

# San Francisco Chronicle

## S.F. nonprofit's key role in bringing war criminals to justice

By [Bob Egelko](#)

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*People hold pictures of slain Jesuit priests as they attend a candlelight vigil marking the 20th anniversary of the massacre in San Salvador in November 2009.*

When a San Francisco nonprofit began efforts in 2003 to bring Salvadoran military commanders to trial for a notorious mass murder, it seemed like the longest of long shots: The killings dated from 1989, El Salvador's U.S.-backed government had passed an amnesty law in 1993, and the world was paying little attention.

Then this month, a U.S. magistrate ordered the extradition to Spain of Inocente Orlando Montano, a top Salvadoran commander, to stand trial for the slayings of five of the eight victims — five Jesuit priests, all from Spain.

[It made news around the world.](#) And for one lawyer at the Center for Justice and Accountability in San Francisco, it was a step toward fulfillment of “my wildest dreams.”

“When six years and 10 years go by and the results are hard to deliver, I start asking, ‘What am I doing? Am I so stubborn? Should I just drop it?’” said Almudena Bernabeu, who was also born and raised in Spain. But she kept her faith, she said, and “others saw it the way I see it.”

Bernabeu also took part in the case that resulted in a Guatemalan court’s conviction in May 2013 of former dictator Efraín Ríos Montt for genocide in the slaughter of more than 1,700 native Mayans in 1982-83. [A higher court overturned his conviction 10 days later](#), and he is still awaiting a retrial.

The Center for Justice and Accountability has pursued many such cases since its founding in 1998, and it has won multimillion-dollar civil verdicts against perpetrators of torture and government-sanctioned killings in El Salvador, Honduras, Chile, Peru, Haiti, Somalia and Bosnia-Herzegovina. One was [a \\$10 million judgment by a federal judge](#) in Fresno in 2004 against a reputed member of the death squad that assassinated Oscar Romero, a Salvadoran archbishop and human rights leader, in 1980.

The current Salvadoran case stands out, both for the nature of the killings and for the politics that surrounded them.

### **Years of war**

El Salvador’s military-dominated government had fought a civil war with the leftist Farabundo Martí Liberation Front, or FMLN, since the late 1970s. Peace talks were under way in 1989, mediated by a Jesuit priest, Ignacio Ellacuría, rector of the University of Central America.

Montano, an army colonel and presidential cabinet member who directed the national police, was among the commanders who ordered a U.S.-trained battalion in 1989 to kill Ellacuría, according to U.S. Justice Department evidence in his extradition case.

Members of the battalion gunned down Ellacuría and five other priests at their university residence, along with their housekeeper and her 16-year-old daughter. Five of the priests, including Ellacuría, were from Spain, a key factor in the current case against Montano.

Military leaders tried to conceal the battalion’s involvement and blame the FMLN, and Montano threatened a woman who asked about the government’s role, according to federal court documents.



*Photo: Luis Romero, AP People mourn the death of six Salvadoran Jesuits on Nov. 18, 1989, in San Salvador.*

## **Peace deal**

Public outrage over the killings helped pressure the Salvadoran government to sign an agreement ending the civil war in 1992. A Salvadoran jury convicted two officers of the murders, but they were released from prison in 1993, after 15 months, when the nation's legislators granted amnesty for crimes committed by either side in the conflict. The law remains in effect.

During the civil war, El Salvador's government had a powerful protector — the administrations of Ronald Reagan and George H.W. Bush, which supplied military and financial aid and portrayed the FMLN and other leftists in Central America as a communist menace.

The United States “aligned itself behind exactly the wrong people,” said attorney Dixon Osburn, executive director of the Center for Justice and Accountability. He said the priests' killings were so shocking that they forced the U.S. to re-examine its policy and support a peace agreement. But he said that didn't amount to “a shift significant enough to demand and to be able to enforce some kind of accountability.”



*Dixon Osburn, executive director of the Center for Justice and Accountability in San Francisco.  
(Courtesy of Center for Justice and Accountability)*

## **Lawyers step in**

That task was taken on by private organizations like the San Francisco center, with a modest staff of 12, including six lawyers. [It filed its first case in 1998](#) on behalf of four Bosnian Muslim immigrants who said they had been tortured as prisoners in the 1992 civil war. Nearly four years later, a federal judge awarded each of them \$35 million in damages against a former Serbian soldier.

That award, like many of the center's verdicts, proved to be largely symbolic, because the perpetrator was not wealthy and had left the United States. One exception, Osburn said, was a Haitian torturer who moved to Florida, where he won a lottery, celebrated on television and wound up paying \$580,000 to some of his victims.

But the organization says its cases also serve other purposes. They can expose international criminals, some in high office, and can establish legal principles such as rulings that mass rape can amount to torture, and that commanders are responsible for their troops' atrocities.

The San Francisco group "has become the leader in the never-ending fight to demonstrate to the world that America has not forgotten its ideals," Robert White, who served briefly as U.S. ambassador to El Salvador in the early 1980s and was removed by Reagan, said before his death last year.

## **Spanish law**

The center's involvement in the Salvadoran prosecution is turning out to be more than symbolic, due to some expansive features of Spanish law.

Spain's "universal jurisdiction" law allows prosecution of crimes committed against its nationals anywhere in the world. Another law allows private citizens to initiate criminal cases.

In 2008, after five years of investigation, Bernabeu, the San Francisco attorney, joined colleagues in Spain to file charges with Spanish prosecutors against 15 alleged perpetrators of the Jesuit murders, including Montano and former Salvadoran President Alfredo Cristiani.

Prosecutors took up the case but were unable to extradite any defendants from El Salvador because of its amnesty law. Montano, however, turned up in Massachusetts — "a candymaker handing out lollipops to children," as Osburn described him — and was promptly charged with immigration fraud and sentenced to 21 months in prison. He served his term, then was hit with an extradition order, requested by Spain and carried out by the Obama administration's Justice Department.



*Photo: Luis Romero, ASSOCIATED PRESS*

*In this July 1989 file photo, from left, Col. Rene Emilio Ponce, formerly the head of the Salvadoran Armed Forces joint chiefs of staff; Rafael Humberto Larios, formerly El Salvador's defense minister; Col. Inocente Orlando Montano, formerly public safety vice minister and Col. Juan Orlando Zepeda, formerly the defense vice minister, in El Salvador.*

### **'Armed gang'**

Montano fought extradition, arguing that he was protected by amnesty and that the Spanish criminal charge, "terrorist murder," applied only to members of an "armed gang." But U.S. Magistrate Kimberly Swank ruled Feb. 4 that the amnesty law was not binding in this country, and that a government official who allegedly colludes with others to order a mass murder of civilians "may reasonably be considered a member of an armed gang" under Spanish law.

The final decision on extradition is up to Secretary of State John Kerry. The crime is punishable by 30 years to life in prison, Bernabeu said.

She also noted that on Feb. 5, El Salvador arrested four other alleged perpetrators of the Jesuit killings and has asked its courts to decide whether they are shielded by amnesty — a signal that the Central American nation may pursue its own criminal charges.

"Something has to happen," Bernabeu said. "The circle is getting narrower and narrower. I want it to get so narrow that it suffocates and ends impunity."

<http://www.sfchronicle.com/bayarea/article/S-F-nonprofit-s-key-role-in-bringing-war-6835057.php>