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Benjamin Witte-Lebhar

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Could a Trial Finally Be in the Works for El Salvador’s Jesuits-Massacre Case?

by Benjamin Witte-Lebhar
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While El Salvador prepares for the imminent beatification of slain Archbishop Óscar Romero, whose assassination in 1980 marked an unofficial start to the country’s dozen-year internal conflict (1980-1992), legal authorities in Spain and the US are turning their attention to another prominent war-era crime: the 1989 murders, by Salvadoran soldiers, of six Jesuit priests, their housekeeper, and her teenage daughter.

A judge with Spain’s Audencia Nacional, operating under the principle of universal jurisdiction, has worked for years to bring the presumed perpetrators of the infamous Jesuits-massacre case to trial. Obstacles have abounded. For one thing, Judge Eloy Velasco has been unable to get any of the 20 ex-military officials he indicted in 2011 on to Spanish soil. One died just before the indictments were issued (NotiCen, July 28, 2011). Most of the others are in El Salvador, where they enjoy legal protection under a 1993 amnesty law that continues to hold sway despite repeated calls for its repeal by rights groups and international bodies (NotiCen, Sept. 29, 2011). Complicating matters even more is a reform that Spain’s conservative leadership pushed through early last year limiting the use of universal jurisdiction, which holds that some crimes are so horrendous they can be tried anywhere (NotiCen, Dec. 11 2014).

But it recent weeks, legal developments in both Spain and the US have provided a sudden burst of momentum for the bogged down Audencia Nacional case, which Velasco first took up in 2008 at the behest of a pair of human rights groups: the Center for Justice and Accountability (CJA) in San Francisco, California, and the Asociación Pro Derechos Humanos de España (APDHE), a Spanish organization.

On May 6—less than three weeks before Romero’s highly anticipated May 23 beatification ceremony—Spain’s Tribunal Supremo determined that Velasco could proceed with his Jesuits-massacre investigation despite the 2014 legal reform. The high court based its ruling on the fact that five of the murdered priests had Spanish, in addition to Salvadoran, citizenship and on the demonstrated unwillingness of Salvadoran courts to properly pursue the matter. El Salvador’s sole attempt to try the case, in 1990-1991, lacked "necessary guarantees regarding independence and impartiality," the Tribunal Supremo stated. "The criminal procedure that was followed in El Salvador didn’t really try to punish the people responsible but was instead meant to shield them from justice."

Legal authorities in the US, in the meantime, are working to provide another crucial piece of the puzzle: an actual, in-the-flesh defendant to stand trial. The person in question is former Salvadoran Army Col. Inocente Orlando Montano Morales, who had been leading a quiet life in the US state of Massachusetts until 2011 when his name appeared on Velasco’s indictment list (NotiCen, Oct. 11, 2012). US immigration officials later pursued Montano Morales on charges that he lied on residency application forms. The retired colonel confessed, was convicted, and was eventually sentenced to 21 months in a North Carolina detention center (NotiCen Sept. 26, 2013).
Montano Morales, 72, was just days away from completing that sentence last month when the US Department of Justice filed an official "complaint" (request) that he be rearrested and deported to face trial in Spain. The government body presented the request to a North Carolina district court, which is expected to rule on the matter by mid-August. Montano Morales, who served as vice minister of defense and public safety at the time of the Jesuits' massacre, has been ordered to remain in custody until that time.

"The complaint alleges that he shared oversight responsibility over a government radio station that, days before the massacre, issued threats urging the murder of the Jesuit priests. The day before the murders, Montano Morales also allegedly participated in a series of meetings during which one of his fellow officers gave the order to kill the leader of the Jesuits and leave no witnesses," the Department of Justice explained in an April 8 press release.

One-way ticket
Interestingly, US authorities chose that same day to carry out a deportation order against another former Salvadoran military official implicated in civil-war-era human rights abuses. Gen. Eugenio Vides Casanova, who served as director of El Salvador’s now defunct Guardia Nacional and later as minister of defense before retiring and moving to the US in 1989—just a few months before the Jesuits were murdered—was flown to San Salvador’s Monseñor Óscar Arnulfo Romero International Airport, where he was whisked away through a side door so as to avoid a crowd of some 40 activists carrying signs and shouting things like "asesino" (killer).

Among those waiting for him at the airport was Dr. Juan Romagoza Arce, who was arrested by the Guardia Nacional in 1980 and subjected to three weeks of torture. He claims that Vides Casanova attended some of the torture sessions. Romagoza and another Salvadoran human rights victim successfully sued the former Guardia Nacional director in a civil case that concluded more than a decade ago. His testimony also played a key role in Vides Casanova’s deportation hearings.

The retired general’s forced return to El Salvador marked the end of a several-year legal battle with US immigration authorities, which first ordered his removal in 2012. An appeals board upheld the ruling on March 11, dismissing Vides Casanova’s claims that he was "consistently and uniformly led to believe that his conduct was consistent with the official policy" of the US government and that his removal from the US, therefore, was "manifestly unjust." The US, fearing a repeat in El Salvador of the 1979 Sandinista revolution in Nicaragua, actively and overtly supported the Salvadoran military in its war against the leftist Frente Farabundo Martí para la Liberación Nacional (FMLN) guerilla coalition.

"This is not a case in which isolated or random human rights abuses took place at the hands of rogue subordinates," the appeals board judges wrote. "[General Vides] affirmatively and knowingly shielded subordinates from the consequences of their acts and promoted a culture of tolerance for human rights abuses."

"Trial of the century"
Thanks to El Salvador’s 22-year-old Ley de Amnistía General para la Consolidación de la Paz, which was rushed into place just days after the release of a scathing UN-sponsored truth commission that named names and blamed state security forces for the lion’s share of the war’s atrocities and rampant rights violations (NotiCen, April 11, 2013), Vides Casanova will be free to go and do as he pleases in El Salvador.
And yet, from a symbolic standpoint, his removal from the US is still an important victory against the impunity that has long characterized the tiny Central American country’s 1980s-era war crimes. The ex-defense minister presumably wanted to continue his comfortable retirement in Florida. US immigration courts made it clear he cannot—they even denied his request that he make his own way back to El Salvador on a commercial flight. US authorities may not have jailed Vides Casanova, but they are forcing him to pay unwanted consequences for his criminal actions.

"The removal from the United States of Vides Casanova, a general at the apex of power during years of horrendous repression, is unprecedented," said Carolyn Patty Blum, a senior legal analyst with the CJA, which has not only played an instrumental role in the Audiencia Nacional proceedings in Spain but also helped bring pressure in the US against both Vides Casanova and Montano Morales. "His deportation to El Salvador hopefully will be a new impetus for the repeal of El Salvador’s decades-old amnesty law, which has been ruled illegal under international law."

More encouraging still for rights groups is the pending Montano Morales extradition case, which sets the stage for what CJA international attorney Almudena Bernabeu calls "the trial of the century." The trial, if it does take place, would be precedent setting in international law and in the principle of universal jurisdiction. It could also have a profound impact on El Salvador and its see-no-evil, hear-no-evil treatment of war crimes in general and of the 1989 Jesuits’ murders in particular.

"The Jesuits-massacre case is one of the most important cases internationally in the struggle against impunity," Bernabeu said in a recent CJA press release. "Now, the indictments in Spain, the extradition request for Colonel Montano, and the trial to follow will be the final effort to consolidate all that has been investigated and reported over the last 25 years—to unfold and reconstruct the murders and the story of the murders in a way that tells the complete truth and guarantees criminal accountability."

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