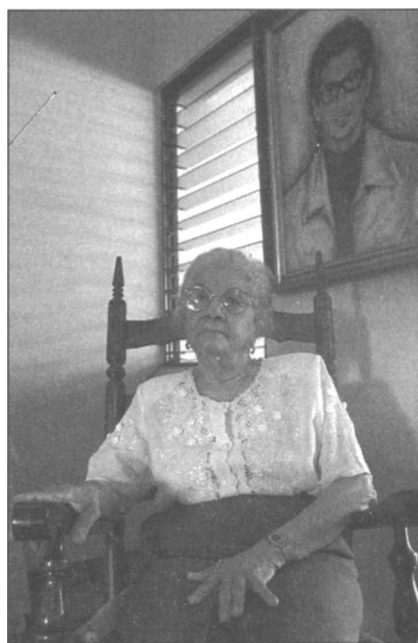


JUSTICE DELAYED—BUT NOT DENIED

A historic ruling confronts a 25-year cover-up and advances the fight against impunity in the Dominican Republic.

BY DANTE ORTIZ

Adriana Howley in front of her slain son Orlando Martínez's portrait.



In July, Dominicans celebrated guilty verdicts handed down against four confessed murderers of Orlando Martínez, a young journalist killed in 1975 for reporting on human rights abuses and corruption during the Joaquín Balaguer government. The crowd in the courtroom cheered and shouted “Orlando lives!” Martínez, a member of the central committee of the outlawed Dominican Communist Party, was 31 years old when the killers summoned him from his office at the newspaper *El Nacional*, supposedly to do an interview. En route, he was gunned down in his car on a Santo Domingo street.

At trial, the horrifying details of the planning, execution, conspiracy and cover-up of the crime finally came out. According to testimony, the main perpetrator, General Joaquín Pou Castro, confessed all the details to then-Chief of Police

General Ney Rafael Nivar Seijas two months after the crime, including information about who was involved, their motives and the power relations involved in the case. Pou Castro and his men had commandeered the car that followed Martínez as he drove from his office. They signalled him to stop, surrounded him and without saying a word shot him point blank. The killers drove off and switched cars four blocks away. Then they changed clothes and went to a party at the house of a prominent lawyer. The lawyer provided Pou Castro with an alibi for 24 years, claiming that the general had been at his house all afternoon and evening the day of the murder.

The guilty verdicts marked a milestone, not only because the perpetrators’ identities were finally revealed, but also because after 25 years, light was cast on the conspiracy that had for so long protected the men who had planned the crime. The rulings are also historic because they mark the first time justice has been meted out for state crimes committed in the 1970s under the Balaguer regime, and the first time

in the Dominican Republic that a high-ranking military official has been prosecuted for murder or torture.

Two of the defendants who were convicted, Pou Castro and Rafael Alfredo Lluberes Ricart, were top members of the military who served Balaguer during his 12-year reign after the 1965 U.S. invasion that paved his way to power. The other two were former policemen Mariano Cabrera Durán and Luis Emilio de la Rosa Beras. The latter two were in charge of counterinsurgency and tied to paramilitary groups. As part of Balaguer’s “Operation Cleanup” against leftists, they were responsible for hundreds of kidnappings, illegal raids, disappearances and other crimes—virtually all of which remain unpunished.

At the time he was killed, Martínez was the most widely read, discussed and criticized journalist in the Dominican Republic. No one could ignore what he wrote in his column, “Microscope,” in *El Nacional*, and in the weekly *Ahora!*, for which he was editor in chief. His criticisms of Juan Bosch

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irritated the leaders of the Dominican Liberation Party (PLD), and his comments on Balaguer raised the hackles of Reformist Social Christian Party (PRSC) members. One article in particular tried the patience of the political elites: In it, Martínez suggested that Balaguer ought to board a plane and leave the country. In another piece, he denounced the constant threats against him and wrote that if anything were to happen to him, at least one General—whom he named—should be questioned. It is rumored that Balaguer became irate after reading a Martínez article and shouted: “That young man is not going to allow me to govern!” The story continues that those who heard Balaguer’s tirade interpreted it as an order to carry out the assassination plot. But the tale is still simply a rumor, because Balaguer’s collaborators have never been willing to say who really gave the order.

Following Martínez’s murder in March 1975, demands for justice from wide sectors of society grew steadily over the next two decades. In response, the killers conspired to hide the investigation and its findings from the public. In addition, journalists were blackmailed, and relatives of several judges assigned to the case received threats so that they would quash it, postpone it or remove defendants from the proceedings. The official opening of the case was thus blocked for 23 years, making it impossible for the trial to proceed.

Despite this obstruction, and despite the Attorney General’s lack of will during the Balaguer government and Dominican Revolutionary Party (PRD) administrations, a group of Orlando Martínez’s relatives, friends and colleagues refused to let the case die. Martínez’s mother, Adriana Howley, was an uncompromising leader in this struggle. She kept the petition for a trial open by filing a new complaint every

time the statute of limitations was about to expire. Her other son, Edmundo Martínez, was also killed after it appeared he was close to discovering the truth behind his brother’s murder. He had been receiving—and ignoring—death threats. His murder also shook the country, but Balaguer remained unmoved and even called Adriana Howley “a fool.”

But she was not working in a vacuum. Over the next two decades, journalists’ associations and other professional groups, church com-

**While impunity for the
political elite still exists,
the sentence raises
hopes that more
criminals will be
brought to justice.**

munities, students, liberal and left parties held days of remembrance and called for justice. In addition to making public demands, they pointed out the guilty parties—including the most guilty of all, ex-President Joaquín Balaguer. Judge Juan Miguel Castillo Pantaleón finally ruled to officially open the case in 1997. By then, more than 20 years had passed since Orlando Martínez’s murder. But new developments in the 1990s had finally pushed the case towards justice.

One vital factor was the 1994 signing of the Pact for Democracy—a resolution of the May electoral fraud and subsequent political crisis that occurred when Balaguer blocked José Francisco Peña Gómez’s rise to power. While fraud had tainted every election in which Balaguer was a candidate, the contests of 1990 and 1994 were outrageously crooked. Evidence of

fraud was so widespread in 1994, and so potentially destabilizing, that the U.S. State Department sent officials to the Dominican Republic to broker a compromise between the government and the opposition. The result, the Pact for Democracy, changed the Constitution to prohibit the successive reelection of Balaguer, and reduced his term to two years, with new elections scheduled for 1996.

Also as part of the Pact, the parties agreed to create a commission to choose members of the Supreme Court. This was especially important for making the judiciary relatively independent of the executive. Responsibility for choosing the Supreme Court in 1997 fell to legal experts with liberal leanings, which meant a break from the old political control that presidents and official parties had exercised over decisions made by the highest court of the land. The new autonomy meant that judges could travel the country to pick applicants and give them oral exams, increasing the chances for making for the best selection possible. All this was of utmost importance for achieving the modest advances observed in the judiciary. Without them, the trial of those implicated in Orlando Martínez’s death would never have gone forward.

Groundwork was also laid for the independence shown by the judge who opened the case and by another who led the discovery phase. The investigations were based on police records from October 1975, and on audiotapes made by Chief of Police General Nivar, which he had safeguarded at a Miami bank after receiving death threats. Attempting to further protect himself, he also gave a copy of the confession tapes to the perpetrators of the crime and to Balaguer. The latter was unfazed: He felt sure he could count on U.S. support to keep him in power.

As already noted, public pressure played a significant role in uncover-

ing the facts behind the case. But it could only go so far, since Balaguer and high-ranking military officers who were involved were left out of the 1997 indictment because of political machinations that flowed particularly from Balaguer's support for then-President Leonel Fernández's administration. The Attorney General at the time, Dr. Francisco Domínguez Brito, reopened the case after it fell into limbo with the firing of Judge Castillo Pantaleón, a dismissal

decades to bring justice in her son's killing, she had died six months before the trial—even as Balaguer celebrated his 94th birthday.)

After being convicted on all the charges, Pou Castro was sentenced to the maximum of 30 years in prison, Llubere Ricart and Cabrera Durán each received 20 years, and De la Rosa Beras got three. While many lauded this outcome, the most militant social sectors demanded that the trial be reopened so that Balaguer would have to

ment helped to power by the support of Balaguer.

Despite this muzzling of the judiciary, wide sectors of society have interpreted the sentence as a benchmark from which to demand the reopening of other cases still not brought to justice—the most glaring of which is the murder of Autonomous University professor and prominent left-wing activist Narciso González, who in 1994 was kidnapped, brutally beaten and thrown out of a helicopter after protesting electoral fraud that year at university assemblies. Human rights activists reckon that the moment has now arrived to review every case whose statute of limitations has not expired. The crimes of state imputed to the PRD government headed by Dr. Salvador Jorge Blanco from 1982 to 1986, and those of the ten-year regime led by Balaguer which followed, are not covered by an Amnesty Law enacted in 1978. These crimes include the April 1984 massacre of 118 people at mass protests against Blanco's neoliberal structural adjustment policies. An additional 500 protesters were injured in the three days of demonstrations.

So while many hail the sentence because the perpetrators will finally be punished, others criticize it as incomplete, elitist, politically influenced and manipulated. What everybody does agree on, though, is that the sentence is a symbol of and a stimulus to increasing public power, greater judicial autonomy and to the prospect of bringing more criminals to trial in the Dominican Republic. However, the political networks that rely on intimidation, clientelism and corruption are still intact and bent on maintaining the impunity of the political elite. The possibility even exists that through legal technicalities and political deals the convictions could be overturned by an Appellate Court, allowing Pou Castro and his henchmen to go free. ■



Balaguer (seated, above flag) and his political-military machine in 1991. Evidence of state crimes during his reign is increasingly coming to light.

widely seen as the government's response to his commitment to pursue the case, despite the many obstacles placed in the way of the judicial system. After Castillo Pantaleón was fired, the case was assigned to Judge Katia Miguelina Jiménez, who had to face the stalling tactics of the defense lawyers, to the point where she had to insist that interrogatories be done on people implicated in the case, including dozens of witnesses who rehearsed the details of their participation with those who planned the crime. The trial was televised, and the whole nation watched. (Absent, however, was Adriana Howley, Orlando Martínez's mother. After her tireless efforts for more than two

come to court and undergo questioning about the way he incriminated himself in a book he authored, *Memories of a Courtier in the Trujillo Era*. In the book, he writes that he knew who Orlando Martínez's murderers were. In addition, he left a blank page in memory of Martínez and admitted that he had given a document to a friend—to be made public only after his death—revealing all the facts behind the murder. But the judge ignored this fact by leaving it out of the records of the case. By omitting four ex-generals and Balaguer from the investigation and indictment, the judge was very likely acting under pressure from the Fernández government, a govern-