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El Salvador Must End Immunity for Wartime Crimes

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El Salvador must end immunity for wartime crimes

The extradition of Col. Inocente Orlando Montano for 1989 Jesuit massacre would be a resounding victory for justice

February 21, 2016 2:00AM ET

by [Lauren Carasik](#) @LCarasik

On Feb. 5, U.S. federal magistrate Kimberly Swank [cleared the way for the extradition](#) of Salvadoran former Col. Inocente Orlando Montano to Spain, where he faces criminal charges for helping plan the 1989 slayings of six Jesuit priests, their housekeeper and her 16-year-old daughter during El Salvador's civil war.

Twenty-seven years after that brutal massacre, [Montano and 16 other high-level Salvadoran military officials](#) may finally face justice for their crimes. An amnesty law passed in the aftermath of the 1992 peace accords that ended the country's bloody 12-year conflict has shielded the officers from domestic prosecution, through a blanket reprieve that runs afoul of international law.

The suit, filed by the U.S.-based advocacy group [Center for Justice and Accountability](#) (CJA) and the Spanish Association for Human Rights, has been winding through the Spanish National Court since 2008. Five of the priests killed were from Spain, providing a nexus to the Spanish courts.

Swank's ruling is a resounding victory for justice for a conflict in which impunity has reigned. "Holding a senior military officer accountable for the Jesuit massacre is significant on so many levels," [CJA lawyer Almudena Bernabeu](#) said in a statement. "First, we will be able to find the truth that the Jesuits and all Salvadorans have demanded for so long. Truth and accountability will give strength to all those who are trying to end the cycle of violence in El Salvador that has resurged to levels not seen since the civil war."

Montano, 73, has been in U.S. custody since 2013 on charges of immigration fraud and perjury. The State Department is expected to approve the extradition order. Swank found that he could be considered a terrorist because he collaborated to carry out murders in his official capacity. He was present at key meeting when commanders plotted the murder of Father Ignacio Ellacuría, the University of Central America's rector, who had been serving as an intermediary in peace talks.

Ellacuría's death was intended to sabotage peace, but the Jesuit killings horrified the international community, galvanizing pressure to end the conflict. Washington provided more than [\\$4 billion in assistance](#) to the Salvadoran military during the civil war as part of its Cold War strategy, despite its brutal record of human rights abuses.

The Jesuit massacre triggered a congressional investigation led by former Rep. Joseph Moakley, D-Mass., whose withering report found that 19 of the 26 Salvadoran officers culpable in the killings underwent military training at the U.S. Army School of the Americas — including Montano and the elite Atlacatl Brigade, a rapid deployment counterinsurgency unit that was dispatched to silence Ellacuría and any witnesses to his execution. The brigade had already left a trail of blood, including [El Mozote massacre](#) in 1981, during which more than 800 people, including 450 children, were killed. The findings coincided with the waning of the region's strategic importance as the Cold War wound down and prompted Congress to begin withdrawing its support to San Salvador.

Spain's willingness to exact the justice that San Salvador has thus far failed to deliver sends a powerful message to perpetrators of atrocities and upholds the rights of victims.

More than 75,000 people died during El Salvador's civil war; thousands were subjected to rape, torture and disappearance; and more than a million and a half were displaced. A 1993 U.N.-sponsored [Truth Commission report](#) found that the military and right-wing death squads were responsible for 85 percent of the atrocities. Five days after the report was released, the right-wing Nationalist

Republican Alliance–dominated Salvadoran legislature passed a blanket amnesty law, which continues to block prosecutions of wartime atrocities.

A coalition of Salvadoran human rights groups fighting impunity has challenged the law, but the country’s Supreme Court has so far declined to lift it.

Supporters [claim](#) that the sweeping amnesty law was necessary to bring warring parties to peace and that lifting the immunity would reopen old wounds in an already [deeply polarized political climate](#). Yet a 2014 poll by the University of Central America’s Public Opinion Institute showed that [more than three-quarters of Salvadorans](#) support a government investigation into wartime abuses. El Salvador remains mired in violence and instability that many believe is the legacy of its failure to reconcile after the conflict.

The ruling in Montano’s case has broader implications as well. It vindicates Spain’s universal jurisdiction law, which challenges impunity by providing a forum for accountability for perpetrators of atrocities in countries that are unable or unwilling to seek justice on their own soil.

Montano’s pending extradition has already changed momentum in the Jesuit massacre case. In 2011 the Spanish court issued indictments against 20 officers involved in the killings, though San Salvador had refused to extradite them. Shortly after Swank’s decision, El Salvador announced the arrest of four of the officers wanted by Spain, though none are high-ranking military commanders, whose whereabouts remain unknown.

It is unclear how vigorously the police are looking for the remaining officers, who are mounting a campaign against the warrants. “We remind the Salvadoran people that those who were truly responsible for the deeds were tried, convicted and amnestied,” the implicated [officers](#) said in a statement, referring to the convictions of two men whose 30-year sentences were vacated after lawmakers passed the amnesty law.

The Salvadoran Supreme Court must rule on both the amnesty law and Spain’s extradition requests, but powerful forces that would be imperiled by accountability

make extradition or domestic prosecutions uncertain. Impunity weakens the foundations for building civil society institutions and impedes transformation of the structural conditions that gave rise to the conflict.

For El Salvador to reconcile with its past, it would be best, of course, if it pursued accountability domestically. But Spain's willingness to exact the justice that San Salvador has thus far failed to deliver sends a powerful message to perpetrators of atrocities and upholds the rights of victims who have long demanded full reckoning. And at least this time, the U.S. has come down on the right side of history.

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