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## **Salvadoran Court Refuses to Reopen Case of Murder of Jesuits, Others in 1989**

*by LADB Staff*

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After a nine-month battle with the attorney general, the Jesuit-run Universidad Centroamericana (UCA) was unable to force the judicial system to hear evidence against former President Alfredo Cristiani (1989-1994) and six retired military officers in connection with the 1989 Jesuit murder case. In November 1989, members of the armed forces elite Atlacatl commando unit murdered six Jesuit priests at the university. Two others, the priests' housekeeper and her daughter, were also killed (see NotiCen, 1989-11-17).

Nine members of the unit were tried in 1991 for the murders and seven were exonerated. The two who were convicted a colonel and a lieutenant were released by then President Cristiani in 1993 under an amnesty law passed that year.

In 1993, the Truth Commission recommended sanctions against former defense minister Gen. Rene Emilio Ponce and other officers believed implicated in the murders.

In 1998, the Inter-Americana Commission on Human Rights (IACHR) condemned the Salvadoran government for failing to carry the investigation to high government and military officials. In March 2000, UCA asked the attorney general (Fiscal General de la Republica, FGR) to investigate the role played in the killings by Cristiani as commander in chief of the armed forces and by six military officers (see NotiCen, 2000-05-04).

UCA's petition named Cristiani for the crime of omission in failing to prevent the murders and for covering them up afterward. The petition accused the military officers of ordering the murders. The former officers are Ponce, Juan Rafael Bustillo, Juan Orlando Zepeda, Inocente Montano, Francisco Elena Fuentes, and Jose Humberto Larios.

While opponents of reopening the case say the 1993 amnesty law protects all the accused, the Corte Suprema de Justicia allowed the case to go forward and left it up to the judge to determine whether the amnesty applied to the defendants.

On Oct. 16, Attorney General Belisario Artiga turned the case over to the same court (Juzgado Cuarto de Instruccion) in San Salvador that heard the original case in 1991. Artiga asked Judge Elmer Aristarco Chavarria to rule on whether the case should be reopened. Artiga had reasoned that the UCA petition concerned the same case involving the same victims. But UCA rector Jose Maria Tojeira said that UCA had not asked to reopen the case but to begin a new investigation of new suspects.

On Oct. 26, the judge threw the case out on grounds that, under current law, it was the attorney general's job to investigate. The judge further argued that his court had already heard the case and that the UCA petition referred to a new case involving persons previously not tried.

### *University says attorney general is ignorant*

Tojeira accused Artiga of ignorance and incompetence in trying to reopen a case already tried. He said Artiga was acting as attorney for the defense and was trying to make the process function as poorly as possible. Both UCA and many legal experts agreed that under the criminal code the case should have gone to a tribunal de paz. In November, the Corte Suprema de Justicia agreed with that contention and ordered the UCA petition to be considered under the new law code, which requires the FGR and not judges to investigate.

Artiga then took the case to the Tribunal de Paz presided over by Judge Ana Lorena Rodriguez. But he also recommended that the judge dismiss the case on ground that the 10-year statute of limitations on the 1989 murders had run out. Rodriguez agreed with Artiga and refused to hear the case. She also found that the murders did not constitute an "official crime."

Citing the Constitution, UCA's attorney Pedro Cruz argued that the 10-year limit begins for government officials after they leave office, and since none of the accused left their government jobs until 1992, the court should have heard the case. Cruz said he would appeal the decision and promised to take the case to international tribunals if necessary. UCA has said it would consider taking the case to a Spanish court since five of the victims were Spanish nationals. Filing an appeal Dec. 15, Cruz said Judge Rodriguez's ruling violated the International Convention on Human Rights and other international treaties signed by El Salvador.

### *UCA has meager support*

Government officials bitterly criticized UCA for its actions, claiming that a new investigation endangered reconciliation, the peace, and governability. The business organization Asociacion Nacional de la Empresa Privada (ANEP) issued a statement saying the country "wanted reconciliation, not hate, vengeance, and rancor." Some of the accused officers said UCA was carrying on a political war against the military.

The governing Alianza Republicana Nacionalista (ARENA) the party in power during the massacre resisted reopening the case and accused UCA of having ulterior motives. Tojeira replied that ARENA responded to everything that came from the opposition with accusations of conspiracy, attempts to destabilize, and ulterior motives. "It's a ridiculous kind of talk and in many respects menacing," he said. ARENA was mounting a campaign "to scare the population."

To make matters worse for UCA, the university lost the support of the former guerilla organization and now political party Farabundo Marti para la Liberacion Nacional (FMLN). The party announced in late October that it would not support the UCA petition to have Cristiani and the others investigated. Salvador Sanchez, leader of the FMLN delegation in the National Assembly, said his party was only concerned that the justice system function and was not interested in trying anyone.

Sanchez said the FMLN would leave the matter in the hands of the attorney general and would not press for changes in the amnesty law. [Sources: Spanish News Service EFE, 10/25/00, 10/26/00, 11/18/00; El Diario de Hoy (El Salvador), 10/17/00, 10/18/00, 10/26/00, 10/29/00, 10/30/00, 11/29/00; CNN, 12/12/00; El Nuevo Herald (Miami), Associated Press, 12/14/00; La Prensa Grafica (El Salvador), 10/17/00, 10/24/00, 10/27/00, 12/07/00, 12/12/00, 12/16/00; Notimex, 10/25/00, 10/27/00, 11/06/00, 11/11/00, 11/16/00, 11/24/00, 12/13/00, 12/19/00]

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