



TRUTH & JUSTICE NOT AMNISTY

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By turning its back on a law that has done little but allow criminals to get away with atrocious human rights violations for many years, El Salvador is, at last dealing with a painful past damaged by obstinacy, impunity and oblivion, can perhaps begin to build for the future.

With the decision by El Salvador's Supreme Court to declare the country's Amnesty Law unconstitutional, back in July, and the recent anniversary of the UCA Martyrs, CRISPAZ sat down to speak with Ovidio Gonzalez, director of Tutela Legal and Fr. Jose Maria Tojeria, S.J. director of the Human Rights Institute at the University of Central America (IDHUCA) to get their opinion of this law.

CRISPAZ: What are the social effects of the Amnesty Law over these recent years?

Ovidio Gonzalez: The first of many effects is that both justice and truth have been denied. This is the outcome that has most deeply affected Salvadoran society, especially the victims. The victims need to know the truth behind the crimes committed against them. So many victims are asking themselves why they were targeted when they did not take part in the struggle.

Justice has not been done, and truth has not been revealed. And this makes it possible for the people who committed these crimes, the people who were and still are in power not to change their position. They have been given a green light to continue their oppressive policies. There have been cases of forced disappearances, not only

by the gangs, but also by the military and government security forces, acting with a modus operandi similar to what we saw during the war. We can recognize how, under the pretext of the *war against crime*, many of these violent acts are being justified. The Amnesty Law must be abolished in order to put an end to such violence, in order for people to know the truth, and in order for others to take responsibility for their actions. The Amnesty Law has caused tremendous damage to Salvadoran society.

J.M. Tojeira: The Amnesty Law has been a slap in the face of the poor. It was imposed by the powerful and is part of a different kind of war waged by the powerful against the weak. The war in El Salvador was essentially one of the powerful against the weak. After the war, the powerful have continued to take advantage of the weak in different ways. Calling for what is good and beneficial for the country, they proposed amnesty as a sign of reconciliation when in fact it was a sign of impunity. In reality, amnesty was a way of protecting their interests and their strategies for power; it embodied a way of holding on to the reins of power in the country. I think the Amnesty Law ended up rupturing our social cohesion. Impunity continues to plague El Salvador. Impunity for the past becomes impunity for the present and so has also been a source of the current violence. A good number of the demobilized military who were intoxicated by a war-situation in which everything counted on being well armed are now seeking to continue making use of arms for their own benefit. They think they can share in the impunity that has been granted to their superiors. The serious problem of violence that we are now facing is the result of the impunity granted to those who have perpetrated war crimes. And the Amnesty Law, insofar as it has granted such impunity, is one reason for the continuation of violence in the country.

CRISPAZ: Is the violence that El Salvador is going through right now linked in any way to unresolved cases due to the Amnesty Law?

Ovidio Gonzalez: We have a very clear case in El Mozote massacre. When we presented the case before the Inter-American Court of Human Rights, we offered evidence of the horrors that were done to this community and of the subsequent lack of justice; for this investigation an anthropological study was carried out in several communities with displaced people from El Mozote. The research revealed that the displaced people from El Mozote were farmers who lived off the land and the few animals they had. And when they were forced to leave their town, they sought refuge in other communities and even in other countries, with nothing to offer than their labor or whatever little money they had. Other sought refuge in marginal communities in San Salvador, such as Ciudad Delgado – communities with a population of up to 1500 people. Communities with only one school, one clinic, very few job opportunities, were suddenly flooded with 2000 refugees, the services of the community were not enough to meet the needs of so many people. People took on any kind of job they could find, jobs that did not provide enough income to provide even for a small family.

Poverty grew. People who were used to having a place of their own, their own community leaders, their own traditions, and a life with dignity, suddenly lost their hopes and dreams. After the armed conflict, those who were combatants in the war did not receive any sort of psychological treatment. These people had not been prepared for a new way of life; they were not able to incorporate themselves into a new society. There was no treatment given to them from the government. The government at that time was not interested in looking after the victims. They were only interested in privatizing State-owned institutions. They were interested in making money. They were not interested in looking after the young generations.

J.M. Tojeira: The truth is the only way to heal the wounds left behind by history. It is the beginning of any process for attaining justice. Without truth, justice makes no sense. In situations of violence, the victim is the only innocent person; the victim is a human being, not trash to be discarded in the trashcan of history. The perpetrators of such atrocious crimes must be identified; it is they who have acted in contradiction to what we are as human beings. This truth is fundamental to our humanity. Deep down, what makes us truly *human* beings? I believe that the truth not only heals the wounds from the past; it is also essential for realizing a just society. Other issues will come up later, such as penal justice or transitional, restorative justice. But the first act of justice for the victims is that the truth of their human dignity be acknowledged. And this requires that the perpetrators of violence recognize that they have violated the victim's dignity.

CRISPAZ: How do you think knowing the truth about what happened during the war can help to heal the present?

Ovidio Gonzalez: It does help to heal, but what we have to understand is that the real truth is not a story you tell children. Truth that is valid must come about through a process of investigation. And for that, a criminal trial is required. This is the real way the real truth can be known. There may be doubts about whether a trial is enough to establish the truth. But at least a trial can set us on a path to determining where the truth lies. You can't say as Joaquin Samayoa, one of the FMLN commanders, said: "The truth was known when the Truth Commission Report was delivered." It is not that simple. Who really knows what the Truth Commission Report contains? We know the summaries of some cases. But who knows what is presented in the 500 pages of this report? To know the truth we have to know the real truth. We do this through testimonies, through careful investigation, through evidence. Only in this way can the truth be revealed. And this means through justice.

J.M. Tojeira: I believe so. It is difficult to make connections with specific cases of the past, but most certainly the present-day abundance and availability of weapons are linked with the past. The present prevalence of violence can also be attributed to the general impunity with regard to specific cases of atrocity during the war. The freedom to act without fear of the law is clearly related to the Amnesty Law which determined how crime was legally prosecuted in this country. I do believe it's only one of those causes for increased violence. The problems we are facing also have to do with the inequality that makes Salvadoran society. We still face a form of evil satisfaction of people's rights. Some people have more rights than others. Examples of this abound, even in government institutions. But impunity remains one of the primary causes not only of particular acts of violence but also of a culture of violence – a culture in which anyone can seek his or her own justice. The Amnesty Law is a root cause of such situation.