Families of Americans killed by Mexican drug cartels sue banking giant HSBC

By Genevieve Leigh
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On February 9, four US families who lost loved ones to Mexican drug cartel violence in 2010 and 2011 filed an unprecedented lawsuit against HSBC Holdings, HSBC Bank USA, and HSBC México S.A. The suit charges that the banking giant knowingly supplied terrorist organizations, namely four major drug cartels, with "material support" by laundering billions of dollars in the years leading up to the murders.

Among the victims cited in the case is US Immigration and Customs Enforcement Special Agent Jaime J. Zapata who was ambushed and murdered by the infamous drug cartel, Los Zetas, while on temporary assignment in central Mexico in 2011. The case received national attention after confirmed reports that at least one of the weapons used to kill him was linked back to the US government. The AK-47 was one of the many weapons essentially funneled to the drug cartels as part of the federal operation known as "Fast and Furious," in which the Bureau of Alcohol Tobacco and Firearms deliberately allowed firearms dealers to sell weapons to illegal straw buyers in hopes of tracing them back to the cartels.

Other victims included in the lawsuit are Rafael Morales Jr., who was abducted just outside a church on his wedding day, along with his brother and uncle, by members of the Sinaloa cartel with the collaboration of the local police force. All three were later found dead of asphyxiation, their heads wrapped in plastic and duct tape.

Also included in the lawsuit are Lesley and Arthur Redelfs, who were both shot to death in Ciudad Juarez on their way home from a children's birthday party hosted by the US Consulate where Lesley was employed. Lesley Redelfs was four months pregnant.

The basis of the case rests on the US Anti-Terrorism Act, which was modified in the aftermath of 9/11 to allow victims to seek compensation from any organization that supplies terrorist groups with material support or resources. While the US government has not officially labeled them as terrorist organizations, the suit cites the more than 100,000 murders and tens of thousands of disappearances since 2006 in arguing for the right to victims' compensation.

HSBC's guilt in laundering billions of dollars for drug cartels is irrefutable. The details of the many, well documented occurrences of the bank's sidestepping, and in most instances outright disregard for banking laws exposed in the legal proceedings of this case and a related 2012 case are overwhelming. The complaint filed by the plaintiffs' in Brownsville, Texas on February 9, reveals that HSBC's Mexican branches routinely accepted and processed exorbitant amounts, hundreds of thousands and sometimes millions of US dollars from clients with no identifiable source of income.

The complaint reads, "HSBC intentionally implemented criminally deficient anti-money laundering programs, processes, and controls, which were designed to guarantee that billions of dollars of illicit proceeds would go through its banks undetected or unreported." It goes on to explain that in many cases these funds were even delivered in custom designed boxes made to fit the dimensions of the teller windows.

In spite of the deliberately lax, and during certain periods nonexistent, regulatory system, the compliance function at HSBC Mexico was still able to catch suspicious activity. In December 2008, there were 675 accounts pending closure based on suspicion of money laundering activity. Closures were ordered on 16 of those accounts in 2005, 130 in 2006, 172 in 2007, and 309 in 2008, yet all 675 of these accounts remained open well into 2009, continuing to allow money launderers to make bulk cash deposits.

HSBC Mexico's former director of money laundering deterrence, in an exit interview following his resignation, was quoted as saying that he believed senior management had "absolutely no respect for AML [Anti-money laundering] controls and the risks to which the Group was exposed and had no intention of applying sensible or appropriate approaches." The report goes on to explain that the former director attributed the behavior to what he characterized as "a culture [of] pursuing profit and targets at all costs."

HSBC executives received repeated and explicit warnings about the large scale money laundering schemes from outside sources such as the US State Department as early as 2006, the Financial Crimes Enforcement Network—a bureau of the US Treasury Department—as well as several internal warnings throughout 2007 and 2008. Despite this, HSBC Mexico still accepted over $4.1 billion in US dollar cash deposits in 2008, a record amount for the branch. It is widely believed that many banks, including HSBC, only managed to stay afloat through the 2008 financial crisis by catering to these international drug cartels.

The money laundering that is the basis of this new lawsuit was proven in a 2012 prosecution by the US Justice Department. The case ended in a “preferred prosecution agreement” in which the court gave the multinational bank what amounted to a free pass for the largest drug money laundering case in history. Under the conditions of this agreement the bank agreed not to contest the charges of failing to maintain an effective anti-money-laundering program, and violating the Trading With the Enemy Act and the International Emergency Economic Powers Act.

What made this case unique, aside from the huge amount of funds proven to have been laundered (at least $881 million), was the Justice Department's brazen acknowledgement of the motives behind its failure to pursue a more aggressive prosecution, namely, the protection of the global capitalist financial markets.

Assistant Attorney General Lanny Breuer at a press conference justifying why criminal charges were not brought against the bank explained, “HSBC would almost certainly have lost its banking license in the US, the future of the institution would have been under threat and the entire banking system would have been destabilized.” Meaning, the big banks and other multibillion-dollar corporations are exempt from the law so long as they continue lining the pockets of the ruling aristocracy. This decision exposed decisively, once again, the inextricable and corrupt relationship between the various branches of the government and the global financial oligarchs.

The 2012 decision brought down by a Brooklyn federal judge was admittedly not based on any principled fulfillment of the law. Rather, it served to establish a more tangible basis for the legal shielding that had been regularly taking place for this type of giant corporation deemed “too big to jail.”

In lieu of any criminal charge against the responsible parties, the bank was instead fined $1.9 billion, an amount equal to barely five weeks worth of profits for HSBC and far less than it accrued through its laundering of drug money. It constituted a fairly minor cost of doing business. Not a single day of jail time was demanded for the bank executives, who had essentially functioned as the financial arm of the drug cartels.

The relationship between massive international banks such as HSBC and the Mexican drug cartels like Los Zetas and Sinaloa has been one of mutual benefit. Both organizations are driven by an insatiable need for profit demanded by the capitalist system and both are indifferent to the criminal methods by which it is gained.

However, as this case so clearly shows, it is not simply the banks who are complicit in the massive growth and influence of these drug cartels. The banks play an important role in providing a financial system to manage their money, but it is the US Justice Department that has sanctioned such criminal behavior, and the US government as a whole that has created and perpetuated the conditions under which such corrupt and violent drug cartels could thrive.

The US government’s support for Mexico’s “drug war” begun in 2006 has done nothing to curb the growth of the drug cartels and instead has arguably served to intensify it. The Merida Initiative implemented by the US government in 2008, supplied Mexico with over $2 billion in arms aid, provided military training of security forces and sent “advisers” across the border. With large sections of Mexico’s officials and law enforcement officers working in collaboration with the drug cartels, much of these funds and resources have aided the very groups they were meant to combat. One report estimates that the cartels spend more than a billion dollars each year just bribing the Mexican municipal police.

In the case of Rafael Morales, it was in fact the local police force who accompanied the Sinaloa cartel and barricaded the road to the church and it was arms provided by the US government that were used against Zapata in 2011.

On closer examination, the origins of these drug cartels themselves lie in the relations between the US and Mexican governments. Before becoming Los Zetas, the original members of the violent drug cartel were a special forces unit of the Mexican Army trained in the United States at the School of the Americas at Fort Benning, Georgia. If HSBC is found guilty of providing material “means and resources” to these terrorist organizations then it seems there should be ample evidence and grounds to also indict the US government as well.

Whatever the outcome of the recent lawsuit, the case has exposed once more the fraudulent character of the “war on drugs,” as well as the staggering levels of criminality of the highest reaches of the financial aristocracy and of the political institutions that represent it.