

Shutdown of Salvadoran human rights office disturbing in light of war atrocities

Aryeh Neier | Oct. 24, 2013

Commentary

The Sept. 30 decision by Archbishop Jose Luis Escobar of San Salvador, El Salvador, to [close its human rights office](#) [1], Tutela Legal, has produced an outpouring of protest from organizations and individuals in many countries concerned with the protection of rights. They recognize Tutela Legal as a particularly valiant part of their movement that played a crucial role in establishing its legitimacy and in gaining respect for efforts to protect rights even in the midst of a civil war.

As one who has known Tutela Legal from its earliest days more than 30 years ago, collaborated with it closely during the organization's difficult and dangerous formative years, and had a hand in shaping its work, I am especially disturbed by the archbishop's sudden and poorly explained decision to shut it down.

Tutela Legal was established in 1982 by Salvadoran Archbishop Arturo Rivera y Damas. His predecessor as archbishop, Oscar Arnulfo Romero, had been murdered by a sniper on March 24, 1980, as he was saying Mass. The murder of Romero, whose candidacy for sainthood is being promoted by Pope Francis, was one of thousands of death squad killings in that period that helped plunge El Salvador into a terrible civil war that lasted 12 years.

Several Catholic church leaders in Latin America created human rights offices to try to protect the citizens of their countries during periods of conflict or against the abuses committed by the military dictatorships prevalent in the region in that era. Among those who particularly deserve to be celebrated as heroes of the international human rights movement are such figures as Cardinal Paulo Evaristo Arns of São Paulo, Brazil, and Cardinal Raúl Silva Henríquez of Santiago, Chile. Romero and Rivera y Damas followed in their path.

Romero established a human rights office called Socorro Jurídico. When U.S. President Ronald Reagan took office in 1981, the civil war in El Salvador was already underway, and Socorro Jurídico was issuing frequent reports on abuses committed by the armed forces. The Reagan administration was determined not to have another Central American country taken over by leftists, as happened in Nicaragua in 1979 when the Sandinistas came to power. The administration was intent, therefore, on aiding the Salvadoran military in its struggle with leftist guerrillas in that country. As the reports by Socorro Jurídico were damaging the prospect of providing that aid to the Salvadoran military, the Reagan administration turned its attention to Socorro Jurídico, challenging its credibility by asserting that it only reported abuses by the military and not by the guerrillas.

In fact, that was the general practice in the human rights field in that era. Human rights organizations -- including the largest and most prominent organization, Amnesty International -- then took the position that international human rights treaties applied to governments and their role was to monitor compliance with those treaties. Socorro Jurídico was only following standard practice. Nevertheless, the Reagan administration's efforts succeeded, and Rivera y Damas felt he had to disaffiliate Socorro Jurídico from the church. But he wanted to continue the church's effort to protect human rights, and he did so by establishing Tutela Legal to

monitor both sides in the armed conflict.

I was traveling to El Salvador regularly in that period on behalf of Americas Watch, one of the watch committees that later became Human Rights Watch. I met with the archbishop and the woman he chose to direct Tutela Legal, María Julia Hernández, and told them that Americas Watch had decided to base its work in conflict regions on the laws of armed conflict, particularly the Geneva Conventions of 1949 and the Additional Protocols of 1977. Those treaties applied equally to all sides, whether in international or internal armed conflicts.

Rivera y Damas was delighted to learn there was a way to have Tutela Legal operate in the manner he thought necessary and, at the same time, to apply international law. Tutela Legal joined the predecessor of today's Human Rights Watch in becoming the first, or among the first, to choose that path. Over time, other human rights organizations, including Amnesty International, chose the same path. Since the 1990s, it has become the standard practice for human rights organizations all over the world when they deal with armed conflicts. Human Rights Watch's recent report on mass killings of noncombatants in Syria by one of the groups fighting against President Bashar Assad's regime reflects that practice. Reporting on such atrocities in no way detracts from the organization's condemnation of that regime for its own terrible abuses, such as the Aug. 21 poison gas attack that killed more than 1,000 people. Unfortunately, in many armed conflicts, different sides engage in abuses and, if civilians are to be protected, all abuses must be reported and condemned evenhandedly.

Although the Salvadoran guerrillas engaged in abuses of human rights, including using landmines in areas in which civilians traveled, by far the greatest number of violations in that conflict were the work of the Salvadoran armed forces. These included a number of large-scale massacres of villagers in areas controlled by the guerrillas; indiscriminate aerial attacks on peasants thought to be supporters of the guerrillas; attacks on health clinics suspected of providing medical care to the guerrillas or members of their families; and an unending practice of death squad killings. Tutela Legal's steadfast and careful reporting on these under Hernández's leadership earned it the anger and condemnation of the Reagan administration, but Rivera y Damas held firm and backed the organization he created.

Eventually, one of the gross abuses by the Salvadoran military -- the murder of six Jesuit priests, their housekeeper and her daughter in November 1989 -- and the investigation by Tutela Legal that helped to fix blame on the military set in motion a series of events that contributed to a peace settlement in El Salvador. When the murders took place, the U.S. ambassador immediately engaged in public speculation that the crime had been committed by the guerrillas to discredit the military. The investigation demonstrated that this had no basis.

Also, as the crime took place a week after the fall of the Berlin Wall, the administration of President George H.W. Bush, which had taken office at the beginning of that year, no longer had a great incentive to see everything that happened in El Salvador through a Cold War lens. It did not strenuously resist congressional efforts to cut funding for the Salvadoran military to demonstrate unhappiness about such crimes. The threat to funding imperiled the ability of the Salvadoran military to pay its troops and forced them to enter into negotiations that eventually produced a peace agreement.

In announcing the closure of Tutela Legal last month, Escobar first said it was because the war is long over, ignoring the fact that the organization continues to provide desperately needed legal help to Salvadorans in a poor country that suffers from one of the world's highest rates of violent crime. This was quickly amended to a suggestion that there had been financial irregularities at the organization, which required that it should be closed immediately.

Many of Tutela Legal's supporters think it was closed because the recently appointed archbishop fears that the organization's files, which contain evidence on tens of thousands of crimes, will be used to prosecute military men for what they did during the civil war. Tutela Legal's files have been playing a crucial role in court cases in

Spain and the United States related to the killings in El Salvador. Up to now, however, an amnesty law has prevented prosecutions in El Salvador itself, but a recent decision by the Salvadoran Supreme Court has raised the possibility that it will be set aside.

Whatever the reasons for closing Tutela Legal, I hope the decision will be reversed. The creation and stalwart defense of Tutela Legal during a period of great peril should be a matter of great pride for the Catholic church in Latin America. At the very least, the organization's files must be protected. They should be turned over to an institution that can ensure they are available for those attempting to reconstruct the history of El Salvador during an awful period and, most of all, for those attempting to ensure that justice is done for the tens of thousands of victims of the crimes committed during that period.

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