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Survivors of 1997 Massacre in Chiapas File Lawsuit against Former President Ernesto Zedillo in U.S. Court

by Carlos Navarro

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The families of 10 survivors of a 1997 massacre in a remote community in Chiapas have filed a lawsuit against former President Ernesto Zedillo in a US court, seeking US\$50 million in damages. The suit—filed in a US federal court in Hartford, Connecticut, in September 2011, accuses the former president of complicity and an ensuing cover-up in the murder of 45 unarmed Tzotzil Indians in the community of Acteal, Chiapas. The lawsuit largely flew under the radar until January of this year, when Zedillo's attorneys filed a motion to have the case dismissed.

The massacre was carried out by a group of paramilitaries aligned with the former governing Partido Revolucionario Institucional (PRI), which at that time held both the presidency and the governorship of Chiapas ([SourceMex, Jan. 14, 1998](#)). The massacre occurred at a time when tensions between the government and the Ejército Zapatista de Liberación Nacional (EZLN) were high because of stalled negotiations on a peace agreement ([SourceMex, Nov. 12, 1997](#)).

Tzotzil Indians from the Tzajalum, Chimix, and Quextic communities had gathered in Acteal after fleeing from their homes because of the violence between EZLN supporters and paramilitaries aligned with the PRI. The massacre led to the resignations of Interior Secretary Emilio Chuayfett and Chiapas Gov. Julio César Ruiz Ferro. The former governor was considered a key player among those behind the massacre through his support for the paramilitary groups.

Zedillo is accused of fostering the conditions that led to the massacre and conspiring in a cover-up with Attorney General Jorge Madrazo Cuellar. The lawsuit contends that the Zedillo administration abandoned talks with the EZLN in favor of a violent crackdown after international reports cited instability in Chiapas as a negative factor for the Mexican economy ([SourceMex, Feb. 15, 1995](#)).

"Compelling evidence shows that the authorities facilitated the arming of paramilitaries who carried out the killings and failed to intervene as the savage attack continued for hours," Amnesty International said in 1998 in reference to the Acteal massacre.

Some paramilitary members were eventually taken into custody for the killings. But Mexico's high court (Suprema Corte de Justicia de la Nación, SJCN) overturned the sentences of 30 of the perpetrators in 2009 because of irregularities in the legal proceeding ([SourceMex, Nov. 11, 2009](#)). Although the release order took place more than two years ago, area residents remain fearful. "The paramilitaries who burned our houses, stole our belongings, and massacred our parents, brothers, sisters, and little brothers and sisters want to come back and displace us and massacre us," local leader Mariano Pérez said in December 2011 at a ceremony marking the 14th anniversary of the massacre.

Zedillo immunity an issue

The Miami-based firm of Rafferty, Kobert, Tenenholtz, Bounds & Hess filed the lawsuit against Zedillo in Connecticut, the state where the former president currently resides. Zedillo is a faculty member at Yale University Center for the Study of Globalization.

Zedillo's attorneys have asked the court to throw out the lawsuit, pointing out that he should receive immunity as a former president. The legal team also described the charges that Zedillo played a role in the Acteal massacre as "unfounded" and "slanderous."

President Felipe Calderón's administration has sided with Zedillo, with the Secretaría de Relaciones Exteriores (SRE) sending a formal request to the court to dismiss the lawsuit. The SRE made the request through the Mexican Embassy in Washington.

But attorneys representing the plaintiffs urged the court to reject the immunity request, pointing out that all the claims against Zedillo are supported by facts. "As a private citizen without an official post in a government for more than 10 years, there is no legitimate purpose in his attempting to get immunity for his legal responsibility," said attorney Roger Kobert.

A number of human rights organizations also hold this position. Edgar Cortez, an official with the Instituto Mexicano de Derechos Humanos y Democracia (IMDHD), said immunity should not be valid once a leader has left office. "The immunity that is granted to presidents of a country allows them to perform their duties while they are still in office because they have to be responsible for their acts and for the consequences," Cortez said in an interview on the national radio network Grupo Fórmula. "But once they are out of office, they have to answer for their acts and appear before a tribunal to defend themselves."

Spanish Judge Baltasar Garzón Real—a central figure in several human rights cases involving Latin American military officers and leaders ([SourceMex, June 19, 2002](#), and [NotiSur, Jun. 18, 2004](#))—said he agrees in principle that the concept of immunity should not apply to leaders who have left office. As an example, Garzón said he strongly opposed granting any immunity to ex-Chilean dictator Gen. Augusto Pinochet (1973-1990).

But Garzón, who was invited to speak at a legal forum in Veracruz in mid-January, declined to comment directly on the Zedillo case because he did not have sufficient facts to form an opinion.

"I have my own criteria, which is based on the Pinochet case, by which immunity should not be applied in any form to anyone who is no longer in power," said Garzón. "This doesn't mean that there aren't other interpretations out there."

Congress offers mixed opinions

Opinions were mixed in the Mexican Congress, with the center-left Partido de la Revolución Democrática (PRD) siding with the plaintiffs and with human rights advocates. PRD Deputy Guadalupe Acosta Naranjo said everyone should have to face trial if there is enough evidence to support his or her responsibility in a crime. "This does not mean that I believe that former President Zedillo is guilty," said Acosta Naranjo. "What I'm saying is that everyone should be subject to an investigation on whether they have complied with Mexican laws."

As expected, some PRI deputies came to Zedillo's defense, charging that the legal motion has political motives during an election year. Several public-opinion polls suggest that the PRI is likely to regain the presidency in the July 1 election ([SourceMex, Nov.16, 2011](#)).

"I would not support that this case move forward, given the apparent electoral motivations behind it," said Deputy Heliodoro Díaz Escárraga. But the PRI legislator also supported a more in-depth look at the circumstances that led to the 1997 massacre. "I believe it is appropriate to deepen the

investigation and determine the levels of responsibility, no matter who is eventually affected," said Díaz Escárrega.

Members of the governing Partido Acción Nacional (PAN) agreed that Mexico must not ignore the legal process but also questioned whether the courts were the proper venue to examine the circumstances that led to the Acteal massacre. "If there a judicial case, we have to respond, especially if it involves an international tribunal," said PAN Sen. Adriana González. "But we have to know whether a tribunal is appropriate for this case."

Some critics said the PRI should answer for the transgressions of some of its members. "The silence of the PRI leadership regarding the lawsuit against Ernesto Zedillo for the crimes at Acteal in December 1997 does not exonerate the party from its institutional responsibility in this case of repression," columnist Carlos Ramírez wrote in the Mexico City daily business newspaper El Financiero. "In the end, the trial is not about Zedillo but about the PRI."

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