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BELOW: a posting by Kate Doyle on the Guatemalan trial of two police agents for the forced disappearance of Edgar Fernando García in 1984

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"I WANTED HIM BACK ALIVE." AN ACCOUNT OF EDGAR FERNANDO GARCÍA'S CASE FROM INSIDE "TRIBUNALS TOWER"

October 26, 2010, by Kate Doyle

<http://nsarchive.wordpress.com/2010/10/26/i-wanted-him-back-alive-%e2%80%9d-an-account-of-edgar-fernando-garcias-case-from-inside-tribunals-tower/#more-2110>

Edgar Fernando García was 26 years old, an engineering student, labor activist and member of the clandestine Guatemalan Workers' Party (PGT) when he was seized by police agents off a street in Guatemala City and taken away forever. His disappearance left his young wife, Nineth Montenegro de García, and an 18-month-old daughter behind. It was February 18, 1984.

On October 18, 2010, the trial of two policemen accused of participating in Fernando García's abduction began inside a crowded courtroom on the 14th floor of the "Tribunals Tower" in downtown Guatemala City.

By 9:00 a.m., when the proceedings got underway, people had filled the fifty seats available in the spectators' gallery, with those unlucky enough to have arrived late lining the walls and crowding each other in the room's single doorway.

Behind a wooden barrier separating the audience from the court, three judges sat at a table on a raised dais overlooking the scene. To their right sat the defendants and their attorneys. To their left sat the prosecution, including the García family's choice for "querellante adhesivo," or "private prosecutor": attorney Alejandra García, Fernando's daughter.

The trial is extraordinary in several ways.

First, the indictments against Héctor Roderico Ramírez Ríos and Abraham Lancerio Gómez – as well as two other former policemen, Alfonso Guillermo de León and Hugo Rolando Gómez Osorio, both fugitives – were the first to be based on evidence found by investigators among records inside the Historical Archive of the National Police.

Second, if the court rules against the defendants and it is upheld by the Constitutional Court, it will be the third conviction in Guatemala for forced disappearance – after the landmark Aug. 31, 2009 Choatalum decision and the El Jute ruling on Dec. 3, 2009 – and thus would establish a lasting precedent for future cases.

That means that appeals would no longer be able to be made on the grounds that “forced disappearance” is not a valid or legitimate grounds for criminal charges.

FERNANDO GARCÍA IN THE DIARIO MILITAR

But the most interesting and groundbreaking aspect of the trial only became evident as the proceedings unfolded. Witnesses who had been called to testify about their relationship with Fernando García and events surrounding his disappearance spoke openly about his – and their own – militancy in the Guatemalan insurgent movement.

It was the first time that people willingly exposed their links to the political opposition that was the target for state repression during the country's 36-year internal armed conflict.

I joined four other expert witnesses on behalf of the prosecution. Over two days (Oct. 18-19), the experts and six witnesses presented testimony and answered questions posed by government lawyers and attorneys for the defense.

Although the men currently on trial are the agents who carried out the initial capture of Fernando García, the experts coincided strongly in their conclusions about the National Police's centralized chain of command at the time of his disappearance, as well as the key role played by the Army high command in launching the operation and coordinating their forces with the police.

"GOVERNMENTAL SECURITY SERVICES HAVE EMPLOYED ASSASSINATION..."

My own testimony was based on U.S. declassified records produced at the time of García's disappearance by the State Department and the U.S. embassy in Guatemala (some of them have been posted on the National Security Archive's Web site).

They describe a planned campaign on the part of the Guatemalan government to kidnap and kill trade union activists and student leaders linked to the opposition. In a secret analysis written on February 23, 1984, for example, the State Department's Bureau of Intelligence and Research reported a “new wave of violence” launched by military and police under head of state General Oscar Mejía Víctores, targeting a broad swath of Guatemala's legal and clandestine opposition.

“Government security services have employed assassination to eliminate persons suspected of involvement with the guerrillas or who are otherwise left-wing in orientation,” wrote U.S. officials, pointing in particular to the army's “notorious presidential intelligence service (archivos)” and the National Police, “who have traditionally considered labor activists to be communists.”

This and other U.S. documents provide context for Fernando García's kidnapping as well as describe a pattern and practice on the part of Guatemalan security forces to use forced disappearance in their war against their political opponents.

Daniel Guzmán, a statistician from the Human Rights Data Analysis Group of California-based Benetech, followed me as an expert witness, introducing the records contained in the

Historical Archive of the National Police with a statistical analysis of the quantity and movement of documents found in the collection.

According to Guzmán, documents concerning the Fernando García case flowed between entities high in the chain of police command (such as the Director's office, the Police Corps commanders and the Joint Operations Center) at twice the rate that occurred within the estimated 31 million records produced by the National Police between 1960 and 1996, the years of the armed civil conflict.

His conclusions helped define the universe of police records consulted in the investigation into the crime and offered supporting evidence of the involvement of senior police and military structures in the planning, design, orders and oversight of the operation that resulted in García's abduction.

The most extensive and important expert testimony of the day, however, came from the Police Archive's own investigator, Velia Muralles Bautista. Muralles described and displayed on a screen set up inside the courtroom images of some of the key records found in the police archive related to the crime. Her presentation provided chilling bureaucratic details behind the "cleansing operation" (operación de limpieza) launched by the army high command and National Police on the day of Fernando García's kidnapping.

As Muralles walked the judges through dozens of records leading up to and including the day of the disappearance, everyone present was able to examine projections of the surveillance files tracking García's movements beginning in 1978; intelligence reports describing CAVISA, the trade union he belonged to, as a subversive organization; orders sent by the army general staff to prepare for the operation in January and February 1984; records from the Joint Operations Center (Centro de Operaciones Conjuntas: COC) commanding which units would be involved; and a hand-drawn map of Guatemala City, with Zone 11 – the area where García and his companion, Danilo Chinchilla, were captured – assigned to the Fourth Corps of the National Police.

The document with the most immediate impact on the proceedings was a recommendation from the National Police hierarchy that the defendants – Ramírez Ríos, Lancerio Gómez, and the two fugitive police agents – be considered for a medal for their heroic actions on the day, at the time, and in the place of the capture of Edgar Fernando García and Danilo Chinchilla: "On February 18, 1984, at 11:00 a.m., while carrying out an Operation in the Guard's Market, Zone 11, they were attacked by two subversives, from whom they seized subversive propaganda and firearms."

The testimony given by Muralles was extraordinary in the depth of its analysis, and established beyond doubt the firm control in the hands of the most senior officers of Guatemala's army and police institutions of the operation that ended with Fernando García's disappearance.

In addition to the experts, six witnesses gave heartrending testimony about their relationship to García and their knowledge of the crime. Nineth Montenegro de García, today a representative in the Guatemalan Congress, spoke about her last day with her husband and described how the terrible realization that he had disappeared dawned on her and his relatives as night fell and he failed to show up for a family party.

Her reaction was to mobilize and begin combing the city for Fernando. "I filed a habeas corpus request the next day. I spoke to Héctor Bol de la Cruz, Director of the National Police. I spoke with the commanders of the police corps. I looked in jails, I spoke to firemen [famous in

Guatemala for retrieving bodies from the city's streets], I visited institutions for the disabled. I contacted Mejía Vítores directly. So many other friends and colleagues had been disappeared under his government. I went to Mejía Vítores with my daughter in my arms and I begged him to help me. I went to the United Nations. I wanted him back alive."

Montenegro went on to found the Mutual Support Group (Grupo de Apoyo Mutuo: GAM), Guatemala's first human rights organization.

Another of GAM's co-founders, Doña Amelia García, Fernando's 83-year-old mother, also appeared as a witness. After waiting patiently for hours for her turn, Doña Amelia gave the court a glimpse of the suffering endured by the families of the disappeared. "I feel a mother's pain in waiting for news about her son every day, every week, every year – and still living with hope. I wait for a response from the people who took him. But I have never received a response from anyone."

Marina Villagrán gave a moving psycho-social evaluation of the "lingering anguish" of forced disappearance on the families left behind, and specifically addressed its impact on the relatives of Fernando García.

She explained that the target of the disappearance is society: "it creates an enormous fear and mistrust within society. One thinks, 'if this could happen to him, it could happen to me.' And that produces in turn an absolute paralysis on political participation."

Ana Lucrecia Molina Theissen, whose 14-year-old brother was disappeared in 1981, was the person Fernando and Danilo Chinchilla were on their way to meet when they were seized by police. It was Molina Theissen who first told the court of García's militancy: "We were members of the Guatemalan Workers' Party (Partido Guatemalteco de Trabajadores: PGT)."

Her testimony was an astonishingly brave and open acknowledgement of the political activities that she, García and Chinchilla were involved in. To a hushed courtroom, she recounted how she arrived late to her planned rendezvous with the two men and found them gone. It was only the next day that she learned what had happened. "It was a very hard blow," she told the judges.

When asked by the prosecution what the objectives of the PGT were, she explained simply that "The goals of the party were to construct a just, supportive and democratic society, in which all would share in the benefits of the country."

"Did you ever consider yourself to be a combatant?" asked the government lawyer. "Combatant, that means armed, participating in an armed group. No. We were militants." Molina Theissen explained how she and her companions were targeted by the State as "internal enemies": "in the sense that the State considered anyone who criticized the government an internal enemy. To oppose the government was an illegal act for the State."

Other witnesses contributed their accounts of García's political work. Ruth del Valle, current President of the Guatemalan Human Rights Commission, talked about how PGT members operated in small, clandestine groups to organize people. "We believed we could achieve justice and create a Guatemala in which all could live in peace in a socialist nation – because we embraced the socialist ideology. Despite the persecution and despite all the colleagues we had lost, we remained convinced that this was possible."

Bethy Palacios, a friend of Fernando's and fellow PGT member, told of working with Nineth after his kidnapping to investigate the crime. "Even then we ran the risk of being targeted as terrorists or subversives for the work we were doing. It wasn't like today; you couldn't express yourself freely as you can now."

Witnesses Iduvina Hernández and Aura Elena Farfán described a missing piece of the puzzle of that day in telling of the fate of Fernando's companion, Danilo Chinchilla. Although both men were shot by police when they tried to flee the marketplace, Fernando was spirited away in an unmarked car while Danilo was taken by ambulance to a local hospital.

Hernández played for the court an audio tape of an interview conducted with Chinchilla days after incident. In it, he recounts in minute detail how the operation unfolded, as police agents and armed men in civilian clothing swarmed around the two in the middle of the crowded street. After Chinchilla was transported to Hospital Roosevelt, he lay wounded in a bed surrounded by his captors.

In fear for his life, he managed to smuggle out a note to a companion begging to be rescued. The nurse who carried the note for him was Farfán. She gave it to her brother, Ruben Amilcar, who successfully organized a rescue operation with the help of some of the hospital staff. Ruben himself was disappeared months later, on May 15.

Danilo, who survived his first encounter with the police, was recaptured and killed later that year, along with his companion.

After ten hours of wrenching testimony, the judges called a recess until the following day. We reassembled in the courtroom on Tuesday to hear the final two experts, Rember Larios – a former member of the National Police who added his own assessment of the police records and their implications for the senior tier of police and military officials involved in the crime – and Fernando López, who gave his expert analysis of habeas corpus law at the time of García's disappearance.

Thus ended the first phase of the Fernando García trial. The trial resumes this morning with the last witnesses to present and the lawyers' arguments. Stay tuned.

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