

U.S. Court Brings Archbishop Romero's Killer to Account in Case Demonstrating Continued Importance of Key Human Rights Law

Almost a quarter century after the assassination of El Salvador's Archbishop Oscar Romero, a California federal court has found former Salvadoran Air Force Captain Alvaro Rafael Saravia liable under the United States' Alien Tort Claims Act (ATCA) for organizing the March 1980 murder. This marks the first case in which anyone has been held responsible for one of the most notorious assassinations in Latin American history.

Archbishop Romero, an outspoken advocate for peace and justice in his increasingly war-torn land, had often been compared to Mahatma Gandhi and Martin Luther King. His murder by a rightist military death squad marked a decisive escalation in the Salvadoran civil war, which, by the time of its negotiated conclusion in 1992, had claimed upwards of 75,000 lives – mainly civilians.

Under Archbishop Romero's leadership, the Salvadoran Catholic Church had by 1980 become one of the few permitted voices of dissent, and in his weekly sermons Romero would publicize killings and other brutalities committed against civilians. In his March 23, 1980 homily, Archbishop Romero called upon Salvadoran soldiers "[i]n the name of God...[to]: Stop the repression." He was shot by a sniper the next day, while saying Mass. The Romero case has festered in Salvadoran national life because of his extraordinary stature, and the mass of evidence available linking the crime to a conspiracy organized by Captain Saravia at the behest of notorious death squad leader Major Roberto d'Aubuisson,

The case of *Doe v. Saravia* was filed in September 2003 by the San Francisco-based Center for Justice and Accountability on behalf of a family relative whose identity has been withheld for security reasons. The plaintiff accused Saravia of planning the murder, and equipping, transporting and paying the assassin. Saravia, who has lived in the U.S. since at least 1987, disappeared after receiving the complaint, and, on September 3, 2004, the court issued a default judgment against him. After hearing extensive testimony regarding the conspiracy, the situation in El Salvador at the time, and the unique role played by the Archbishop in defending human rights and serving the poor, the court awarded the plaintiff damages of \$10 million.

The Saravia case follows on two other landmark cases growing out of the Salvadoran war: *Ford v. Garcia* [link to HRF Churchwomen page: http://www.humanrightsfirst.org/archives/arc_ijp/lac/nuns/nuns.htm], a 2000 case brought by the families of four American Churchwomen murdered by Salvadoran security forces in December 1980; and *Romagoza v. Garcia*, a 2002 case brought by three Salvadoran refugees who had been tortured by Salvadoran military forces. The defendants in both these cases were two powerful Salvadoran military leaders, Generals Jose Garcia and Carlos Eugenio Vides Casanova. In the *Ford* case, the jury found for the defendants, unable to conclude that the generals had actual control over their troops. The *Romagoza* plaintiffs, however, succeeded in persuading the jury that the defendants had failed to take reasonable measures to prevent or punish the abuses committed by their

troops. (Human Rights First, then known as the Lawyers Committee for Human Rights, represented the families in the *Ford* case.)

“Together, the three El Salvador cases will have a powerful impact in El Salvador, and in Latin America more broadly,” noted Ken Hurwitz, Senior Associate in Human Rights First’s International Justice and U.S. Law & Security programs. “They have helped break a baleful cycle of impunity for egregious atrocities, and send a powerful message that there can be no safe haven for those who commit the worst crimes under international law – torture, genocide, war crimes, and crimes against humanity.”

The *Saravia* case also provides a vivid illustration of the importance of the Alien Tort Claims Act in offering victims of terrible human rights violations committed in other countries the ability to seek relief in U.S. courts. ATCA, which dates back to the original Judiciary Act of 1789, has been under attack in recent years by the Bush Administration, parts of the U.S. business community, and others. “While the ATCA critics claim it represents another example of runaway litigation that somehow threatens business and foreign policy interests,” said Eric Biel, Deputy Washington Director and Senior Counsel at Human Rights First, “in fact its real purpose is a narrow one: to provide a legal backstop – a way for victims of egregious human rights violations to find a measure of justice in the United States when that is not available in their home countries.” As Human Rights First has demonstrated [link: http://www.humanrightsfirst.org/international_justice/w_context/w_cont_12.htm], U.S. courts have been quite careful at separating *bona fide* from frivolous claims. For victims to obtain relief, the courts must find the defendants responsible for internationally-recognized violations of human rights, such as torture, war crimes, or, as in the case of *Saravia*, crimes against humanity.

The ability to use ATCA in these types of cases was upheld by the U.S. Supreme Court on June 29, 2004, in the case of *Sosa v. Alvarez-Machain* [link to HRF statement on *Sosa* and further link to the opinion: http://www.humanrightsfirst.org/media/2004_alerts/0629.htm], where it rejected efforts by the Administration and others to gut the statute.

Read more about the Alien Tort Claims Act [link http://www.humanrightsfirst.org/international_justice/w_context/w_cont_12.htm]