

9-23-2004

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Recommended Citation

LADB Staff. "Calls to Reopen Romero Case." (2004). <https://digitalrepository.unm.edu/noticen/9236>

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Calls to Reopen Romero Case

by LADB Staff

Category/Department: El Salvador

Published: 2004-09-23

A recent US court decision has given El Salvador's Catholic Church and other concerned parties new hope that the 24-year-old murder of Archbishop Oscar Arnulfo Romero may someday be fully adjudicated. Romero's death served to bring into full view the terror of right-wing death squads during El Salvador's civil war when he was gunned down serving mass for cancer patients on March 24, 1980. The 12-year war ended in 1992.

The lawsuit is being called a landmark case in the US. It was brought in a federal court in California by the Center for Justice and Accountability, a human rights group, on behalf of an unidentified relative of Romero, seeking damages for extrajudicial killing and crimes against humanity. The defendant, Alvaro Saravia, formerly an Air Force officer in the El Salvador military, had gone into hiding and was tried in absentia. The suit alleged that Saravia provided the assassin's gun, arranged for his transportation to the church, and paid the killer afterward.

Amnesty protects killers

The suit was filed in California because El Salvador currently has in force an amnesty law that renders irrelevant the 1993 findings of a UN Truth Commission that found Saravia responsible for the assassination. The commission also found Roberto D'Aubuisson, founder of the Alianza Republicana Nacional (ARENA) party, responsible (see NotiCen, 1999-03-11). D'Aubuisson died in 1992, but his party is very much alive and is the governing party in El Salvador today. The two men were reportedly close associates at the time of the crime. The trial took into account much of the information from the Truth Commission investigation. The Sept. 3 decision assessed liability against Saravia in the amount of US\$10 million.

The case found its way into the US court serendipitously. It was brought under the Alien Tort Claims Act of 1789, allowing foreign citizens to sue a person living in the US. Just recently, the US Supreme Court decided against the administration of President George W. Bush in a Mexican kidnapping case, affirmed the applicability of the act in human rights cases and opened the door to this one.

A fortunate turn of events for El Salvador, this decision could yet redound to the further international embarrassment of US policymakers. Declassified US State Department and Central Intelligence Agency (CIA) documents confirm the government was aware of Saravia's involvement since 1980, which invites research into just how he came to reside in California. There could also be a reopening of the issues surrounding the US role in El Salvador's civil war, a well-researched but not exhausted topic. Documents declassified by the US government show that the death squads were financed by the Salvadoran Army, as well as by a group of Salvadoran business families living in Miami, and by ransoms from D'Aubuisson-ordered kidnappings. In El Salvador, the church took prompt advantage of the trial and called for a new investigation of the murder.

Maria Julia Hernandez, chief legal officer of the San Salvador Archdiocese, called a news conference to appeal for a reopening of the case. "The criminal case for the assassination of Archbishop Oscar Arnulfo Romero must be reopened by Salvadoran justice," she said. She added that the Fiscalía General de la Republica is the one to act, "in accordance with constitutional mandate and in keeping with the international obligations the Salvadoran state has assumed." The church and other groups have said others should be tried for the many crimes committed during the war that took more than 75,000 lives.

Advocates overturning amnesty

Hernandez, well aware of the amnesty deal that prevented movement on the case years ago, concluded, "The Asamblea Legislativa must overturn the amnesty, correcting the grave political error and inexcusable constitutional violation committed in issuing an unrestricted amnesty law contrary to international law and the Constitution, which has fostered impunity for grave crimes in the country." Hernandez was present at the Fresno, California, trial. She said the decision was based on documental evidence and on the testimony of Saravia's driver, Amado Garay. "Garay testified before the jury that, by order of former Capt. Saravia, he drove the shooter to La Divina Providencia Church on March 24, 1980, in the afternoon, witnessed the killing, and drove the assassin to the place where Saravia, who then notified Maj. Roberto D'Aubuisson, was waiting."

The church is campaigning for reopening the case. An editorial in its weekly magazine *Orientacion* read, "The church, as such, takes pleasure in and rejoices that at least part of the truth has been established [by the trial], since it was not possible to establish it through Salvadoran justice. We have to recognize that to establish said truth through judicial sentence contributes to the character of our society and can help to heal it."

Saca says no

But in calling for the healing mechanisms, the church is at loggerheads with the government and with President Antonio Saca. Although Saca said, "I was an altar boy for Archbishop Romero, a brilliant bishop, a man of God, and I was the first to lament his death," he was also among the first to oppose reopening the case. "Salvadorans elected me to administrate the future; therefore, to reopen wounds is something with which I am not in agreement," he said. Saca explained, "Surely it can be easy to forgive, but not forget. Nevertheless, one must think of society going forward....Anyone has the right to seek justice, but the amnesty law generated a new environment, a new institutionality, and I believe to open the wounds of the past would not be best for a country looking toward the future. Nevertheless, I respect the decisions of everyone and I'm saying this because there are people affected by that past."

The church's legal office responded, castigating Saca for considering it not "convenient" to overturn the amnesty. "He adopts the false thesis that to administer justice is to open wounds of the past, but they have never been closed, because justice has never been done," the legal office said. Internationally, the preponderance of opinion has favored the church position.

An announcement of the Consortium of Human Rights Organizations has proposed the overturn of the law, asserting it violates several international conventions and treaties, as well as the Salvadoran Constitution. Other recommendations from the Consortium were to ratify the Rome Statute establishing the International Criminal Court (ICC), request compliance with the recommendations of the Truth Commission, and to demand the state provide compensation to victims of repression during the conflict.

Also rejecting Saca's stance was Maria Silvia Guillen, director of the Foundation for Studies in the Application of Law, who agreed there would be no healing without justice. Expert on human rights law David Ernesto Morales noted that the government has refused to cooperate even in the only human rights trial promoted by the state, that of the 1989 assassination of four Jesuit priests, their housekeeper, and her daughter (see NotiCen, 2000-11-16). "A complete cover-up was arranged in which those responsible were let go. Reconciliation will never be achieved if the needs of the population are not met regarding their suffering from the impact of the war," said Morales.

The 1993 Truth Commission also had recommendations aimed at ameliorating the ravages of the war. The Consortium said that none of these was ever carried out. Among those recommendations were a fund to compensate victims; construction of a monument bearing the names of those assassinated and disappeared; and establishment of a national holiday to remember the victims of the conflict. A monument was built, but not by the government as the commission intended. It was built by nongovernmental organizations.

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