maintain tight control over the information, despite its explosive implications, saying they considered Buckland unreliable and that his statement was property of the FBI.¹³⁴ The FBI, meanwhile, has stated that it assumed the Embassy would share the information with the Salvadoran government. In any event, Buckland's statement should have been considered an important enough lead to share directly with Salvadoran investigators and judicial authorities, allowing them to confirm or deny its veracity. The failure to have shared the information lends itself to speculation that the United States deliberately withheld evidence implicating Salvadoran officers other than Benavides in the murder plot, an effort consistent with the Salvadoran military's attempt to contain the investigation to those already accused.¹³⁵

¹³¹ "Cracking the Major," *Newsweek*, November 19, 1990.

¹³² Memorandum to Hon. Joe Moakley, January 7, 1991, *op.cit.*, p. 12.

¹³³ Statement of Rep. Joe Moakley, Chairman, Speaker's Special Task Force on El Salvador, October 18, 1990, p. 3.

¹³⁴ Interview, Ambassador William Walker, January 31, 1990.

¹³⁵ If Buckland's statement were true, for example, it would implicate Ponce in at least a

The Reduction in and Restoration of Military Aid

In mid- to late-1990, congressional frustration with the lack of progress in the Jesuit case spurred efforts to cut military aid. Much of the tone of debate was set by the Moakley Task Force, which reported in April that the Jesuit investigation was at a "virtual standstill" and that the murders reflected on the Salvadoran Army as an institution, not just on individual perpetrators.¹³⁶

On May 22, 1990 the House of Representatives voted 250-163 to reduce military aid by 50 percent. The amendment was sponsored by Rep. Moakley and Rep. John Murtha (D-PA), a long-time supporter of aid to El Salvador.¹³⁷ Although the legislation containing the Moakley-Murtha amendment was defeated on final passage, the vote represented an overwhelming repudiation of U.S. policy and widespread revulsion over the Jesuit murders.

Companion legislation was offered in the Senate by Christopher Dodd (D-CT) and Patrick Leahy (D-VT), who structured the aid cut around incentives to the government and the FMLN to participate in good faith in the U.N.-sponsored peace talks. High-ranking Administration officials including Secretary of State Baker, lobbied against the aid reduction, backing instead an amendment that would have allowed the Administration to restore aid in 60 days if there were no ceasefire in place. Because the U.N.-mediated process envisioned a ceasefire as growing out of prior political agreements on specific reforms, the Administration position was simply a way of ensuring a swift restoration of aid if progress in the peace talks remained slow.

cover-up of the murders, for not immediately considering Colonel Benavides a, if not the, prime suspect. At worst, Ponce could be seen as having contributed to the murders, by placing Benavides in charge of the military zone which included the Catholic University, and by ordering the commando unit of the Atlacatl battalion to be transferred to Benavides' command. That Ponce did both of these things appears in the court statements of other military officers, including then- Chief of Operations Colonel Joaquín Cerna Flores and then-head of the Atlacatl Battalion Colonel Oscar León Linares. *Interjust*, 25 de septiembre de 1990, p. 1 (Cerna Flores); *Declaración del Testigo*, 26 de septiembre de 1990, p. 2 (León Linares); See also, Lawyers Committee for Human Rights, November 15, 1990, *op.cit.*, p. 4.

¹³⁶ Speaker's Task Force on El Salvador, *op.cit.*, pp. 6-7.

¹³⁷ See Human Rights Watch, *World Report*, January 1991, pp. 112-114.

The Senate rejected the Administration-backed proposal 58-39 on October 19, marking the most significant break between the Congress and the Administration in a decade of involvement in El Salvador. In a House-Senate conference on the foreign aid appropriation, the aid cut was retained along with a number of conditions regarding future release or further reductions in aid.

The final legislation signed into law on November 5, 1990 provided half the original military aid request (\$42.5 million). The law required the Administration to terminate all aid if, for example:

- * the Salvadoran government failed to negotiate in good faith or refused a U.N. mediation role;**
- * the government failed to conduct a thorough and professional investigation and prosecution of the Jesuit case; or**
- * the military or security forces directed violence at civilian targets.**

Similarly, the Administration could restore aid in full if the FMLN:

- * refused to negotiate in good faith in the U.N.-sponsored talks;**
- * mounted an offensive which threatened the survival of the Salvadoran government;**
- * directed violence at civilian targets; or**
- * obtained significant amounts of lethal weapons from outside El Salvador.**

The law also required the Administration to present a certification of conditions in El Salvador within 60 days after enactment of the bill.

Several weeks into the FMLN military offensive of November-December 1990, the Administration announced that it was accelerating the delivery of \$48.1 million in military aid from Fiscal Year 1990 and 1991 appropriations. The action followed the downing of several aircraft by the guerrillas using surface-to-air missiles during their November-December 1990 military offensive.¹³⁸

Then, on January 15, 1991, the Bush Administration announced its decision to restore aid in full to the Salvadoran government, unless the government and the guerrillas reached a ceasefire in 60 days. The White House cited the FMLN's attacks on civilian targets and its receipt of weapons from abroad as justification

¹³⁸ Clifford Krauss, "U.S. Accelerates Aid to El Salvador," *New York Times*, December 8, 1990, p. 3.

for the restoration, even as U.S. advisers in El Salvador noted that the guerrillas' use of anti-aircraft missiles had seriously undercut the Salvadoran Army's military advantage and necessitated a modernization of the Salvadoran fleet.¹³⁹ The Administration did not mention the FMLN's downing of a U.S. helicopter and the execution of two surviving crew members in its justification; but the murder of the two American soldiers surely provided an opening for the Administration to restore aid while criticism of the FMLN was at a height, and while the attention of U.S. policymakers was riveted on the growing crisis in the Persian Gulf.

At the same time that it restored aid, the Administration sent a certification to Congress regarding overall conditions in El Salvador. The certification ascribed the majority of political killings to the FMLN and listed numerous examples of violence against civilian targets committed by the FMLN during the November-December 1990 offensive.¹⁴⁰ While the certification listed several instances of abuses by the military from February to August 1990, it documented no abuses by the armed forces during the late-1990 fighting, and cited only one case in which soldiers had "allegedly" beaten a member of the Popular Social Christian Movement in December. Thus, for the period beginning with the enactment of the foreign aid bill on November 5, 1990 and ending with the certification in January, the Embassy found only one abuse "allegedly" committed by government forces.¹⁴¹ This is clearly a distortion of the record, and contradicts information in the State Department's far more balanced human rights report to Congress in February 1991.¹⁴²

¹³⁹ The White House, Office of the Press Secretary, Statement by the Press Secretary, January 15, 1991; Christopher Marquis, "U.S. Advisers: Salvadorans Need High-Tech Arms," *Miami Herald*, January 15, 1991.

¹⁴⁰ Of 55 killings tabulated by the U.S. Embassy between January and July 1990, 31 were ascribed to the guerrillas, 4 to the military and 20 to unidentified assailants.

For a critique of the certification, see Church World Service/Lutheran World Relief, "Critique of Administration's January 1991 Report on El Salvador," February 20, 1991.

¹⁴¹ U.S. Department of State, "Report on El Salvador Required Under the Foreign Assistance Appropriations Act of 1991," pp. 1-12 and "Justification for Presidential Determination," pp. 1-3, January 1991.

¹⁴² The country report on El Salvador states flat-out that "soldiers in La Libertad department detained and tortured Roberto Cambara, a political organizer and a member of the Popular

The distortion in the Administration's certification takes on particular relevance in light of provisions of the law which require the Administration to terminate military aid altogether if government forces engage in human rights abuses against civilians. The Administration selected those provisions of law it found convenient in pursuing a particular political end, ignoring others, including the requirement that there be a thorough and serious investigation and prosecution of the Jesuit case, that would have suggested that aid be cut in full. Although the Bush Administration's certification was a substantial improvement over those issued by the Reagan Administration in the early and mid 1980's,¹⁴³ the ongoing distortion of human rights considerations for political ends is most unfortunate. As Representative Moakley stated in response to the Administration's January 15 announcement, the "double standard can only reduce pressure on the Salvadoran armed forces to reform and negotiate seriously for peace."¹⁴⁴

Christian Socialist Movement's (sic) (MPSC) National Council." The report describes several cases of extrajudicial killings, torture, and arbitrary arrests attributed to the Army and security forces, and describes the judicial system as "unable to prosecute most of those responsible for human rights violations." See Department of State, Country Reports on Human Rights Practices for 1990 (Washington, D.C.: U.S. Government Printing Office, February 1991) pp. 608-624.

¹⁴³ The certification noted, for example, that "persons suspected of past death squad killings remain at liberty and continued vigilance is required to prevent the resumption of such practices," and that "the Armed Forces' cooperation in the Jesuit investigation has not been satisfactory to date." *Ibid.*, pp. 8 and 9.

¹⁴⁴ Congressman Joe Moakley, News Release, January 16, 1991. On January 29, 1991, the United States delivered six helicopter gunships and three counterinsurgency jets to the Salvadoran armed forces.