



**Report of the NLG International Committee  
Task Force on the Americas  
Genocide Trial Observation Delegation  
Guatemala  
April 2013**



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Note: Cover photo of Judge Yassmín Barrios and Ixil survivor is copied from CALDH flyer.  
All other photos were taken by delegation members.

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## Preface

During the 1970s and 1980s, the National Lawyers Guild assisted refugees arriving to the US, with an emphasis on asylum-seekers from Central America. As thousands of people fleeing the violence of wars and political repression in Guatemala and El Salvador arrived in the U.S., the NLG National Immigration Project facilitated the founding of CARDF (Central America Refugee Defense Fund). This national network of US attorneys representing Central American refugees also advocated for legislation to protect their clients and expose illegal US policies and military aid in the region.

NLG attorneys have traveled to Guatemala to carry out fact-finding and solidarity delegations periodically over the past 35 years. One of the reports published by the NLG, in 1983, ***Counterinsurgency as terrorism: human rights violations in Guatemala***, highlights violations which led to the prosecution of General Ríos Montt, for crimes against humanity; he was the military dictator in power at that time.

Guatemala, the first country to try one of its own citizens for genocide, has been struggling post-conflict to end impunity by establishing an independent judiciary to provide formal justice for thousands of victims of unresolved crimes. From the historic moment on March 19, 2013 when former dictator General Rios Montt stood before an overflowing courtroom to hear the charges of Genocide and Crimes Against Humanity resounding throughout the vast Supreme Court chamber, it became clear that the Guild's Central America Task Force must be present in solidarity with our courageous colleagues.

After years of trial preparation and numerous legal proceedings and maneuvers, this historic trial finally commenced. The NLG International Committee's Task Force on the Americas sponsored this delegation during a critical time in the trial proceedings. At the end of the trial, Judge Barrios delivered an emotionally charged guilty verdict and ordered that Gen. Rios Montt be taken into custody. Survivors and their supporters were jubilant. However, the legal battle is far from over, and the Ixil people and thousands more will continue their struggle to demand accountability for genocide and other horrific crimes against humanity. The NLG will continue our legal solidarity towards our Guatemalan *compañeras* and *compañeros* fighting for justice and to end impunity through out the region.

## Introduction

The National Lawyers Guild delegation visited Guatemala during the week of April 14-20, 2013, during what was originally expected to be the last week of the trial of former Guatemalan president General José Efraín Ríos Montt for genocide and crimes against humanity. The 11 members of the NLG delegation joined other observers, including a delegation from the Center for Justice and Accountability and numerous human rights lawyers and academics, in watching history unfold in the courtroom of Guatemala City's Palacio de Justicia. During our week in Guatemala, we witnessed acts reflecting courage and a commitment to justice alongside contrasting efforts to undermine the trial process and create an atmosphere of fear and uncertainty. This report explains the factual and legal background of this trial and summarizes the experiences and observations of our delegation during what proved to be a defining week in the trial process.



Ixil women listening to trial translation / Rios Montt at defense table

## **Part I. Background and Historical Context**

### **A. Background**

The internal armed conflict in Guatemala started in the aftermath of the 1954 CIA-sponsored military coup that deposed democratically-elected populist president Jacobo Árbenz. The Árbenz administration initiated agrarian reforms that included the expropriation of unused arable land that had been claimed by the U.S.-based United Fruit Company and also promoted other socio-economic measures to mitigate widespread and deeply entrenched inequality. In addition to the land rights issues, of particular concern to the United States was the discussion of labor rights, which directly threatened the reign of the Guatemalan oligarchy and U.S. business interests in the region.

The United Fruit Company also had significant holdings in other Central American countries, and a huge 1954 strike in Honduras contributed to the growing fear of a regional communist threat, prompting swift military action in Guatemala. The coup deflected efforts to address extreme poverty, economic inequality, and socio-political exclusion, particularly of the Maya majority in Guatemala. The military juntas that succeeded Árbenz banned labor unions and opposing political parties, contributing to the emergence of a leftist insurgency which was triggered by a rebellion by nationalist military officers in 1960 who resented US domination. This triggered a horrific civil war that lasted for 36 years, with an incalculable human toll. The most violent period of the conflict erupted in the early 1980s. President General José Efraín Ríos Montt oversaw the bloodiest 17-month period, from March 1982 through August, 1983.

The leftist rebels united under the umbrella of the Guatemala National Revolutionary Union (referred to by its Spanish acronym, “URNG”). URNG was comprised of four main groups: the Guerrilla Army of the Poor (EGP), the strongest of the groups consisted mostly of Mayas fighting for the rights of indigenous peoples; the Rebel Armed Forces (FAR); the Revolutionary Organization of People in Arms (ORPA); and the Party of Guatemalan Workers (PGT), an unarmed group which derived its support primarily from students.

By the end of the conflict, the fighting had taken 200,000 lives, and an additional 50,000 people had disappeared, with a staggering 80% of the casualties inflicted on the indigenous population. The “scorched earth” tactics also displaced an estimated 20% of the population through a systematic depopulation strategy. The post-conflict era was characterized by near complete impunity for the atrocities committed as part of a calculated strategy to crush both the armed insurgents and their perceived support among indigenous populations and social movement actors.

### **B. Peace Accords**

After seven years of negotiations between the Guatemalan government<sup>1</sup> and the URNG, during which the parties reached interim agreements on several key issues, both parties signed on

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<sup>1</sup> Negotiations began during the administration of Marco Vinicio Cerezo, the first elected civilian president in 20 years who presided over a new constitution, the creation of the Constitutional Court and governmental Human Rights office. President Ramiro de Leon Carpio, the former Human Rights Ombudsman, finished the negotiations.



to the Accord for a Firm and Lasting Peace on December 29, 1996. The final agreement, shepherded through by the United Nations and supported by the OAS, signaled a shift to strengthen civilian government, albeit one that faced a ravaged country and frayed social fabric. Although the government and the URNG signed the accords, various civil society actors were notably absent from the negotiating table, including the indigenous majority. The accords included various mandates, but also lacked specificity in many areas. According to some analysts, this was partly attributable to the disproportionate strength of the military in the negotiating process. Though the accords attempted to remediate pervasive social inequality and exclusion, they have fallen far short of their mark, and Guatemala continues to be racked by violence, exclusion, and inequality today.

### C. National Reconciliation Law

To encourage both sides to halt the armed conflict and lay down their arms, the Guatemalan Congress passed the National Reconciliation Law (“NCL”) on December 18, 1996. The NCL provided amnesty for “political crimes” committed by both state security forces and guerrillas. Human rights groups and others criticized the law for institutionalizing impunity for wartime atrocities. The NCL specifically excluded forced disappearances, torture, or genocide, crimes with no statute of limitations, and crimes for which international law prohibited the extinction of criminal liability. The law was silent on whether extrajudicial executions were covered by the amnesty. Since the inception of the trial against Ríos Montt, the international community has weighed in on these issues with an almost monolithic voice, decrying efforts to extend amnesty to clearly excluded crimes and urging Guatemala to uphold the rule of law.<sup>2</sup>

As a result of protracted legal posturing, the issue of amnesty remains unresolved at the Constitutional Court. On December 26, 2012, the Inter-American Commission on Human Rights issued a press release opining that amnesty for genocide and crimes against humanity violates international law. Auspiciously timed, the statement countered a December 28, 2012 Guatemalan Executive Order declaring that the Inter-American Court of Human Rights lacked jurisdiction over human rights violations occurring prior to March 9, 1987, the date Guatemala ratified the American Convention on Human Rights, and that accordingly, it was not bound by rulings by the Inter-American Court before that date. The Executive Order was subsequently suspended, but the maneuvering highlighted the impunity that shrouds Guatemala, supported by the highest levels of government. Even if Ríos Montt is ultimately convicted, a guilty verdict could be swiftly set aside by an order from the Constitutional Court upholding his immunity from prosecution under the National Reconciliation Law.

### D. REMHI Report

In 1998, the Archdiocese of Guatemala released the Official Report, *Guatemala Nunca Más* of the Human Rights Office, the Recovery of Historical Memory Project (referred to by its Spanish acronym REMHI). The project was initiated in 1994 and endeavored to reconstruct the

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<sup>2</sup> According to legal experts, international law proscribes amnesty or any other impediment for criminal prosecution for genocide, a crime for which there is no statute of limitations. Guatemala ratified the International Convention on Genocide in 1950. Moreover, domestic law in Guatemala has incorporated culpability for genocide into the Criminal Code.

history of the human rights abuses in Guatemala's recent past. Two days after he announced the report, Bishop Juan Gerardi was murdered at his home, a crime later attributed to forces under the auspices of military intelligence. The REMHI report combined eyewitness testimonies with an analysis of the cause and impact of the violent internal conflict. Specific goals of the report included preserving the voice of those who suffered through the conflict and uncovering the mechanisms by which the apparatus of the state served to systematize repression.

The report situated the conflict in its historical, social, and economic roots, in which the majority indigenous population lived in conditions of extreme poverty, disenfranchisement, and political exclusion. As the state escalated its repression, interest and participation in the social movement was heightened, triggering an even more violent response. In the early 1980s, the state-sponsored terror hit its peak, systemically targeting indigenous and *campesino* groups who were perceived to provide logistical and ideological support for the armed insurgents.

The report called for reparations, restitution, compensation, and humanitarian aid for victims and survivors; public state recognition of the human rights violations; and inclusion of the report as official Guatemalan history to be included in education materials. It also called for the investigation into the forced disappearances, massacres, and other acts, with full access to military records and public judicial prosecutions, including exhumations, among other measures.

## **E. Historical Clarification Commission**

The Peace Accords provided for the formation of a commission mandated to “formulate specific recommendations to encourage peace and national harmony in Guatemala... [and] recommend, in particular, measures to preserve the memory of the victims, to foster a culture of mutual respect and observance of human rights and to strengthen the democratic process.”

In 1999, the UN-sponsored Historical Clarification Commission (referred to by its Spanish acronym, CEH) issued its report “Guatemala, Memory of Silence.” The CEH report found that the military was responsible for 93% of the killings, attributing 3% to the guerrillas, with the remaining 4% unattributed. 83% of the victims were from the indigenous Maya population. The CEH concluded that the insurgents never possessed the capability to overthrow or destabilize the government, nor posed an imminent threat to the state, highlighting the disproportionate brutality of the state-sponsored terror or “scorched earth” tactics adopted in 1982-3 under Ríos Montt.

The CEH attributed the cause of the conflict to “structural injustice, the closing of political spaces, racism, the increasing exclusionary and anti-democratic nature of institutions, as well as the reluctance to promote substantive reforms that could have reduced structural conflicts....” and the designation of the Maya population as the “collective enemy of the state.” The CEH found that the state committed genocide against its indigenous populations in four distinct regions.

## **Part II. Procedural Posture and Legal Grounds for Trial**

### **The Long Arc of Justice in the Guatemalan Genocide Trial<sup>3</sup>**

The genocide trial against Generals José Efraín Ríos Montt and José Mauricio Rodríguez Sánchez represents the culmination of nearly 15 years of proceedings in both national and international courts, seemingly endless delays and injunctions, and enormous courage on behalf of the witnesses and lawyers who have been subject to continuous threats and aggressions for their participation in the trial. During the past decade, public prosecutors and lawyers in both the Guatemalan and Spanish national courts have struggled to overcome the labyrinth of legal tactics proffered by the Defense, in order to bring about justice for atrocities committed during the most brutal years of violence during Guatemala's armed conflict.

### **Criminal Complaints Filed in Spain and Guatemala**

In 1999, Nobel laureate Rigoberta Menchú Tum, through the Rigoberta Menchú Foundation (RMF), initiated the process by filing a criminal complaint before the Spanish National Court in order to try officials of the Guatemalan high command (including General Efraín Ríos Montt) of genocide and crimes against humanity. The complaint was filed shortly after the arrest of Augusto Pinochet under the groundbreaking application of the principle of universal jurisdiction for crimes against humanity.

Shortly thereafter, in 2001, the Center for Human Rights Legal Action (CALDH) and the Association for Justice and Reconciliation (AJR)<sup>4</sup> represented by human rights attorney Edgar Pérez filed criminal complaints with the Public Prosecutor's office of Guatemala against the high military command of General Ríos Montt for genocide and crimes against humanity.

### **A Slow Start**

Seven years passed with no real movement in the domestic trial. Similarly, Spain's Public Prosecutor originally filed to dismiss the case as national remedies had not been exhausted. However, plaintiffs argued that the domestic case was not moving forward and that those involved were constantly receiving threats related to their participation in the case. Nonetheless, within the Spanish legal system, a battle was being fought to insist that only crimes directly related to Spanish citizens could be tried in Spanish courts, thus dismissing the Maya plaintiffs

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<sup>3</sup> Information compiled from summaries of the Center for Justice and Accountability (CJA), the Network in Solidarity with the People of Guatemala (NISGUA), the Guatemalan Human Rights Commission (GHRC), the Center for Human Rights Legal Action (CALDH), the Association for Justice and Reconciliation (AJR), the National Security Archive (NSA), La Coordinación de Acompañamiento Internacional en Guatemala (ACOGUATE) and the Open Society Justice Initiative.

<sup>4</sup> AJR, an organization of survivors of atrocities committed during the armed conflict, was founded by 22 communities from different regions of the country. These witnesses, often living in conditions of extreme marginalization, have been the motor behind both the national and Spanish cases, and have suffered many threats and aggressions resulting from their participation in seeking justice. Although members come from different areas where the violence was most brutal during the armed conflict, a strategic decision was made to focus the first round of legal proceedings on the crimes committed against the indigenous people of the Ixil region, although proceedings for crimes committed in other areas will subsequently be pursued.



and focusing only on the murders of specific Spanish citizens during the Guatemalan armed conflict.

## Progress in Spanish Case

In 2005, the Spanish Constitutional Court ruled that Spain did in fact have jurisdiction over certain international crimes, including genocide and torture, upholding the principle of universal jurisdiction.

In June of 2006, Spanish Judge Santiago Pedraz alongside the Spanish Public Prosecutor and lawyers from the Center for Justice and Accountability, traveled to Guatemala to hear testimonies from victims and witnesses. The defendants' lawyers immediately filed a flood of appeals, however, questioning Pedraz' jurisdiction to hold depositions in Guatemalan territory, and leading to the suspension of the national trial proceedings. Although the visit at first appeared futile, as Pedraz was not allowed access to the defendants, he was able to meet with representatives of the AJR, fomenting a relationship of cooperation between the national and international criminal proceedings.

That same year, upon returning to Spain, Judge Pedraz issued international arrest warrants via INTERPOL against eight members of the Guatemalan high command during the armed conflict, including three former presidents, one of whom being General Ríos Montt. He also filed extradition requests based on a longstanding treaty held between Spain and Guatemala.

At a national level, AJR requested in 2006 that the Public Prosecutor collect information about the military plans in vigor during Ríos Montt's *de facto* presidency, which would be crucial in later stages of the trial: "Plan Victoria 82," "Plan Firmeza 83," "Operación Ixil," and "Plan de Operaciones Sofia."

In 2007, a Guatemalan judge authorized the admission of these documents as evidence, but the Ministry of Defense refused to surrender them to the tribunal, claiming they were protected as military secrets necessary for national security.

In the last few days of December of 2007, when most human rights offices were closed for the holidays, the Constitutional Court abruptly invalidated the Spanish extradition requests and arrest warrants, leading Judge Pedraz to issue a statement condemning the Guatemalan government and judiciary for violating international law. He thus invited witnesses to testify in Madrid and to present evidence directly before his court, circumventing what he saw to be a lack of cooperation of Guatemalan officials.

In early 2008, the Center for Justice and Accountability sponsored the travel of over 60 expert witnesses and 30 survivors to testify in Spain. Simultaneously, a Guatemalan judge heard additional testimony in a domestic court with the purpose of incorporating it into the Spanish proceedings. These hearings represented a huge symbolic victory for witnesses who, after years of repression and silence, began to speak on the record in Guatemala about the atrocities committed against them.

## Document Declassification

International attention and support for the trial proceedings increased, pressuring the government of Guatemala's then-president Álvaro Colom to take steps in early 2008 to order the military to declassify archives from the armed conflict, specifically the aforementioned military plans. However, in 2009, the Ministry of Defense only submitted two files, claiming that the other two had simply "disappeared." The Commission for Archive Declassification later also claimed that they were unable to locate files from 1980 through 1985, coincidentally the years when officials were being investigated for genocide and crimes against humanity. "*Operación Sofía*," a key strategic document regarding military operations in the Ixil region, was later integrated into the national case, having been presented as evidence in the Spanish case after having been obtained through military intelligence sources and authenticated by Kate Doyle of the National Security Archive in the United States.

## Progress in Domestic Case Under Leadership of New Attorney General

After years of languishing in the domestic judicial system, the genocide trial was revived under Guatemala's new Attorney General, Claudia Paz y Paz, who was appointed in 2010. Under her leadership, the Public Prosecutor's office moved ahead with the investigation, issuing arrest warrants in October of 2011 for three members of Ríos Montt's high military command. Former military intelligence director José Mauricio Rodríguez Sánchez was ultimately captured and linked to the genocide case. At this point, Ríos Montt was still serving as a member of Congress, thus benefitting from political immunity.

On November 23, 2011, Judge Miguel Ángel Gálvez was appointed to oversee pretrial proceedings, after an Appellate Court ordered the recusal of Judge Carol Patricia Flores as the Defense claimed she lacked impartiality in the case.

Ríos Montt was formally indicted for genocide and crimes against humanity on January 26, 2012, when he left Congress, thus linking him to the Rodríguez Sánchez case. The 2012 charges accuse Ríos Montt and Rodríguez Sánchez of the intellectual authorship of the massacre of 1,771 people in the Ixil region between March 1982 and August 1983. The charges of genocide and crimes against humanity also consist in the forced displacement of 29,000 Ixil people, systematic sexual violence and torture.

## Trial Becomes a Reality

On January 28, 2013, Judge Galvez officially opened the intermediary stage of the proceedings, ordering Ríos Montt and Rodríguez Sánchez to stand trial and allowing evidence to be presented. On February 4, 2013, Galvez accepted the evidence and witnesses from the prosecution but rejected some from the Defense due to procedural violations. The Defense filed for reconsideration, which was partially recognized by the Constitutional Court on April 3<sup>rd</sup>, wherein the trial court provisionally accepted some of the previously rejected evidence.

On March 19, 2013, a three-judge panel headed by Judge Yassmín Barrios officially opened the oral phase of the trial.

### Part III. International Law Supporting Legal Grounds

José Efraín Ríos Montt and José Mauricio Rodríguez Sánchez stand charged with genocide and crimes against humanity for their role in the massacre and displacement of large numbers of Ixil Mayas from March 23, 1982 to August 8, 1983. This section of the NLG Report presents the legal principles of these similar but also very different crimes. Both crimes developed from international law following the Nuremburg Trials after World War II, but they have diverged as separate legal principles with key distinctions.

#### Genocide

An analysis of any genocide trial must begin with understanding the deceptively simple definition of the crime of genocide. The media's frequent application of the term in areas of crisis reflects the broad range of actions that can constitute this "crime of crimes," but proving genocide in a court of law requires a significantly higher standard of proof than those of other crimes, including crimes against humanity. Article II of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention) defines genocide as follows:

any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.<sup>5</sup>

Article 376 of the Penal Code of Guatemala defines Genocide in the same way:

*Comete delito de genocidio quien, con el propósito de destruir total o parcialmente un grupo nacional, étnico o religioso, efectuare cualquiera de los siguientes hechos:*

- 1º. Muerte de miembros del grupo.*
- 2º. Lesión que afecte gravemente la integridad física o mental de miembros del grupo.*
- 3º. Sometimiento del grupo o de miembros del mismo, a condiciones de existencia que pueda producir su destrucción física, total o parcial.*
- 4º. Desplazamiento compulsivo de niños o adultos del grupo, a otro grupo.*
- 5º. Medidas destinadas a esterilizar a miembros del grupo o de cualquiera otra manera impedir su reproducción.*

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<sup>5</sup> Convention on the Prevention and Punishment of the Crime of Genocide art. II, Dec. 9, 1948, 102 Stat. 3034, 78 U.N.T.S. 277 (1951).

[One commits the crime of genocide when, with the intent to destroy in whole or in part a national, ethnic or religious group, effectuates any of the following events:

- 1<sup>st</sup> Death of group members.
- 2<sup>nd</sup> Injury that seriously impairs the physical or mental integrity of members.
- 3<sup>rd</sup> Inflicting on the group or members thereof, conditions of existence which can produce its physical destruction in whole or in part.
- 4<sup>th</sup> Compulsive displacement of children or adults of the group to another group.
- 5<sup>th</sup> Measures to sterilize members of any group or otherwise prevent their reproduction.]

An almost identical definition of genocide also appears in Article 6 of the Rome Statute establishing the International Criminal Court.<sup>6</sup>

The bulk of genocide jurisprudence comes from the trials conducted by the International Criminal Tribunals for the former Yugoslavia and Rwanda (ICTY and ICTR, respectively). The ICTY has confronted those accused of genocide throughout Bosnia-Herzegovina during 1992 (events which, thus far, the ICTY has failed to qualify as genocide) and those involved in the massacre of 8,000 Muslim men and boys in Srebrenica in July 1995. The ICTR has for obvious reasons focused on genocide above other crimes, and its cases have established precedent not only for genocide but also for incitement to commit genocide. Finally, the International Court of Justice examined the issue of genocide in *Bosnia-Herzegovina v. Serbia and Montenegro*, ultimately finding that Serbia had failed to prevent genocide in Srebrenica.<sup>7</sup>

Although this body of cases has in some ways clarified and expanded the definition of genocide (most notably by recognizing rape as a form of genocide in the ICTR's *Prosecutor v. Akayesu* decision<sup>8</sup>), they have primarily illustrated the difficulties in applying the definition of genocide. While the jurisprudence demonstrates the relative ease of proving the existence of genocidal *acts*, this is only half the battle: inferring the existence of genocidal *intent* – that special intent to a) destroy, b) all or part of a group, c) as such (that is, because of the group's special, common trait) has proved to be extremely challenging for judges, particularly those at the ICTY. Of the 18 people the ICTY has indicted for genocide since 1994, only five have been convicted (and only for genocide in Srebrenica). The Tribunal has so far acquitted the rest on the basis of lack of genocidal intent despite compelling evidence that has led many to believe that genocide took place in other times and places during the war in Bosnia. It is this special intent that primarily distinguishes genocide from the larger category of crimes against humanity.

We will apply the definition of genocide to the events in Guatemala later in this section.

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<sup>6</sup> Rome Statute Article 6, available at: <http://untreaty.un.org/cod/icc/statute/romefra.htm>. Convention the Prevention and Punishment of the Crime of Genocide Article 2, available at: [http://www.oas.org/dil/1948\\_Convention\\_on\\_the\\_Prevention\\_and\\_Punishment\\_of\\_the\\_Crime\\_of\\_Genocide.pdf](http://www.oas.org/dil/1948_Convention_on_the_Prevention_and_Punishment_of_the_Crime_of_Genocide.pdf).

<sup>7</sup> See Application of the Convention on the Prevention and Punishment of the Crime of Genocide (*Bosnia-Herzegovina v. Serbia and Montenegro*), Judgment, 1996 I.C.J. (July 11).

<sup>8</sup> *Prosecutor v. Jean-Paul Akayesu*, Case No. ICTR-96-4-T, Judgment (Int'l Crim. Trib. For Rwanda Sept. 2, 1998), <http://www.unictr.org/Portals/0/Case/English/Akayesu/judgement/akay001.pdf>.

## Crimes Against Humanity

The legal elements for crimes against humanity are established in numerous international instruments, including the Geneva Conventions. Guatemalan Penal Code Article 378 codifies one broad “crime against humanity” as follows:

Quien violare o infringiere deberes humanitarios, leyes o convenios con respecto a prisioneros o rehenes de guerra, heridos durante acciones bélicas, o que cometiere cualquier acto inhumano contra población civil, o contra hospitales o lugares destinados a heridos, será sancionado con prisión de veinte a treinta años.

[Whoever violates or infringes humanitarian duties, laws or agreements regarding war prisoners or hostages, wounded during combat operations, or who commits any act of inhumanity against civilians or against hospitals or places for wounded, shall be punished with imprisonment from twenty to thirty years.]

It is worth noting that this Article of the Guatemalan Penal Code does *not* mirror the crimes against humanity definition from the Rome Statute Article 7, which states:

1. For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

- (a) Murder;
- (b) Extermination;
- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

The domestic penal code of Guatemala is less precise than the Rome Statute and fails to list specific acts that constitute crimes against humanity. However, Article 378 of the Guatemalan Penal Code is interpreted in accordance with international humanitarian law



principles, including the Geneva Convention and the jurisprudence of the international criminal tribunals.

Under international law, a crime against humanity has been committed when the following elements are met: the accused commits a) a prohibited act, that is b) part of an attack, that is c) widespread or systematic, d) against a civilian population, and there is e) a nexus between the actions of the accused and the attack. It is the “widespread or systematic” nature of the attacks against civilians that distinguish crimes against humanity from other war crimes.

International tribunals have stated that widespread “may include a massive, frequent, large-scale action, carried out collectively with considerable seriousness and directed against a multiplicity of victims.”<sup>9</sup> Systematic “refers to the organised nature of the acts of violence and the recurrence of similar criminal conduct on a regular basis.”<sup>10</sup> For this element of a crime against humanity to be satisfied the attack against a civilian population can be widespread, systematic, or both. The International Criminal Court deemed an “attack” to be “a campaign or operation carried out against the civilian population.”<sup>11</sup> The attack must be directed at a civilian population, and where civilians are incidental targets, this does not qualify. It is well established that the term “civilian population” means those that are “not members of armed forces or other legitimate combatants.”<sup>12</sup>

Applying these requirements to the events in Guatemala during Ríos Montt’s presidency, it is easy to categorize the attacks against the Ixil population as crimes against humanity. The massive scale of the attacks satisfies the “widespread” element while the fact that attacks were carried out by an organized army in a continuous manner satisfies the “systematic” element. Ríos Montt and Rodríguez Sánchez have classified the attacks against the Ixil population as a justified response to that group’s direct support of the guerilla soldiers. In contrast, the prosecution has established that the Ixil victims constituted a predominantly civilian population and that this population did not directly participate in hostilities. This is an important distinction since direct participation in hostilities would have negated their civilian status: civilians who “assume a continuous combat function” become combatants and therefore become legitimate military targets.<sup>13</sup> The International Committee of the Red Cross has stated, “[i]ndirect participation in hostilities contributes to the general war effort of a party, but does not directly cause harm and,

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<sup>9</sup> *Akayesu*, TJ ¶¶ 579-580; *Rutaganda*, TJ ¶¶ 67-69; Alfred Musema, Case No. ICTR-96-13, Trial Judgement, Jan. 27 2000, ¶ 204.

<sup>10</sup> *Tadić*, TJ ¶ 648; *Kunarac et al.*, TJ, ¶ 429; Elizaphan Ntakirutimana et al., Case No. ICTR-96-10-T and ICTR-96-17-T, Trial Judgement, 21 Feb. 2003, ¶ 804.

<sup>11</sup> “ICC Elements of Crimes” ICC-ASP/1/3 (adopted 9 Sept. 2002, entered into force 9 Sept. 2002), Introduction to Art. 7 (ICC Elements of Crimes).

<sup>12</sup> Geneva Conventions 1949 (adopted 12 Aug. 1949, entered into force 21 Oct. 1950) (GC I-IV), Common Art. 3, and Additional Protocol I (adopted 8 June 1977, entered into force 7 Dec. 1978) (AP I) Arts. 43 and 50; Situation in the Republic of Kenya, Case No. ICC-01/09, Decision Pursuant to Article 15 of the Rome Statute on the Authorization of an Investigation into the Situation in the Republic of Kenya, 31 March 2010, ¶ 82 (fn 74), citing Jean-Pierre Bemba Gombo, Case No. ICC-01/05-01/08-424, Decision Pursuant to Article 61(7)(a) and (b) of the Rome Statute on the Charges of the Prosecutor Against Jean-Pierre Bemba Gombo, Pre-Trial Chamber II, 15 June 2009 ¶ 78; *Kunarac et al.*, TJ ¶ 425.

<sup>13</sup> International Committee of the Red Cross, *Interpretive Guide on the Notion of Direct Participation in Hostilities Under International Humanitarian Law*, 26 February 2009, Page 1035, available at: <http://www.icrc.org/eng/assets/files/other/irrc-872-reports-documents.pdf>

therefore, does not lead to a loss of protection against direct attack. This would include, for example, the production and shipment of weapons, the construction of roads and other infrastructure, and financial, administrative and political support.”<sup>14</sup> The indiscriminate nature of the massacres conducted by the armed forces against the Ixil population, including the massacre of women, children, and the elderly, makes it clear these attacks were not conducted only against those “directly participating” in the hostilities.

Like genocide, all crimes against humanity require a particular intent on the part of the accused. The *mens rea* element of a crime against humanity requires that the defendant “know of the attack directed against the civilian population, and know that his criminal act comprises part of that attack or at least take the risk that his acts are part of that attack.”<sup>15</sup> Ríos Montt and Rodríguez Sánchez have alleged that they lacked knowledge or control over the attacks that resulted in the massacre of Ixil Mayas. The Prosecution through various means, including through documentary evidence kept in various archives, has established that the defendants were aware of the conduct of the armed forces, including their massacre and displacement of civilian populations. (Notably, filmmaker Pamela Yates presented footage from her film “When the Mountains Tremble” in which Ríos Montt declares, “if I can’t control the army, then what am I doing here?”)

## Genocide vs. Crimes Against Humanity

During the early stages of the development of the legal principles of genocide and crimes against humanity, the terms were used interchangeably. The crime against humanity of persecution is particularly similar to genocide, and the ICTY recognized in its first genocide case, *Prosecutor v. Jelisić*, that genocide constitutes persecution, which encompasses many of the same underlying acts but requires the intent to “discriminate” against rather than the intent to “destroy” a particular national, ethnical, racial, or religious group.<sup>16</sup> It is this difference in intent that distinguishes the two crimes, and because it is frequently easier to prove intent to discriminate than it is to prove the intent to destroy, many charged with both crimes have only been convicted of persecution.

Crimes against humanity and genocide also differ in symbolic value to victims and the rest of post-conflict society. Genocide is called “the crime of crimes” because it denies the right of existence to one or more targeted groups; to “destroy” a group goes far beyond discrimination. Both crimes can involve the same acts committed against the same number of people, but only one carries the stigma of the term invented to describe the Holocaust. Acknowledging that events constituted genocide is important not only for the victims of these atrocities but also for the vital role it plays in the reconciliation process.

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<sup>14</sup> International Committee of the Red Cross, *Direct Participation in Hostilities: Question and Answer*, available at: <http://www.icrc.org/eng/resources/documents/faq/direct-participation-ihl-faq-020609.htm>

<sup>15</sup> *Kunarac et al.*, AJ ¶ 102; *Brđanin*, TJ ¶ 138; *Galid*, TJ ¶ 148; *Krnojelac*, TJ ¶ 59; *Kunarac et al.*, TJ ¶ 434.

<sup>16</sup> *Prosecutor v. Goran Jelisić*, Case No. IT-95-10-T, Judgement, ¶ 79 (Int'l Crim. Trib. For the Former Yugoslavia Dec. 14, 1999), <http://icty.org/x/cases/jelisić/tjug/en/jel-tj991214e.pdf>.

## Conclusion: A Strong Case for Genocide and Crimes Against Humanity

We presented above the evidence supporting the conviction of Ríos Montt and Rodríguez Sánchez for crimes against humanity. Returning finally to the application of the genocide definition to the attacks on the Ixils in Guatemala, it is clear that at the *very* least the qualifying acts took place. Witnesses have testified about a staggering array of vicious acts committed by the army against Ixils of all ages, including murder, torture, rape, disfigurement, and forced displacement. In the persistent absence of concrete evidence of an intent to destroy, judges at the international tribunals have determined that this intent may be inferred from the facts. While cases at the ICTY and ICTR vary in the standards they have applied, in general an inference of genocidal intent requires that the accused targeted a “substantial” number of members of the particular group in terms of quantity or quality.<sup>17</sup> Neither the ICTY nor the ICTR has identified a minimum number of victims that would qualify as “substantial,” but this requirement may also be met through proving that the perpetrators specifically targeted leaders of the community or others without whom the survival of the community would be threatened.<sup>18</sup> Either way, the number and nature of the victims in Guatemala strongly suggest the presence of an intent to *destroy* beyond an intent merely to *discriminate*. The Prosecution has presented a very strong case for Ríos Montt’s intentional commission of genocide against the Ixil population in Guatemala.

### Part IV. Summary of the Delegation’s Activities

The mission of our eleven-member delegation was to observe one week of the multi-month trial of José Efraín Ríos Montt and José Mauricio Rodríguez Sánchez. Official delegation business began on April 14, 2013, and we concluded our observations on April 19. One delegation member was able to remain in Guatemala to observe the trial until the verdict; others watched a live-stream of the trial online before and after our physical presence in the country. The courtroom proceedings officially began on March 19, 2013, and we arrived with the belief that the trial would be nearing its conclusion during our visit.

The timing of our visit was crucial. During our visit a number of events took place that created tremendous uncertainty about what would ultimately happen in the case, including the first attempt by Judge Patricia Flores to annul the trial on April 17<sup>th</sup>. After returning to the United States, we learned that a number of other interventions and appeals had taken place in an attempt to discredit the proceedings. On May 17, the three-judge panel issued a final 718-page decision and verdict finding Ríos Montt guilty of genocide. The Constitutional Court overturned that decision on May 21, 2013, setting the trial back to April 19. As of this writing, the case has been transferred to the other panel of judges of the high risk trial court and is set to re-commence in April 2014. However, the legal complexities of trial make its future uncertain.

As a group of mostly lawyers and law students, we sought to gain a deeper understanding of the nature of the trial itself, the Guatemalan criminal procedural law and the national law

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<sup>17</sup> Prosecutor v. Goran Jelisić, Case No. IT-95-10-T, Judgement, ¶ 81 (Int’l Crim. Trib. For the Former Yugoslavia Dec. 14, 1999), <http://icty.org/x/cases/jelasic/tjug/en/jel-tj991214e.pdf>. All subsequent genocide cases at the ICTY have reiterated this standard.

<sup>18</sup> *Id.*

against genocide, the factual backdrop behind the charges against the accused (especially for those of us who did not already know the history), and the various forms of documentary, testimonial, and expert evidence that had been presented before the court. We also hoped that our presence served a separate purpose of neutral observation, while simultaneously supporting the rule of law. Throughout the week we had a number of activities in addition to the courtroom observation. At times our group had to divide up to ensure that we always had a presence in court while other delegates took advantage of opportunities such as meetings with judges and human rights defenders.

### Sunday, April 14, 2013

On the day of our arrival, the *Fundación Contra El Terrorismo*, a pro-military extremist group, published a twenty-page newspaper insert declaring that genocide had not taken place in Guatemala. The insert named numerous human rights defenders and human rights groups supporting the trial and created a tense and ominous climate.

On Sunday afternoon, our delegation met with several individuals who have been documenting and denouncing the grave human rights violations for decades and are now helping the prosecution build its case. Dr. Factor Mendez, Director of the Center for the Investigation, Study, and Promotion of Human Rights (CIEPROD), and a renowned scholar and human rights lawyer, was one of our main guides through the legal proceedings during the week. We also met with Diego Estrada Tobar of the Ministerio Público and Alejandra Castillo and Abner Paredes of CALDH. The human rights lawyers at CALDH have been working closely with the *Asociación para La Justicia y Reconciliación* (AJR), a grass-roots organization comprised of indigenous community members deeply affected by the civil war. The group members provided an overview of status of the trial and their predictions for what would happen next. They also explained the Guatemalan community's diverse reactions to the trial and how the violence of the 1970's through 1990's remains vivid today as society continues to grope with the effects of violence and unresolved suffering.

We additionally met with Kate Doyle, Senior Policy Analyst and Director of the Guatemala Project at the National Security Archive. Kate gave us an introduction to the documentary evidence that has been used by the prosecution to build its case against the accused.





Monday, April 15, 2013



Delegation members in front of the Palacio de Justicia. (Supreme Court)

Trial observation for our delegation started on Monday morning. The Defense team began the morning proceedings with a motion to add an attorney to their team or, alternatively, to replace an attorney on the defense team at this late phase of the courtroom proceedings. After deliberation, the three-judge panel denied the motion, citing procedural law to support their decision.

The Prosecution presented several expert witnesses, beginning with Dr. Héctor Rosada Granados, who served as a peace negotiator for the government from 1993-1996 and wrote a book detailing the actions of the Guatemalan armed forces during the civil war. Dr. Elizabeth Oglesby testified next about the forced displacement of the Ixil. Dr. Oglesby spoke from her vast experience in the Ixil region, where she conducted over 100 interviews with displaced Ixil. Based on her experience, she concluded that the military targeted the Ixil populations for destruction because it viewed them as ideologically impenetrable and “difficult.”

The third witness was Lobsan Eduardo Vasquez, a mapping specialist who was able to describe the patterns of displacement. The last expert to testify on the 15th was Rodolfo Robles Espinoza, a retired Peruvian Military General. Espinoza stated that during the war there were clear human rights violations committed against unarmed women and children, including the forced displacement of people. He explained that those at the highest levels of the military had a duty to stop such atrocities from occurring. Instead, they knowingly employed these tactics.

Mid-morning, a smaller group went to meet with Magistrate José Arturo Sierra Gonzalez, of the *Sala de Amparos* of the Supreme Court. During that meeting, the judge explained the role of the *Sala de Amparos* and we discussed the importance of the trial in Guatemala. Very appropriately, the Judge had to withhold his opinions about some of the tougher issues that we



asked him, as he may play a role in future proceedings in this case relating to whether the law of National Reconciliation applies to Ríos Montt's amnesty and thus must remain impartial.

In the evening our delegation met with directive board members of the progressive legal organization *Asociación Guatemalteca de Juristas*: Oswaldo Enríquez C., *Fundación para la Justicia y la Defensa de los Derechos Humanos* (FUNJUDEH), Lesbia Tevalan, Rodolfo Azmitia Jiménez, Universidad de San Carlos (USAC), and José Mario Castillo. They provided us with a general explanation of the relevant criminal procedures in the Guatemalan judicial system as well as the political and social context in which this trial was taking place.

### Tuesday, April 16, 2013

On the second day of trial observation the Defense presented witnesses. First was Ronald Mauricio Illescas García, an army general who was able to discuss the army's structure and the chain of command. The second Defense witness was Alfred Kaltschmitt, Executive Director of *Fundación de Ayuda para el Pueblo Ixil*, a humanitarian foundation assisting the Ixil. Kaltschmitt testified about the army's aid to the Ixil region during the period of intense violence.

Upon the close of the testimony by the witnesses, Judge Barrios asked the Prosecution to present the video evidence for the court. These video clips from footage taken by Pamela Yates in 1982 featured Luis Gordillo Martinez, Horacio Maldonado Schaad, and Efraín Ríos Montt. In one of the clips, Ríos Montt affirmed his control over the military, casting doubt on a core component of the defense strategy that the field commanders were responsible for the behavior of the local military troops and that the chain of command did not extend to Ríos Montt.



With Nobel Peace Prize winner Rigoberta Menchú Tum.

In the afternoon, we joined the U.S. delegation from the Center for Justice and Accountability on a visit to the *Fundación de Antropología Forense de Guatemala* (FAFG). Fredy A. Peccerelli M., the Executive Director of the FAFG, led the group through the various departments to explain the breadth of their work and presented some of the impressive accomplishments of the Fundación. Mr. Peccerelli explained that many mass graves were discovered within the boundaries of Guatemalan army bases. He described how their interdisciplinary professionals work with the family members, survivors, and human rights

activists to identify victims and reconstruct the events leading to the victims deaths, mostly occurring during the internal armed conflict.



With Executive Director Freddy Peccerelli at the FAFG lab.

### Wednesday, April 17, 2013

The third day of trial observation began with another shortage of defense witnesses; only two were present and ready to testify that day. Judge Barrios generously gave the Defense lawyers time to call their witnesses before the proceedings resumed. Ultimately, three Defense witnesses testified, beginning with Gustavo Porras Castejón, a political analyst who turned out to be a poor witness for the Defense once he denied having any personal knowledge of any of the violent acts committed against the Ixil. After a slew of objections on both sides, the Defense ultimately moved on to its next witness, Harris Howell Whitbeck, who spoke about helping Ríos Montt launch the “Beans and Bullets” counterinsurgency campaign. Finally, the Defense questioned Antonio Arenales Forno, the Secretary of Peace in the current Guatemalan government. The Defense asked Forno about the relation of this trial to international law, prompting another flurry of objections that ultimately ended the testimony.

Following these three witnesses, the Defense presented a short series of video interviews that were cut short following an objection from Prosecution attorney Edgar Pérez. At that point, Judge Barrios ended proceedings for the day.

After this day’s court observation, the delegation visited the office of the Ministerio Público for a lunch meeting with Fiscal General Claudia Paz y Paz, the first woman to be the Attorney General of Guatemala. We were joined by various members of her team, Mynor Melgar, the Secretary General of the public prosecutors office, Ana Gabriela Contreras Garcia,

Secretary of International Cooperation and Gabriela Mundo Rodríguez, the Sub-Secretary of the same office.



Delegation with Attorney General Claudia Paz y Paz (far right) and AG staff

The Attorney General expressed the importance of international attention and accompaniment in order to carry on their work as the Guatemalan society continues to be polarized, with ongoing human rights violations and increased vulnerability. Personal safety for the witnesses, public and private attorneys and even the judges is coordinated with assistance from international solidarity and international diplomatic corps who provide bullet proof vehicles and other forms of security. The home of Judge Yassmin Barrios was attacked with grenades one night and she presides court dressed in a bulletproof vest beneath her clothing.

The prosecution is convinced that they have all evidence necessary to make their case at the judicial level, however, the case is being manipulated by the right wing owned media and the political power structure aligned with military and ex-military forces. Attorney Paz y Paz believes a powerful precedent has been established; until recently the concept of indigenous victims accusing a former military dictator could only be dreamed of. She believes that major advances have been made, and mentioned the conviction in the murder of Myrna Mack, the conviction for the assassination of Bishop Gerardi, the trial on behalf of the families and survivors of the Dos Eres massacre and the continuing exhumations and efforts to bring the intellectual authors to trial. Notwithstanding, the ruling class is placing paid ads in major media accusing the Judiciary of violating the Peace Accords and bringing back the horrors of war. This is far from reality she told us, “peace has never implied a pardon for genocide”.

In the evening, we had a very emotional meeting with a group of survivors including members of the Directive Board of the AJR. They shared their harrowing stories of survival and



the family members they had lost, explained how their communities were forever changed by the massacres and reiterated the importance of the trial for reconciliation and historical memory.



Listening to the tragic stories of survivors.

That night we also discovered that Judge Patricia Flores was intervening in the case and attempting to annul it. Several members of the delegation prepared a press release for the press conference scheduled for the following morning. We stated that during our time observing we had witnessed a professional and transparent atmosphere in the courtroom. We also acknowledged the importance of the trial to set a precedent against impunity in Guatemala, and opined that in this time of uncertainty for the future of the trial it was important that the international community supported the efforts by the court to hold a fair proceeding.

### Thursday, April 18, 2013

On Thursday morning, our delegation held a press conference at the Hotel Pan Americano. Members of various press organizations were present while we read our statement and answered questions.



NLG Press Conference Guatemala City, April 18, 2013

We met with Víctor Ferrigno of the United Nations High Commission for Human Rights (OACNUDH), and coordinator of the *Equipo de Apoyo Técnica al Litigio Estratégico* (EATLE) of OACNUDH, and indigenous staff attorney, Juan Castro. We discussed ongoing human rights violations occurring in Guatemala today and the difficulty and importance of bringing timely legal actions to mitigate ongoing human rights violations. Two of our delegation members also appeared on an hour-long radio program hosted by the *Unión Nacional de Mujeres Guatemaltecas* (National Union of Guatemalan Women) during this time period.

That same morning, several members of our delegation returned to the Supreme Court to observe another day of trial that took an unexpected turn. Judge Barrios began the morning by inquiring into the progress of searching for the missing Defense witnesses whose absence threatened to further delay the conclusion of the trial. Before she could finish questioning, the Defense attorney for Ríos Montt demanded that the trial be suspended, arguing that Judge Barrios had violated the law by proceeding with the trial following a weeks-old ruling by the Constitutional Court regarding the inadmission of evidence at the preliminary hearings. On April 3, the Constitutional Court had overruled a decision by Judge Galvez of the First Instance Court to reject evidence submitted by the Defense after the deadline for evidence submission. In order to save time and for judicial expediency, Judge Barrios accepted the Defense's late evidence into the file order to assure defendants the full opportunity to present their defense.

Defense attorney César Calderón denounced the trial as “illegal” and “corrupt,” declared his right to “peaceful resistance,” and marched out of the court along with the other Defense attorneys. Judge Barrios declared that the attorneys had abandoned their clients in violation of the law, stating that the court would provide Ríos Montt and Rodríguez Sánchez with public defenders if their attorneys did not return the following day.

That afternoon, Judge Flores of the First Instance Court ruled to annul the entire oral trial, stating that the case file should have physically returned to the Court of First Instance to admit the evidence following the Constitutional Court's April 3<sup>rd</sup> ruling, rather than incorporating the material in the midst of trial. In a press conference that followed, Attorney General Claudia Paz y Paz declared Flores' ruling to be illegal.

Later that evening, several members of the delegation attended the opening night of the National Film Festival celebrating Historical Memory. This human rights film festival features a variety of films regarding current issues in human rights. Our group watched “Gold Fever,” a documentary about the gold mining industry in Guatemala and the struggle within Guatemala's indigenous communities against the mining companies, which are causing irreparable environmental damage, public health threats and human rights abuses.

### **Friday, April 19, 2013**

On Friday morning, we learned that protests against Judge Flores' annulment order had occurred outside the Palacio de Justicia during Thursday night, and we heard of plans to protest in front of the Constitutional Court later Friday morning.





Newspaper headlines on Friday morning following the annulment.

Accordingly, Friday was an emotional day in court. Despite the order by Judge Patricia Flores to annul the trial, Judge Barrios declared that the trial would continue. Barrios stated that the order by Judge Flores to annul the trial was illegal, and she would not follow illegal orders. The courtroom erupted in cheers of “justicia!” when Barrios read her decision, as members of the Ixil community jumped from their seats. Following the decision, Barrios appointed public defenders to Ríos Montt, as his attorneys were held in contempt for refusing to attend trial. She then recessed the trial for several days to allow the newly appointed attorneys to become acquainted with the material, also while awaiting pending appellate decisions from the Constitutional Court.

Following the decision, several members of the delegation accompanied victims and other supporters in a peaceful march from the Supreme Court down to the Constitutional Court.



On steps of Constitutional Court

Others visited the National Police Archives. The Police Archives are housed in a large building previously used as a storage facility for files and records by the National Police during the civil war. It also contained a secret detention and torture facility that was used at the height of the conflict. For many years the site was sealed and it was unknown that hundreds of thousands of police and military records were inside. Since its rediscovery, the Police Archives has become an important repository of the history of the conflict, and the material found inside is being restored and carefully organized and made available to the public.



Still- untouched files at the Archives.



Scanning and archiving information

## Part V. Conclusion

Given Guatemala's history of inequality, racism, exclusion and impunity, the fact that Ríos Montt faced trial for genocide and crimes against humanity in Guatemala is a remarkable feat that attests to the resiliency, perseverance and courage of the Ixil people. Despite the recent setbacks, the Guatemalan genocide survivors and their supporters achieved a resounding victory when a resolute Judge Barrios read the guilty verdict for the world to hear. The subsequent written findings, which amply detailed the overwhelming evidence against Ríos Montt, can never be undone, despite the verdict's controversial annulment on technical legal grounds. The survivors, advocates and supporters will continue their long struggle for truth, memory and justice. Yet those advancing the rule of law still face significant risks and challenges, as the military establishment and economic elites resist a full accounting for the past. At this critical juncture, the international community must continue to accompany those in Guatemala who are working to end impunity and to build a more just, democratic and equitable society.

## Recommended Resources & Further Reading

<http://nlginternational.wordpress.com/>

This is our delegation's blog, which we updated as often as possible with written reflections, media coverage, and pictures during and immediately after our time in Guatemala.

<http://www.riosmontt-trial.org/>

The Open Society Justice Initiative has maintained a detailed blog providing news and analysis of the trial since the beginning. This is likely the most comprehensive resource for learning about developments in the trial. The page also contains links to other useful websites and resources.

<http://boingboing.net/>

Boing Boing journalist Xení Jardín provided excellent coverage from the courtroom during the last weeks of the trial.

<http://www.paraqueseconozca.blogspot.com>

The full text of the judgment from May 10 appears on this blog, which is also linked from the CALDH website (<http://www.caldh.org>).

### Media Coverage

“Justice in Guatemala: What Happened to the Ríos Montt Trial, and Where Can It Go from Here?” (Radio Program by the International Center for Transitional Justice)

<http://ictj.org/news/justice-guatemala-what-happened-rios-montt-trial-and-where-can-it-go-here>

“How a Documentary Changed Guatemala's History,” Interview by Christiane Amanpour with filmmaker Pamela Yates (“How to Nail a Dictator”) and human rights lawyer Almudena Bernabeu

<http://amanpour.blogs.cnn.com/2013/05/31/how-a-documentary-changed-guatemalas-history/>

Victoria Sanford, “Victory in Guatemala? Not Yet,” *New York Times* Op-Ed

<http://www.nytimes.com/2013/05/14/opinion/its-too-soon-to-declare-victory-in-guatemalan-genocide.html?pagewanted=all>

<http://www.plazapublica.com.gt>

Progressive Guatemalan on-line news and analysis based at the Jesuit Universidad Rafael Landívar





The delegation outside the Ministerio Público.

### Delegation Members

**Emily Yozell, J.D. (Delegation Coordinator)** is based in Costa Rica and has worked in Central America for over 25 years, specializing in international human rights and environmental law. Attorney Yozell has collaborated with numerous non-governmental human rights organizations throughout the Americas, including in Guatemala during the 1980's and 1990's.

**Lauren Carasik, J.D.** is the Director of the Human Rights Clinic at Western New England University School of Law in Massachusetts. The legal clinic has worked on human rights projects in Guatemala and Honduras and hopes to continue working in these areas.

**Clayton Cheney, J.D.** is a graduate fellow for the Santa Clara University International Human Rights Clinic in California, USA. He worked previously at the United Nations Office of the High Commissioner for Refugees in Geneva, Switzerland. He has observed trial proceedings at the International Criminal Tribunal for the former Yugoslavia and the International Criminal Court.

**Carrie Anne Comer** is an anthropologist and human rights advocate who works on transitional justice issues in Guatemala and Honduras. She is currently pursuing a degree in International Human Rights Law at the University of Oxford, England and plans to return to Central America upon graduation.

**Susana De Leon, J.D.** is an immigration attorney and community activist in Minnesota, USA defending immigrants, women and children who have suffered crimes and domestic abuse. She emigrated from Mexico to the US in 1985 and presently chairs the board of the NLG National Immigration Project. She has also taught at the University of Minnesota.

**Kristin Donovan** is a community outreach worker and paralegal with the Southern Poverty Law Center's Immigrant Justice Project based in Atlanta, Georgia. Ms. Donovan works to defend and promote the civil and employment rights of immigrants in the United States. Prior, she worked as an international human rights observer in Colombia with Peace Brigades International.

**Christina Iturralde, J.D.** works at the Southern Poverty Law Center's Immigrant Justice project in Atlanta Georgia, USA, which promotes the civil and human rights of immigrants in the US, often challenging policies and practices of local and federal government agencies. She is a member of the American Bar Association's Immigration Advisory Committee.

**Nanette Kripke, J.D.** specializes in criminal defense working at the Legal Aid Society in New York City, USA. Attorney Kripke has participated in previous international delegations to Chiapas, Mexico in 2005 and Guerrero, Mexico in 2008.

**Bruce Nestor, J.D.** is an immigration and criminal defense attorney based in Minnesota, USA. He also represents political dissidents, challenging State repression of political activists. Attorney Nestor was President of the National Lawyers Guild from 2000-2003.

**Mariah Thompson** is a student of international human rights law at the University of Virginia School of Law, USA. Ms. Thompson interned at the International Criminal Tribunal for the Former Yugoslavia in the Office of the Prosecutor. She intends to pursue a career in human rights litigation and movement lawyering following graduation.

**Kendra Wergin (Report Coordinator/Editor)** is a law student focusing on international law at the University of Virginia School of Law and the Paris Institute of Political Studies (Sciences Po). She previously interned on the Ratko Mladić prosecution team at the International Criminal Tribunal for the former Yugoslavia and recently completed a major research project analyzing the genocide jurisprudence of this Tribunal.



Concluding an orientation and exchange with colleagues from the Guatemalan Association of Jurists