

MEMORANDUM

TO: Joe Moakley
FR: Jim McGovern
RE: Meeting with Speaker Foley
on El Salvador

General Overview

1. I am not pleased with the investigation into the murder of the Jesuits. There appears to be good police work by the Special Investigative Unit in its handling of the technical aspects of the investigation, but it has done virtually nothing to investigate the possibility of a cover-up or the possibility that higher ups might be involved.

2. Further complicating matters is the fact that the head of the Special Investigative Unit, Lt. Col. Rivas, has been named by a Salvadoran Colonel and a United States major in our MilGroup as having known of the involvement of the Salvadoran military early on in the investigation. Rivas denies this allegation. However, if the Salvadoran colonel and the U.S. major are telling the truth, that would mean that the chief investigator of the murders has lied about a key aspect of the case and might be part of a cover-up.

3. Given the size and importance of the operation to kill the priests, it seems likely that more than 9 people -- possibly higher ups -- had to know about the mission both before and immediately after it happened. The Army Chief of Staff, Colonel Ponce, told us that not one single member of the army came forward voluntarily with information and/or evidence about the case.

4. I truly believe that the problem we are dealing with is institutional -- and not just the work of a few renegades. I don't recall one military officer ever saying that they were "personally remorseful" about the murders of the Jesuits or that "their deaths represent a great loss to El Salvador." Rather, they would always say "the murders boosted the FMLN" or "what a stupid mistake." It is clear that the army has a dislike for the Jesuits and other religious leaders. There are a number of quotes which appeared in Salvadoran newspapers from high ranking colonels characterizing the Jesuits as "an FMLN front." Even now, despite all the international attention on the case, the military establishment has made sure that Colonel Benavides, the man charged with giving the orders, is not being inconvenienced by his detention. He is living in a fairly nice apartment and has taken trips to the beach for a little rest and relaxation.

5. There is good reason to believe that Colonel Benavides, the man charged with ordering the murders, will walk free. Under Salvadoran law, a person implicated in a crime cannot testify against another person implicated in the same crime. Other than the testimony of 7 of the charged men, there is no other evidence against Benavides.

6. I've talked with a lot of people -- off the record -- who know much more about the case than they will say publicly. They are afraid for their own lives and the lives of their families. People fear retribution by the military if they say too much. There are no guarantees that peoples' security will be assured if they come forward -- notwithstanding the offer by our Embassy to hide people out in the U.S. However, there is still much concern -- especially in the religious community -- about the way the United States handled the witness, Lucia Cerna. Many people simply do not trust the U.S. Embassy -- and view it as an arm of the Salvadoran government.

What's Next?

1. The task force intends to stay together; continue to meet with relevant witnesses; review appropriate cable traffic; and hopefully meet with Major Buckland -- the US Major who withheld key information in this case. Though we have received adequate cooperation from our Embassy, I do not believe that the State Department and the Department of Defense have been particularly helpful or cooperative. We have received some information -- but only after we have harrassed them.

2. The task force is perceived by the Salvadoran government as a serious effort -- and, in that regard, I believe that we remain constructive pressure on them. They fear that we somehow hold the key to their aid.

3. The task force will issue a factual report on all the information we have obtained hopefully in April. This report will not be legislative recommendations -- rather, it will simply be the facts of the case with as little editorial comment as possible. I would also like to reserve the right to possibly send one more staff delegation to El Salvador -- if new information should arise within the next month.

Legislation

1. We need to do something. And we need to try to do something that will win. I am convinced that the Salvadoran military believes we will support them -- no matter what. Why else would they be so bold as to bring Col. Benavides to the beach? If we appear indifferent or if we lose a vote by a large margin on the House floor, I am afraid we will give them the green light to continue the repression.

2. Grassroots groups have raised the stakes, there have been sit-ins in Members' offices and the mail on this issue has soared.

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3. I would like to suggest that we try to develop some sort of Democratic consensus on this issue -- that we work through Dave Bonior's task force and with some of the more moderate Members to come up with legislation that doesn't necessarily cut all the aid, but at least a portion of it. And perhaps we could condition aid on negotiations like the Dodd bill. I would like to help pull something together, with your permission.

4. Changes in Eastern Europe and in Nicaragua negate the justification for current levels of US military aid to El Salvador. In addition, a recent GAO report states that \$685 million in US aid is still in the pipeline --including \$139 million in military aid. That's a total of more than one year's worth of U.S. aid to El Salvador. There is no way we can justify "business as usual."

5. One final point...when you take into account what we know about the murders of the Jesuits, the massive corruption in the military, the harrassment of other religious workers and opposition leaders, and the overall attitude of the army -- we don't owe the Salvadoran military a dime. The only possible justification for aid is to prevent an FMLN victory. And we all know that a military victory by either side is impossible (as many in the Administration have already admitted) -- and the only alternative to the war is negotiations. Everyone agrees with that. Therefore, we need to come up with something to address these current realities.