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Extradition Attempt For Guatemala's War Criminals Fails

by LADB Staff

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A landmark case of several years standing has come to naught with a high court ruling that Spain has no jurisdiction in its effort to extradite powerful former members of the Guatemalan military and try them for genocide. Nobel Peace Prize laureate Rigoberta Menchu first brought the case to Spain in 1999. In December 2006 the Spanish Consejo de Ministros requested that Guatemala surrender seven retired generals, two of whom had been presidents Efraim Rios Montt (1982-1983) and Oscar Humberto Mejia Victores (1983-1986). Menchu's charges, apart from genocide, included state terrorism, kidnapping, and torture against thousands of Guatemalans during the 36-year civil war.

Spain's request coincided with the 10th anniversary of the December 1996 signing of the Peace Accords that officially ended the war. Menchu, acting through her Fundacion Rigoberta Menchu Tum (FRMT), attempted to prosecute the justices of the Corte Constitucional (CC) who ruled on Dec. 12 against Spanish jurisdiction, but the January 2008 complaint before the First Penal Authority's Sixth Court was thrown out. The FRMT charged the CC ruled on the basis of racial discrimination, but the Sixth Court ruled judges could not be tried for their rulings. Sandino Asturias of the Centro de Estudios de Guatemala (CEG) characterized the CC ruling as "not so much a legal decision as a political decision wrapped in legal jargon."

The eight-year-long attempt to see the officials prosecuted has had several significant way points. In 2000 the Audiencia Nacional de Espana (ANE) ruled it had no jurisdiction in Guatemala, but an appeal to Spain's Tribunal Supremo in 2001 brought a reversal. In 2003, the ANE ruled Spain has jurisdiction only in cases pertaining to the 1980 Spanish Embassy fire and the deaths of three Spanish priests in 1982. In 2005, the Spanish Tribunal Constitucional granted the country's justice system jurisdiction over genocide and crimes against humanity outside Spain and assigned judge Santiago Pedraz to the Guatemala case. In 2006, the ANE ratified the ruling and the case opened. Pedraz called for the arrest of the accused, and two were captured, Anibal Guevera and German Chupina (see NotiCen, 2007-01-04). The Dec. 12, 2007, CC order effectively annulled the ANE extradition orders, and Pedraz quit, saying that Guatemala was "unwilling to collaborate," and charging, "The failure to investigate these crimes is a clear victory for impunity."

During his tenure, Pedraz had investigated the involvement of the accused in the deaths of 37 people who died in the embassy fire and in the murders of the priests. The legal decisions came as a severe disappointment to the popular organizations and national and international nongovernmental organizations (NGOs) militating for justice through the years. Pedraz clung to the hope that the case could re-emerge and called upon local and international media, as well as Guatemalans, to come forward with "any information that would make it possible to continue investigating these crimes." The CEG's Asturias agreed, saying, "It is important that Pedraz made this call to the international community." He said he understood how frightened Guatemalans were to confront the impunity that "hurts the majority and benefits the minority," but added, "The struggle should not stop."

Some hope persists that the case could, somehow, find new life under the new administration of President Alvaro Colom. Said Carlos Hoffman, a political analyst, "The new government may favor the few, considering that it has a greater social conscience. It is vital to make debate on impunity an institutional issue." But doubt born of experience also persists in Guatemala. Asturias' view of the Colom administration is dimmer than that of Hoffman. "Impunity is deeply ingrained in Guatemalan society," he said. "A new government isn't going to solve anything. It's already caught up in the system." Nor does Benito Morales, a FRMT lawyer, hold out much hope. He told Central America Report that the population is by now well-accustomed to impunity and is, moreover, "utterly manipulated by the powerful and the media. They work to silence any mention of the genocide, so there is not any awareness of it." As the intellectual battle smoldered, citizens, many family members of war casualties, and victims of the embassy fire protested outside the CC. "In Guatemala, there are 250,000 dead and disappeared on the one hand, and on the other no single guilty person in jail.

Where is justice?" asked Julio Solorzano Foppa. Solorzano is the son of poet Alaide Foppa, who returned from political exile in 1980 only to be disappeared and never heard from again under the government of President Fernando Romeo Lucas Garcia (1978-1982). Solorzano Foppa was a plaintiff in the case. So, it is over, substantially, for the moment. But the Sisyphean struggle with impunity can be expected to resume at some point under new auspices. As Camus concluded, for those who continue to shoulder this weight, "The struggle itself is enough to fill a man's heart. One must imagine Sisyphus happy."

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