

6-14-2001

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LADB Staff. "Three Military Men Sentenced to 30." (2001). <https://digitalrepository.unm.edu/noticen/8853>

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Three Military Men Sentenced to 30

by LADB Staff

Category/Department: Guatemala

Published: 2001-06-14

On June 8, a Guatemalan court convicted four men in the extrajudicial execution of Bishop Juan Gerardi. The verdict, now being described as historic, marked the first use of the charge of extrajudicial execution. The charge was introduced into the law code in 1995. It is defined as a killing carried out by state officers and as such implies that the murder was a state crime. Gerardi was assassinated at his residence at San Sebastian Church on April 26, 1998. He was coordinator of the Catholic Church's Oficina de Derechos Humanos del Arzobispado (ODHA).

The murder took place two days after publication of a report he coordinated (Guatemala, Nunca Mas) that blamed the military for most of the human rights abuses committed during the 36-year civil war that ended in 1996 (see EcoCentral, 1998-04-30, NotiCen, 2001-05-10). Sentenced to 30 years in prison were retired Col. Byron Disrael Lima Estrada, 60, his son, Capt. Byron Lima Oliva, 31, and former Sgt. Jose Obdulio Villanueva, 36. Lima Estrada was an intelligence officer, as was Lima Oliva. Lima Oliva and Obdulio were members of the elite presidential guard (Estado Mayor Presidencial, EMP).

Mario Orantes, 38, a Catholic priest who was Gerardi's assistant, received a 20-year sentence as an accessory to the murder. Orantes was accused of having helped plan the murder and of waiting two hours after the murder to call police so that the military men could change the appearance of the murder scene and move the body to the garage. A fifth defendant, Margarita Lopez, 61, who was Gerardi's cook, was acquitted because of insufficient evidence on the charge of helping cover up the crime. The entire process, from the initial investigation through the trial, was marked by threats of retaliation and by the unexplained deaths of people connected to the case.

Six homeless people, who may have been witnesses to the murder, have died. At least six other witnesses went into exile under threat of death as did a prosecutor and a judge. The three-judge panel concluded that the crime had been committed with the aid of state personnel and resources and that it resulted from the denunciations Gerardi made in his report. The evidence showed that the Estado Mayor Presidencial, especially its commanders, assisted in the commission of the crime.

Declassified US State Department documents obtained by the Washington-based National Security Archive said that Lima Estrada was an "ultraconservative and anti-democratic intelligence officer, bent on preserving the military's grip on power, even after the transition to civilian leadership that began in the mid-1980s." He was trained at Fort Benning, Georgia, at the Army School of the Americas and at the US Army Mobile Training Team (MTT) of the 610th Military Intelligence Detachment. Later, he served in US-trained counterintelligence units in Guatemala that were involved in torture and disappearances. At the conclusion of the trial, the court ordered that the investigation continue into possible involvement in the crime by the upper levels of military command.

Otto Zeissig, a researcher with the Instituto de Estudios Politicos, Economicos y Sociales (IPES), said, "In an institution like the Estado Mayor Presidencial, those in the lower ranks do not violate the chain of command. There are co-conspirators of higher rank." At least 13 others seven military personnel, two civilians, and four prison officials may be investigated for their part in the assassination. Among the 13 suspects are Col. Rudy Vinicio Pozuelos Alegria, former head of the EMP, Maj. Francisco Escobar Blass, assistant to Pozuelos, Eduardo Villagran Alfaro, head of EMP services, Carlos Rene Alvarado Fernandez, EMP secretary, and Dario Morales, who took photographs of the crime scene for the military after the assassination.

Also under investigation are several witness who the court determined had given false testimony on behalf of the defendants. After the verdict, President Alfonso Portillo said, "Today, for the first time in history, the law and justice have been applied to a political crime. Today, the institutions of the country have been strengthened." Human rights advocates also welcomed the verdict as a sign that the military had lost its impunity.

Mario Polanco, head of the Grupo de Apoyo Mutuo (GAM), told Inter Press Service, "We are very satisfied with the sentence....This was a political crime. There is so much proof that I don't know what would have happened if they weren't declared guilty. Chaos would have broken out." Defendants blame others, charge bribery During the trial, Lima Estrada said he had been falsely linked to the crime by a group of colonels, whom he did not identify, though he described them as a "new, constitutionalist current obedient to civil authority, respectful of human rights."

Acting with the group, he said, were Edgar Gutierrez, head of the Secretaria de Analisis Estrategico (SAE), and Guatemalan Ambassador to the Organization of American States (OAS) Ronalht Ochaeta. The two men had worked with Gerardi on his human rights report. In a newspaper interview in May, Lima Estrada said the group conspired with the ODHA to frame him for the murder. He said that prosecutors went after him on orders from Portillo, who promised at the start of his presidency to resolve the case or resign (see NotiCen, 2000-01-20).

Lima Oliva accused the three-judge panel of accepting bribes in exchange for the guilty verdicts. He said that foreigners paid the judges and that the judges would soon flee Guatemala. He said Gerardi had been murdered by organized crime. As for Orantes, besides his criminal conviction, the Catholic Church announced in May that it would try him before a canonical court, the first such trial in Guatemalan history. Auxiliary Bishop Mario Rios Montt said the purpose of the trial would be to uncover the truth of Orantes' involvement. However, Orantes' relatives and defense lawyers said Rios Montt was trying to pressure the judges to influence the outcome of the criminal trial.

Cardinal Oscar Rodriguez said Orantes was innocent but had the misfortune of living in the same house as Gerardi. Rodriguez said Orantes did not defend himself at the trial because he had been threatened.

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