

@CHAPTER = EL SALVADOR

The low point of the Bush administration's human rights policy toward El Salvador was its handling of the case of the six Jesuit priests who were murdered, according to all indications by the army, during the November 1989 offensive launched by the Salvadoran guerrilla organization, the Farabundo Marti National Liberation Front ("FMLN"). Prior to the FMLN's November offensive, the Bush administration appeared to have departed from some of the policies of the Reagan administration, particularly in its seeming willingness to pressure the Salvadoran armed forces to prosecute military officers for human rights abuses. But the administration's handling of the murder of the six Jesuit priests showed a reversion to the Reagan-era role of apologist for Salvadoran army abuses, largely overshadowing the more positive aspects of U.S. policy toward El Salvador in 1989.

The murder of the six priests (and their two domestic workers) at their residence in the University of Central America ("UCA") on November 16 is, in symbolic terms, the most important human rights case since the murder of Salvadoran Archbishop Oscar Romero in 1980. Like the Romero assassination, the Jesuit murders show that in El Salvador, no dissenting voice, no matter what its stature, can be safe -- that the space for peaceful political opposition is once again closed. A great deal of circumstantial evidence implicates the army in the Jesuit killings, as well as the eyewitness testimony of a domestic worker who heard shots fired and saw men in the residence in uniforms like the ones worn by soldiers. The circumstantial evidence includes the fact that the army was patrolling the area at the time, the fact that the massacre took place during the military-imposed curfew, the leisurely pace with which the executions were carried out, the military's previous hostility and denunciations of the UCA and the Jesuits, and the search of the pastoral residence by soldiers two days before the murders.

Despite fulsome condemnations of the murders by State Department spokesmen, no one in the administration would publicly discuss the likelihood of the Salvadoran army's responsibility, or comment on the overwhelming circumstantial evidence implicating the army. Assistant Secretary of State for Inter-American Affairs Bernard Aronson told members of Congress that his "gut feeling" was that "right-wing" forces were the perpetrators -- a term that was used, at least by the Reagan administration, in an attempt to distinguish violence by supposedly autonomous forces of the right from army-sanctioned conduct. Defense Secretary Dick Cheney stated that there was no evidence that the Salvadoran army was involved in the murders. President Bush said that "renegade forces on the right or the left" should be punished, but made no mention of the more obvious suspects, the uniformed soldiers seen at the crime scene. On November 20, President Bush announced that cutting off aid would be an "absolutely unacceptable" response to the killing of the priests, and added that he "absolutely believed" President Cristiani's assurances that the Salvadoran government had not been involved in the killings and would "get to the bottom" of the matter. The President's optimism about a serious investigation of the case was unwarranted. Fully two weeks after the murders, the Salvadoran Attorney General reported that he still had not questioned any of the soldiers who were stationed at the university on the night of the massacre. At year's end, no important developments in the investigation had been announced.

The failure of the President and his deputies to speak frankly about the likelihood of the military's responsibility for the crime and their efforts to shift the blame to the "right," or even the "left," were decidedly unhelpful. The Salvadoran armed forces and the courts can be expected to take their cues from U.S. pronouncements on the case, which cannot help but reduce the pressure

for a proper investigation and the conviction of the military unit which probably carried out the killings.

The administration's determination to shield the Salvadoran military from criticism for the Jesuits' murders became glaringly apparent in its handling of the eyewitness to the massacre, Lucía Barrera de Cerna. A week after the massacre, Cerna testified before the judge of the 4th Penal Court of San Salvador that at the scene of the murders she had seen men in uniforms of the sort worn by the army. She, together with her husband and child, were then brought to the United States, accompanied by U.S. embassy political officer Richard Chidester, ostensibly for their protection.

Instead, Cerna and her husband were interrogated by the FBI for four days in Miami, during which time Cerna was held virtually incommunicado. Among those participating in the interrogation was the Salvadoran military official who heads the U.S.-funded Special Investigations Unit, Colonel Manuel Antonio Rivas. Chidester, without identifying Rivas, assured Cerna that she could trust him; Rivas was then particularly insulting, abusive and threatening in his questions. For three of her four days of interrogation -- far longer than would have been necessary to record her short account -- Cerna was repeatedly encouraged to change her testimony and say that she had seen nothing on the night of the killings. Col. Rivas repeatedly accused her of lying. According to Cerna, Spanish-speaking FBI agents suggested that she would be sent back to El Salvador -- and almost certain death -- if she did not tell the story that the FBI wanted to hear. Father Paul Tipton, president of the Association of Jesuit Colleges and Universities, described the interrogation in a December 17 op-ed in *The New York Times*. "In Ms. Barrera's mind," Tipton wrote, "the agents left no doubt about the implications of her testimony: 'What you say will determine whether you can stay here or have to go back to El Salvador,' said an FBI agent.... 'They're waiting for you there [in El Salvador.] They are going to kill you.'" Chidester was present throughout the ordeal.

After intense pressure, Cerna reportedly stated that her testimony had been coached. When her interrogators read down a list of names of individual Jesuits and church officials who might have coached her, Cerna reportedly responded, "la licenciada" -- apparently a reference to María Julia Hernández, head of the human rights office of the Catholic Archdiocese Tutela Legal. This allegation was then repeated by U.S. officials, according to *The Washington Post*, although it was emphatically denied by Hernández.

According to reports received by Americas Watch, Cerna was subjected to three polygraph tests at the end of her interrogation -- after she had accepted her questioners' suggestions that she had seen nothing on the night of the slayings. It was precisely when Cerna gave these false answers -- the ones that she believed her interrogators wanted to hear -- that she failed the polygraph tests. After she was rescued from this interrogation, Cerna reaffirmed the accuracy of her original testimony given to the court.

Administration officials, including officials of the U.S. embassy, made purposefully misleading off-the-record statements to the press to the effect that the witness had failed the lie-detector tests and was therefore "useless." They insinuated that Cerna had failed the test in stating that she had seen uniformed men at the crime scene, while withholding the fact that she had failed the test only when, under pressure, she retracted her testimony and said that she had seen nothing. According to Father Tipton, U.S. Ambassador to El Salvador William Walker was among those spreading this rumor. "The ambassador was going around, privately saying to the press, 'You can't quote me on this, but this witness is valueless,' Tipton said." (Martin McReynolds, "Salvadoran Witness Failed Lie Test After U.S. Coercion, Activist Says," *Miami Herald*,

December 12, 1989.) Salvadoran Archbishop Arturo Rivera y Damas also objected to the treatment of the witness, stating that she had been "subjected to a veritable brainwashing in [the United States] and to the blackmail that she would be deported if she did not tell the truth. After this psychological torment, Mrs. Barrera hesitated and retracted her statement.">

Washington also appears to have energetically spread the word to the press that Cerna, Salvadoran Archbishop Arturo Rivera y Damas, and María Julia Hernández of Tutela Legal are not to be believed. The effort to smear them, particularly Hernández -- who is a true human rights professional, and does her work at great personal risk -- was most unwarranted.

The Bush administration denied that it had done anything wrong in handling the witness. U.S. Ambassador to El Salvador William Walker, in response to a statement by Archbishop Rivera, said:

@QUOTENOIND = I am saddened that the Archbishop does not believe that the United States government and he are in the same quest for the truth of what happened to, and who was responsible for, the murder of Father Ellacuría [one of the Jesuit priests], his colleagues, and two other civilians. From the moment that this outrage occurred, there have been a great many misinformed and unsubstantiated statements offered by persons in positions of authority. The version that was provided to the Archbishop is incorrect.

Ambassador Walker later denied that the witness had been threatened with deportation, and dismissed Archbishop Rivera's accusations with the following remark:

@QUOTENOIND = The archbishop is under a great deal of pressure. He wants to get the truth of the murder, and he has glued together a string of circumstantial evidence and decided that the army is guilty. But I think he is willing to accept a degree of evidence considerably lower than I'm willing to accept.

In a December 11 interview, President Bush stated that he had "looked into" the allegations that Cerna had been pressured to change her testimony and that he was "assured that is not the case." Bush expressed "confidence that our attorney general would not permit the kind of inquisition process that was alluded to<%-20> <%0>.<%-20> <%0>.<%-20> <%0>.<%-20> <%0>.<%-20> <%0>" Since Cerna's mistreatment at the hands of U.S. and Salvadoran investigators, no other witness to the killings is known to have stepped forward.

It is worth noting that the evidence against the army in the case of the Jesuits' murder was far more persuasive than the evidence purportedly demonstrating knowledge of an FMLN arms cache on the part of Jennifer Casolo, a U.S. citizen living in El Salvador. But the administration insisted that the evidence of Casolo's guilt was "definite." Indeed, every aspect of the administration's handling of the Jesuit murder case -- the refusal to comment on the evidence implicating the military, the abusive treatment of the sole known witness, the participation in a cover-up by spreading rumors of the witness's unreliability after having forced her to retract her testimony -- contrasts sharply with the administration's posture in the Casolo case.

Casolo, a U.S. churchworker who assisted religious and Congressional delegations visiting El Salvador, was arrested on November 25 when the Salvadoran police raided her house and allegedly found a cache of weapons in the backyard. The Casolo arrest came at a time when the Salvadoran police and army were arresting, jailing and expelling dozens of foreigners who had worked with Salvadoran churches and relief organizations.<\$F Hundreds of Salvadorans working for church and human rights causes were also jailed, and many were tortured. Virtually every church in El Salvador was raided and robbed by troops, and top church officials and other workers were arrested.> Casolo was promptly jailed, and the authorities announced their intention to try her for

terrorism. The National Police paraded Casolo in front of the press and, while not allowing her to say anything or see a lawyer, claimed that she had stored the weapons at her house. She was accused in the local press of running an FMLN safe house.

There is no doubt that the government used the incident as part of an effort to threaten and discredit the entire foreign religious community in El Salvador. According to the Salvadoran press, the National Police reported on November 28 that the case "proves once again the interference of foreigners who come to the country to collaborate with the FMLN terrorists<%-20> <%0>.<%-20> <%0>.<%-20> <%0>.<%-20> <%0>.<%-20> <%0>."

Under normal circumstances, one would expect the U.S. embassy to insist that the rights of a U.S. citizen who has been arrested by a foreign government be upheld, including the right to the presumption of innocence. In the case of El Salvador, the U.S. embassy staff, as well as officials in Washington, appeared to accept the Salvadoran military's view that Casolo's guilt was an established fact and thus leapt to associate the U.S. government with the unproven charges. An embassy spokesman pronounced the raid a "good bust" and embassy staff made off-the-record comments to the press about the quality of the evidence against Casolo. On November 27, White House spokesman Marlin Fitzwater stated that "there are indications of her involvement, that's for certain." When pressed, Fitzwater was forced to admit that he had no information on Casolo's alleged "involvement" but declared that press reports had shown "definitive involvement in terms of her role and her past history there." But the press had said nothing about Casolo's "role" other than to describe her as a well-respected guide to foreign delegations who took no sides in the conflict. Fitzwater made his remark before Casolo had even seen a lawyer or been formally arraigned on the charges against her.<\$F Faced with harsh criticism, Fitzwater has since apologized "to anyone who feels that they were offended by this.">

In addition to condemning Casolo before she had been tried, administration officials leaked to the press that the Justice Department was considering prosecuting Casolo in the United States under the rarely used Neutrality Act, which bars U.S. citizens from taking part in military conflicts against countries with which the United States is at peace. Given the weakness of the Salvadoran judiciary, such statements by top U.S. officials could not help but affect the outcome of any trial of Casolo.

On December 11, following a storm of Congressional criticism, President Bush belatedly urged President Cristiani to ensure that Casolo receive a fair trial. The communication probably helped secure Casolo's release on December 13, when a judge who had earlier ordered her held for further investigation ruled that there was insufficient evidence to proceed. But even then, the administration made known that it was not convinced of the lack of evidence of Casolo's guilt. An unnamed administration official stated to the press:

@QUOTENOIND = There are real, compelling issues about how the weapons got there and why her personal effects were found with them.... We had hoped she would stay down there and cooperate in the case, but she did not. Our position was not to lean or pressure or strongly urge or condition assistance to El Salvador on her release in any way.<\$F The mention of Casolo's personal effects being found in the arms cache refers to the Salvadoran army's claim to have found photographs and other personal items buried in the backyard with the arms. The army had access to Casolo's personal effects in the course of searching her house, and there is no known independent witness to the supposed discovery of these items with the arms. Since it strains credulity to suggest that Casolo would implicate herself by placing such personal items in an illegal arms cache, this "evidence" appears more probative of a frame-up than of Casolo's

guilt.>

The Bush administration's performance on other human rights issues during the November offensive was not much better. At no time throughout the offensive did the administration condemn the killings and massacres of civilians reported by human rights groups. At no time did the State Department publicly deplore the torture of Salvadoran noncombatants -- many of them church workers and others who had attempted to provide assistance to the victims of the war -- who were swept into jails. At no time did the administration condemn the round-up of foreign religious workers -- including many U.S. citizens -- and their detention and expulsion from the country. Nor did the administration speak out against the widespread searches and damage done to dozens of Salvadoran churches and offices of popular organizations or the campaign of threats and abuse against church leaders.

By remaining silent on human rights abuses when the war escalated, the Bush administration signaled to the Salvadoran military that "anything goes" when fighting with the FMLN heats up. Such a policy not only encouraged abuses by the military during the offensive, but also undercut future efforts to restrain the Salvadoran authorities from killings, disappearances and torture once the current crisis passes.

Among the stances taken by the Cristiani government during the offensive was its refusal to agree to a truce to allow the International Committee of the Red Cross ("ICRC") to evacuate the wounded from areas of conflict. The ICRC appealed several times to both sides to the conflict to permit such a cessation of hostilities, but the Cristiani government, backed by the Bush administration, refused. In meetings with members of Congress, Assistant Secretary Aronson justified this position by referring only to the FMLN's willingness to agree to a cease-fire, charging that it wanted a "tactical truce." By disregarding the ICRC's call upon all parties to obey their obligation to permit care of the wounded, and by equating the humanitarian effort with a guerrilla tactic, the Bush administration did a grave disservice to the laws of armed conflict, and contributed to additional civilian casualties in San Salvador.

While the administration's handling of the Jesuits case, the Casolo case, and human rights violations during the November offensive will long be remembered as setting the tone of U.S. human rights policy toward El Salvador in 1989, there were some positive aspects to the Bush administration's posture in El Salvador. President Bush used the technique of sending high-level delegations to El Salvador to raise human rights concerns. This tactic, which helped to reduce military-supported death-squad abuses when President Reagan employed it by sending then-Vice President Bush on a similar mission six years ago, was one worth emulating because it signaled U.S. concern at a high level, and bolstered efforts which may have been underway by the U.S. embassy. Vice President Quayle visited El Salvador in February and delivered a strong message on human rights -- which reportedly included naming at least three soldiers and demanding that they stand trial for the murder of ten peasants at San Sebastián in September 1988. Quayle's trip persuaded the military to reopen its investigation of the massacre and eventually resulted in the army's announcement that army troops had been responsible for the massacre and for a later cover-up. Two officers, three noncommissioned officers and four soldiers were accused by the army brass and detained by the security forces, although they continue to receive their salaries. Marking a rare event in Salvadoran human rights cases, a civilian judge ordered the detention of the officers and soldiers. The prosecution was still pending at year's end.

Vice President Quayle again visited El Salvador in June, and once more

delivered a human-rights message to the government. The trip was badly needed, since human rights conditions had deteriorated in the intervening months. This time, however, the message was diluted because Quayle used the occasion to meet with Roberto D'Aubuisson -- the former military officer who is widely credited with creating and sustaining the death squads. The Quayle visit with D'Aubuisson -- and a later invitation to D'Aubuisson to attend the Fourth of July celebration at the U.S. embassy -- marked a change in the U.S. policy of refusing contact with the death-squad leader. (The United States had previously isolated D'Aubuisson because of his involvement in a 1984 plot to kill then-U.S. Ambassador to El Salvador Thomas Pickering. D'Aubuisson is also said to have masterminded the murder of Archbishop Romero in 1980, and numerous other political killings.) In an interview with *The Washington Post* in December, Ambassador Walker justified the new U.S. tolerance for D'Aubuisson by noting that he occupied a position of importance within the ruling ARENA party. Walker then went out of his way to praise D'Aubuisson, stating: "There is no one in Salvador who does not recognize that D'Aubuisson is the best politician in the country."

The latest in the series of high-level missions was taken by Assistant Secretary Aronson and General Maxwell Thurman of the U.S. Southern Command, who visited El Salvador in early November. Yet, the value of the mission was diminished by the delegation's failure publicly to acknowledge or condemn government abuses.

While the Bush administration waited until the last several months of 1989 to adopt some of the worst features of the Reagan administration's policy toward El Salvador, other discredited aspects of Reagan policy continued without interruption. In August, the administration rejected for the third straight year a petition on Salvadoran labor rights before the U.S. Trade Representative ("USTR").<\$F The petition was filed by Americas Watch pursuant to Section 502(b)(8) of the Trade Act, which contains legislation linking respect for labor rights with trade benefits under the Generalized System of Preferences.> Once again, the administration denied the petitioner the right to appear before the USTR to present information on gross abuses of worker rights (including murders, arrests and torture of trade-union leaders, as well as severe limitations on Salvadoran workers' rights to associate, assemble, bargain and strike). The administration's repeated failure to examine labor-rights petitions on El Salvador has been a matter of concern to members of Congress. On July 14, Representative Joe Moakley and a bipartisan group of 106 other members of the House wrote to USTR Carla Hills, requesting that the petition be reviewed.

The administration's failure to review petitions on worker rights in El Salvador relates to the fact that many of the victims of government repression are members of left-wing unions. The administration's policy has been to attempt to discredit the unions associated with the National Union of Salvadoran Workers ("UNTS") federation, which administration spokesmen have repeatedly condemned as "guerrilla fronts," despite the fact that all are legal associations and have been responsible for the bulk of the collective contracts negotiated by Salvadoran workers in recent years.

Until recently, the State Department's position has been bolstered by that of the AFL-CIO, which has not supported a review of labor rights in El Salvador.<\$F The AFL-CIO's Department of International Affairs is hostile to the UNTS unions and financially supports a rival federation, the National Union of Workers and Peasants ("UNOC"), through its U.S. tax-funded organization, the American Institute for Free Labor Development ("AIFLD").> In late October, however, the AFL-CIO changed its position and supported review, and the

Federation's president, Lane Kirkland, wrote to President Cristiani announcing the AFL-CIO's intention to seek USTR review of labor rights in El Salvador when a new review cycle begins next April. The AFL-CIO's change of heart appears to be the result of a decision by the labor federation that it supports in El Salvador to request a review, as well as a response to strong pressure from within the U.S. labor-union movement for a move away from the Reagan-Bush policy on Salvadoran worker rights.

The Bush administration has also continued the Reagan policy of refusing to limit or condition aid to El Salvador on respect for human rights. In this regard, Congress is as much to blame as the executive branch. Until the November military offensive and the murder of the six priests, there existed in Congress a virtual consensus about the need to maintain high levels of assistance to the Salvadoran government. Even after the ARENA party, long suspected by many in Congress of links to death squads, won the presidency and assumed office in June 1989, efforts by human rights leaders in the Senate (including Senators Tom Harkin, Patrick Leahy and Mark Hatfield) to limit military aid to El Salvador were defeated during a Senate vote in September.<\$F The Leahy amendment, as it was known, was an attempt to attach conditions to the fiscal year 1990 foreign aid appropriations bill. The measure, which was defeated, would have limited aid to \$85 million per year and allowed Congress to review the government's human rights record before making available the second half of the aid package. A majority in the Senate, led by Senator Chris Dodd, objected to the restrictions and defeated the measure.>

Even after the murder of the six priests, an amendment to delay provision of a portion of U.S. military aid, offered by Representative David Obey in the House during consideration of the conference report on foreign-aid appropriations, was defeated by 21 votes. An amendment in the Senate, which tied the release of 30 percent of the military aid to a resolution of the priests' case, was defeated by a vote of 58 to 39. The message sent by the administration and Congress was that no abuse is too great to jeopardize U.S. aid. Such actions can only encourage the Salvadoran military to continue operating as a law unto itself. Thanks to ten years of uninterrupted aid, the Salvadoran military has grown from a force of 16,000 to 57,000. Its officer corps is virtually immune from prosecution for its abuses against the civilian population, and as an institution it eclipses any civilian structure in the country.

The Bush administration is today in the position of defending the "civilian" government of Alfredo Cristiani. That is an impossible task because President Cristiani is either in control of the army and security forces and thus responsible for the unspeakable abuses of those forces, or he is not in control. If in fact he is powerless to exert any meaningful control over those forces, then the Bush administration's fiction that it supports a legitimate government is really no more than a thin veil to cover up its support for a murderous and lawless military dictatorship. We urge that the Bush administration use the occasion of the serious army abuses committed in November and December to reexamine that unqualified support.