"Total Impunity" In El Salvador Under Amnesty Law; Truth Commission Turn 20

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Tributes held in late March to slain Salvadoran Archbishop Óscar Romero (1917-1980) capped a month of poignant, civil-war-related anniversaries in El Salvador, which remains deeply divided regarding the dark legacy of its dozen-year internal conflict (1980-1992).

During an ecumenical celebration held March 24, the anniversary of Romero's assassination, Argentine human rights activist and Nobel Peace Prize laureate Adolfo Pérez Esquivel referred to the archbishop as both a "martyr and a prophet." Salvadoran church leaders used the occasion to lobby for Romero's beatification. President Mauricio Funes heaped praise on the murdered archbishop as well, calling Romero the country's "spiritual leader."

"We’re still waiting for justice in the case [of Archbishop Romero], for the truth to be revealed," Funes said on a March 23 radio program. "This is something that’s owed not just to the archbishop’s family, but to the Catholic Church and to the Salvadoran people as a whole." The president went on to say that the person who shot Romero "was following orders issued by the murderous minds of the era, people who wanted to silence the archbishop's voice."

Romero was killed on March 24, 1980, while saying mass in a small San Salvador chapel. The assassination took place one day after the archbishop famously called on Salvadoran soldiers to stop participating in what was then a mounting wave of state repression against left-leaning civilians. The violence eventually escalated into a full-fledged war between US-backed government forces and a coalition of leftist guerillas known as the Frente Farabundo Martí para la Liberación Nacional (FMLN). An estimated 75,000 Salvadorans, including President Funes’ brother, died as a result of the conflict. Thousands more disappeared.

After the war, the FMLN transformed itself into a political party. Four years ago, with Funes as its candidate, the leftist party won its first and only presidential election against the hard-right Alianza Republicana Nacionalista (ARENA), which had controlled the government for two decades (NotiCen, March 19, 2009).

Funes’ ARENA predecessors chose to ignore and in some cases even deny wartime abuses. President Funes has taken a very different approach, not only acknowledging the rampant human rights violations but also, on a few occasions, offering official apologies (NotiCen, Feb. 23, 2012). He has been particularly outspoken about the death of Archbishop Romero. In 2010, the president commemorated the 30th anniversary of the archbishop’s death by asking forgiveness "in the name of the state." The following year he accompanied US President Barack Obama on a visit to Romero’s tomb (NotiCen, March 31, 2011).

Human rights groups and organizations representing victims of the state repression acknowledge that Funes has been generous with his gestures. But he has fallen short when it comes to concrete
actions, say rights activists like Benjamín Cuellar, director of the Instituto de Derechos Humanos (IDHUCA) at the Universidad Centroamericana José Simeón Cañas (UCA) in San Salvador.

A clear example, says Cuellar, took place in 2011, when indictments by a judge in Spain led to the temporary detainment (in an old army barracks) of several former Salvadoran officials (NotiCen, Aug. 18, 2011). The judge, Eloy Velasco, hoped the men would eventually be extradited to Spain and tried for their alleged involvement in the 1989 murders at the UCA of six Jesuit priests, their housekeeper, and her teenage daughter. El Salvador’s Corte Suprema de Justicia (CSJ) decided instead to release the former officials (NotiCen, Sept. 29, 2011). Throughout the ordeal, President Funes remained conspicuously quiet.

"Funes has asked for forgiveness in general terms, but in the case of the massacre at the UCA, he forgave the generals by hiding them in the old barracks. Those are contradictory actions," Cuellar told the online news site ContraPunto.

More March milestones

The Romero assassination and the Jesuit massacre, as the UCA killings came to be known, are two of El Salvador’s most iconic war-era human rights cases. Others include the El Calabozo massacre (1982), in which an estimated 200 died, and the infamous El Mozote massacre in late 1981, when soldiers slaughtered as many as 1,000 campesinos in and around a remote eastern village. Witness accounts suggest the soldiers raped many of the young women and girls before executing them.

All four cases were cited in a landmark report issued March 15, 1993—20 years ago last month—by the Comisión de la Verdad Para El Salvador (CVES), a UN-backed committee charged with shedding much-needed light on the war’s main atrocities. "In all instances, troops acted in the same way," the report said of the El Mozote massacre. "They killed anyone they came across, men, women, and children, and then set fire to the houses."

The bold CVES report, titled "From Madness to Hope: the 12-Year War in El Salvador," not only highlighted various atrocities carried out during the conflict, it also named names, fingering ARENA founder Roberto D’Aubuisson, for example, as the intellectual author of the Romero assassination. D’Aubuisson, an army colonel at the time of Romero’s murder, died in 1992 of throat cancer (NotiCen, Feb. 21, 1992).

Even if he had lived, it is unlikely the ARENA founder would have been sanctioned for the crime. That is because on March 20, 1993—just five days after the CVES report went public—El Salvador’s Asamblea Legislativa (AL) passed the Ley de amnistía general para la consolidación de la paz. The blanket amnesty law, which remains in effect, was rushed through at the behest of then President Alfredo Cristiani (1989-1994) of ARENA. Cristiani, 65, continues to preside over the powerful rightist party, which won a slight legislative majority in El Salvador’s last parliamentary elections (NotiCen, March 22, 2012).

"Still total impunity"

Together, last month’s emotionally-charged anniversaries—the 20th for both the CVES report and the amnesty law and 33rd for Romero’s killing—triggered a flurry of commentary and criticism about El Salvador’s enduring let-sleeping-dogs-lie approach to war-era atrocities. Countries like Argentina and Chile also passed amnesty laws following their respective "dirty wars." In both of
those countries, however, trials did eventually proceed against some human rights violators. Not so in El Salvador, where impunity continues to reign.

"It shouldn’t be that in El Salvador, where more than 75,000 people died and 8,000 disappeared in a war that lasted more than a decade, there’s still total impunity. To try and silence all that occurred during that era is a mistake, one that we cannot allow," María Silvia Guillén, executive director of the nonprofit Fundación de Estudios para la Aplicación del Derecho (FESPAD), told reporters.

On March 12, Guillén joined Benjamín Cuellar and representatives of other rights groups in calling on the Fiscalía, the national prosecutor’s office, to launch earnest investigations into El Salvador’s various war crimes. A week later, many of those same organizations petitioned the CSJ to annul the amnesty law. They were joined by Spanish Judge Baltasar Garzón, a human rights crusader who gained international notoriety in 1998 when his indictment of former Chilean dictator Gen. Augusto Pinochet (1973-1990) led to the latter’s arrest in London, England (NotiSur, Nov. 6, 1998).

Garzón, during a brief visit to El Salvador, called on the country’s leaders to "reflect deeply" on the amnesty law. "Any law that prevents people from being prosecuted for crimes against humanity, that fails to protect the victims, is an unjust law," Garzón explained during a March 21 event in San Salvador. "The victims want to be heard, not just in El Salvador but in all of the world’s countries. They went justice and that the truth be known about what occurred to them."

Change on the horizon?

Historically, such overtures have fallen on deaf ears. ARENA, which spearheaded the amnesty in the first place, continues to defend the law as the "backbone" of El Salvador’s peace process. Coming into the presidency, Funes made it clear that he, too, despite his leftist leanings, had no intention of striking down the law.

"Would he like to see military officers prosecuted? Yes. Would he like to be the one to make it happen? No," Washington Office on Latin America (WOLA) Program Director Geoff Thale explained in a recent interview with New America Media.

President Funes has slightly more than a year left in his term. So far, three men are vying for the chance to replace him (NotiCen, March 14, 2013): ex-President Antonio Saca (2004-2009), who was booted from ARENA three years ago and now heads the center-right Gran Alianza por la Unidad Nacional (GANA); San Salvador Mayor Norman Quijano (ARENA); and current Vice President Salvador Sánchez Cerén (FMLN). The latter has offered mixed signals about the amnesty law. In January, the FMLN candidate came out firmly against the law, calling it an obstacle to justice. In comments last month, however, he appeared to back off the issue, explaining in an interview with ContraPunto that it will be up to the CSJ’s Sala Constitucional—not the president or legislature—to decide whether the amnesty law stands.

A full reversal on the amnesty law is unlikely any time soon. And yet some observers believe that changes are finally afoot. President Funes’ apologies for El Mozote and other atrocities have helped spur dialogue within El Salvador. In the meantime, El Salvador faces new pressures from outside the country thanks to a handful of key legal cases.

Late last year, the Costa Rica-based Inter-American Court of Human Rights (IACHR) issued a landmark ruling in the 32-year-old El Mozote case (NotiCen, Jan. 17, 2013). The court—whose rulings are binding, though not necessarily enforceable—found the state "responsible for the
violation of the right to life and the right to personal integrity and private property." It ordered El Salvador to investigate the massacre and eventually launch prosecution procedures. The IACHR dismissed the amnesty law as inapplicable in this case given the scale of the crimes involved.

Immigration authorities in the US have also brought recent attention to El Salvador’s human rights legacy by prosecuting a pair of former Salvadoran military officials: retired Col. Inocente Orlando Montano and former Gen. José Guillermo García. Orlando Montano is awaiting sentencing in Boston, Massachusetts, after a judge there found him guilty of several counts of immigration violations (NotiCen, Oct. 11, 2012). García is facing deportation procedures in Miami, Florida. The names of both men appear in the 1993 CVES report.

"There is an alignment of the stars," said the UCA’s Benjamín Cuellar.