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Directorate of
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El Salvador: Little Progress in the Jesuit Murder Case [redacted]

The Jesuit murder case is moving slowly forward in El Salvador's troubled judicial system, but suspicions that senior military officers ordered the murders or covered up armed forces involvement linger. Conflicting evidence, government stalling, and reluctant military cooperation plagued the inquiry phase, which ended in December. Two prosecutors recently resigned from the case and accused the Attorney General's office of bending to military pressure and hampering their efforts to conduct a thorough investigation. We believe judicial maneuverings and traditional military immunity to civilian authority will continue to work against a speedy prosecution of the case. [redacted]

Background

Last January, the government arrested six officers and three enlisted men, one of whom deserted and remains at large, for the murders in November 1989 of six Jesuit priests, their housekeeper, and her daughter. The highest-ranking officer arrested, Col. Guillermo Alfredo Benavides, belongs to the powerful military academy class of 1966, or Tandon, whose members include the Defense Minister and other senior officers. The arrests came at the end of a broad investigation—on a scale unprecedented in Salvadoran judicial history—with technical help from the US, UK, and Spanish Governments. The US-trained Special Investigative Unit (SIU) conducted a professional and commendable investigation that received praise from foreign police experts [redacted]. Although poor coordination among the SIU, the Attorney General's office, and other agencies initially delayed the investigation, ballistics tests, handwriting evidence, and statements by military personnel eventually implicated the suspects [redacted].

Last December, Judge Ricardo Zamora, tasked with overseeing the inquiry, ruled evidence was sufficient to try the suspects. He charged the nine soldiers with assassination and acts of terrorism, each charge carrying three to 30-year sentences. A 10th soldier, arrested in July, was charged with destruction of evidence. The defense appealed the judge's decision and the case

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~~Secret~~**Chronology of the Investigation Into the Jesuit Murders****1989**

- 11 November** *The FMLN launches its largest offensive of the war.*
- 13 November** *After being fired on by suspected insurgents, members of the Atlacatl Battalion search the University of Central America (UCA). Troops leave before the search is completed because the Rector refuses to allow the search without a warrant or direct order from the Chief of Staff, Colonel Ponce.*
- 15 November** *The High Command meets at the Armed Forces Headquarters to discuss strategy during the offensive; some evidence suggests they may have held two meetings.*
- 16 November** *(Early morning) Members of the Atlacatl Battalion, under the operational control of Colonel Benavides, Commander of the Military School, enter UCA pastoral residences and allegedly kill six Jesuit priests—including the Rector—as well as two women assistants.*
- 16 November** *(Evening) The government launches an investigation into the murders with the help of the UK, Spanish, and US Governments. President Cristiani offers a \$250,000 reward for information in the case.*
- Mid-December** *Prosecutors in the Attorney General's office begin questioning soldiers.*

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- 7 January** *Cristiani publicly announces the SIU has developed evidence implicating men in the Atlacatl Battalion in the murders. All members are confined to quarters.*

moved into a pretrial appeals phase, during which two judges will decide whether evidence gathered during the investigation and by Zamora is sufficient to go to trial.

Military Cooperation—Some Bright Spots

Armed forces cooperation with civilian authorities in the Jesuit investigation, although at times reluctant, has been greater than in any other human rights case involving the military. Although officers have rarely participated in the prosecution of colleagues, many senior officers and officials, including Defense Minister Ponce—then Chief of Staff—offered testimony. The SIU, headed by a military officer, focused on the armed forces from the start of the inquiry and reportedly proceeded without threats or interference. On some occasions the military was even compliant; after some criticism from the President's office that they were not

being responsive to the court, the Armed Forces installed a direct phone line to Zamora from the Defense Ministry [redacted]

Problems in the Investigation

Despite these accommodations, long delays in obtaining evidence and the government's lack of aggressiveness in investigating the case provoked charges by international observers that San Salvador is not committed to bringing the perpetrators to justice [redacted]. Zamora continually put off asking for evidence and testimony. In May 1990 [redacted] former Attorney General Colorado—who was replaced in June by Roberto Mendoza—ordered the prosecutors assigned to the case to take no initiatives. At the same time [redacted] no

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they submitted a written report to the President while others swore a report was never prepared.

- Military testimony has never established the precise chain of command between Ponce and Benavides on the night of the murders and has failed to clarify doubts about a possible coverup. [redacted] some testimony suggests officers were aware of Benavides's role in the murders before his indictment.
- Some 70 military logbooks were destroyed weeks after the killings, an estimated 20 of which reportedly may have given evidence relevant to the case. Lt. Yussly Mendoza, one of the murder defendants, testified that Lt. Col. Camilo Hernandez, now a codefendant charged with destruction of evidence, ordered the burning, an accusation Hernandez denies. A notebook allegedly kept by Benavides also disappeared. [redacted]

Senior military commanders have not demanded that soldiers with knowledge of the case come forward, nor have they taken action against those who perjured themselves. Furthermore, all defendants have contracted with the same team of defense attorneys—who reportedly may be paid by members of the armed forces—even though several have opposing interests and contradictory defenses. The arrangement has fueled suspicion that the defense team may be more concerned with protecting the armed forces than serving its clients' needs. [redacted]

The military, proclaiming its full support for the investigation, has repeatedly denied allegations of a coverup. [redacted]

[redacted] Benavides is the lone conspirator and that he ordered the killings on his own initiative without prompting from higher authorities. [redacted] he snapped under the stress of the November rebel offensive. [redacted]

Judicial Impediments Expected

Although the case has progressed to the pretrial appeals phase relatively quickly by Salvadoran standards, Salvadoran law and the inefficient judicial system will

probably add to problems and delays in prosecuting the case. [redacted] the president of the appeals court, while acknowledging the case requires special attention, refuses to predict when the process will be completed. If the case is moved to trial, compiling a jury will be a lengthy process. In highly sensitive cases, jurors, witnesses, and court officials have been subject to bribery and intimidation. Fear of retaliation could prevent many from coming to serve. Literacy requirements also limit the potential juror pool. [redacted]

Rules of evidence may make conviction of some suspects difficult. Laws barring codefendant testimony suggest the main evidence against Benavides, the statements of his codefendants that he ordered them to kill the priests, may be inadmissible. The only evidence against Hernandez on the destruction-of-evidence charge is also codefendant testimony. [redacted]

Prospects

Judging by past experience, we believe the case is likely to drag on for some time. Other prominent cases continue to crawl through the judicial system, including the murder of six US citizens at a cafe in 1985, and the murder of 10 peasants in San Sebastian in 1988. In the latter case, the judge last year dismissed the charges against 10 soldiers but ordered trial proceedings—which have yet to begin—against the highest-ranking officer, a major. [redacted]

Further help from the armed forces in resolving conflicting testimony or uncovering new evidence is unlikely. Suspicions of higher-level involvement, therefore, are likely to linger. [redacted]

[redacted] In our judgment, the military probably believes the Jesuit case no longer presents any institutional threat as the armed forces retain the ability to control their own affairs. [redacted]

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10 January	<i>Cristiani meets with senior officers to explain the findings of the SIU. Evidence includes ballistics data and testimonies from at least three soldiers who said Benavides ordered them to kill the Jesuits.</i>
12 January	<i>The government arrests eight suspects; an additional suspect had deserted in December and remains at large.</i>
19 January	<i>Judge Zamora, assigned soon after the murders to oversee the investigation, rules that enough evidence exists to hold the suspects, who are ruled ineligible for bail.</i>
16 March	<i>Zamora and SIU director Colonel Rivas meet for the first time.</i>
27 June	<i>Zamora orders the arrest of Lt. Col. Camilo Hernandez for burning log books wanted as evidence.</i>
2 September	<i>Cristiani testifies in court that no mention was made of the Jesuits at the High Command meeting on the night before the murders.</i>
10 December	<i>Zamora raises the case to the plenary phase, ending the investigation. Nine defendants, including the deserter, are charged with assassination; the 10th is charged with destruction of evidence.</i>
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3 January	<i>The defense appeals the decision to go to trial, arguing that insufficient evidence exists.</i>
7 January	<i>Two prosecutors in the case resign, charging that the Attorney General's office and the military hindered their ability to solve the case.</i>

one in the Attorney General's office was responsible for managing the case or devising a prosecutorial strategy. Two of the seven prosecutors working on the case resigned in January 1991, accusing the Attorney General's office of barring them from key testimonies and censoring their questions to key military witnesses during the final months of the investigation [redacted]

Although we have no evidence that any officer threatened the judge, he was clearly hesitant to violate the norms of Salvadoran civil-military relations. [redacted] Zamora was reluctant to make requests of or give specific orders to the SIU—headed by Colonel Rivas—arguing that a judge does not give orders to the military. The two men met only once, in March 1990, even though both played vital roles in the investigation [redacted]

Military cooperation, moreover, has been limited to compliance with specific requests. The reluctance of officers to volunteer information, perjury, and the destruction of evidence have fed suspicions of a coverup at high levels.

- Zamora jailed several enlisted men on charges of perjury after they contradicted each other on the witness stand.
- The military Honor Commission, appointed in 1989 by Cristiani to investigate Army involvement in the murders, accomplished virtually nothing. Members contradicted themselves in testimony, some claiming