

AN UPDATE ON THE INVESTIGATION INTO THE JESUIT MURDERS

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International outrage has been focused on human rights violations in El Salvador for more than ten years. Celebrated cases like Archbishop Romero (1980), the four American Churchwomen (1980), the two American Advisors on land reform (1981) alerted us to the tens of thousands lesser known and hidden victims. Against this backdrop, the civilized world was especially shocked on November 16, 1989 to learn that after ten years of supposed democratization made possible through U.S. support, El Salvador was again the scene of a vicious, cold-blooded murder -- this time, six Jesuits and their two co-workers were the victims.

An impressive and imposing coalition that had been building for ten years spoke a resounding and collective "enough" and "no more 'business as usual'." That coalition of concern of church, labor, educational and congressional leaders, as well as numerous other concerned individuals and groups took their case to Capitol Hill. Largely due to their efforts, Congress passed the Moakley/Murtha and Dcdd/Leahy legislation to cut military aid to El Salvador in a way that would pressure both sides to negotiate peace with justice.

In the past few days we have witnessed another senseless, vicious act, this time presumably perpetrated by soldiers of the FMLN. The Administration has called for the restoration of military aid as an appropriate response to this incident, to recent military activity by the FMLN and to their acquisition of some weapons from Nicaragua. While we deplore all three actions, especially the recent killing of wounded prisoners, we would insist that adding more guns and weapons to a country already awash in them is hardly the answer. The military action did not threaten the stability of the Cristiani government, the weapons hardly counterbalance the huge buildup of U.S. weapons and human rights violations by the opposition do not suddenly render the

Salvadoran Armed Forces innocent.

If recent FMLN activity argues for the restoration of aid, then recent behavior by the Salvadoran Armed Forces argues with at least as much logic for cutting the aid even further. The law passed by Congress was written to pressure both sides; in fact, neither side has distinguished itself in responding to the Congressional action. According to reports from the United Nations and by Americas Watch and Amnesty International, human rights violations by both sides continue, but with an ongoing preponderance by the Armed Forces. The senseless and totally reprehensible killing of wounded helicopter pilots demands a prompt and complete investigation and prosecution, and we are happy to see that the FMLN has pledged the same and has already arrested two of its soldiers. (It is interesting to note that the FMLN took this action after several days, not the nearly two months taken by the Salvadoran government after the Jesuit killings.)

In any case, the arrogant behavior of the Armed Forces with reference to the investigation of the Jesuit killings hardly calls for a reward in the form of restored military aid. Rather, we need continued international attention to and protest against violations on both sides and continued encouragement and support for the U.N.-assisted negotiations. As the best way to end this tragic war, we seek continued U.S. pressure for peace, not more U.S. guns, planes and ammunition.

The Administration enthusiastically notes that the investigation into the Jesuits' murder has moved from the investigation phase and is ready to move to the trial phase. This enthusiasm is premature, judging from previous cases¹. The case of the four U.S. Churchwomen killed in December, 1980 entered the investigation phase in February, 1982 and reached the plenary or trial stage in May, 1984. The San Francisco murder in

¹ Report of the Lawyers' Committee for Human Rights, April 12, 1990.

September 1988 has to date not reached the trial stage. The killing of Archbishop Romero in March, 1980 never reached the trial stage.

Indeed the Jesuit case has come further than any past case, but certainly not because of cooperation from the Salvadoran Armed Forces case. Congressman Moakley's evaluation of the role of the Armed Forces could hardly be more negative:

"I believe that the High Command of the Salvadoran armed forces is engaged in a conspiracy to obstruct justice in the Jesuits' case. Salvadoran military officers have withheld evidence, destroyed evidence, falsified evidence and repeatedly perjured themselves in testimony before the judge. I do not believe this could be done without at least the tacit consent of the High Command."²

That charge of obstructionism remains current, as of January 7, 1990.³ The Lawyers Committee for Human Rights makes essentially the same point.⁴ The following four examples of that behavior hardly justify a "reward" in the form of restored military aid.

1) A general lack of cooperation, including minimal cooperation by Colonel Ponce. Judge Zamora, the investigating judge, is credited with doing all in his power to arrive at the truth and to construct a case out of the limited information he has been able to get from the military who "have repeatedly either failed to testify, failed to remember, failed to make sense, or failed to tell the truth."⁵

After the publication of the Moakley Task Force Report, which was highly critical of the military, President Cristiani convened a meeting of senior officers, the President of the Supreme Court and Judge Zamora. Cristiani solicited and received

² Statement by Congressman Joe Moakley, August 15, 1990.

³ Moakley Committee Staff Report, January 7, 1990.

⁴ See Lawyers' Committee Reports of April 12, 1990, July 27, 1990.

⁵ Ibid.

a firm pledge of support and cooperation from the High Command. The President himself, then volunteered to testify in person before the judge, waiving his right not to do so. Despite much pressure, Colonel Ponce refused to do anything more than submit a written statement, as did several other senior officers. They thus avoided any questioning or examination, but hardly set an example for cooperation by other members of the military.

2) Arbitrary selection of officers and soldiers for serious investigation. To this day, there is no one will say why and how the nine officers and soldiers were initially charged and Col. Benavides' second in command, Lt. Col. Hernandez, and the captains and majors in between Benavides and the lieutenants were neither questioned by the SIU military investigating unit, nor charged. (Hernandez was charged in June with burning the military school's logbooks.) The failure of investigators to be clear on this point leads to the obvious speculation that the military hierarchy, not the investigators, controlled who was detained and who was charged. It is also plausible to ask whether the mid-level officers were shielded from prosecution in exchange for their silence?

3) The role of Salvadoran military intelligence. The official record of the investigation has the military intelligence knowing nothing before or after the fact about the planing or execution of the Jesuit murders. This is hardly credible considering the surveillance kept on the Jesuits at the University of Central America (UCA), and the fact that a member of the intelligence unit was part of the November 13 reconnaissance visit to UCA, prior to the killings. The intelligence officer, whose presence in the search was originally concealed and who lied about it later, was instructed to join the search by Captain Herrera and by Col. Aguilar, the recently-appointed Director of Intelligence. Intelligence units were deployed along the highway adjacent to the campus on the night of the murders. They would have had to be deaf, blind or heavily

sedated to be unaware of what was happening.⁶ Finally, Col. Aguilar, who had just recently been appointed Director of Intelligence, soon after the murders was transferred as military attache to Costa Rica, a country with no army. Captain Herrera was assigned to a unit in a war zone and soon killed. Judge Zamora tried to unravel the involvement of the military intelligence, but so far has been unsuccessful.⁷

4) Miscellaneous examples of obstruction.

(Insert some examples)

Restoration of aid at this point would remove all incentive to move seriously to and through the trial stage. It certainly would remove all incentive to try to identify the "intellectual authors" of the crime. It is ironic that the Jesuits were killed by the Armed forces, supposedly as the intellectual authors of the opposition, while the intellectual authors of their assassination remain protected by those same Armed Forces.

President Cristiani frequently criticizes the search for intellectual authors as speculative and asks that we restrict ourselves to evidence and facts. We feel that the sorry record of the Armed Forces in the course of the investigation provides a factual basis for the claim that the true authors of the Jesuit murders remain hidden. There is every indication that they will remain so without international pressure; they will almost certainly remain so if we effectively say to the Armed Forces, "Job well done!" by restoring aid at this time.

Rather, we need to step up pressure since further investigation is still possible. An expected appeal is the next step, and three to four months will be required to consider that appeal. Once it is settled, there are eight days for the prosecution or the defense to present new evidence and then the judge has about two months to prepare the case for the

⁶ Ibid.

⁷ Ibid.