

MAPPING COMMEMORATIVE CULTURES, BEST PRACTICES AND LESSONS LEARNED

CASE STUDY: Guatemala

1. Background describing the period of violence examined

Beginning in 1960, Guatemala suffered an internal armed conflict lasting 36 years. The conflict occurred in the context of the Cold War and took shape after the overthrow of the democratically elected president, Juan Jacobo Árbenz Guzmán, in 1954 by the military, in close alliance with the private sector – particularly landowning elites – and the United States government. It came to an end in 1996 when Peace Accords were signed between the Guatemalan government and the guerrilla movement, Guatemalan National Revolutionary Unity (Unidad Revolucionaria Nacional Guatemalteca - URNG).

After the conflict's end, the Commission for Historical Clarification (hereinafter CEH, for its initials in Spanish) was established to objectively and impartially clarify the grave human rights violations and acts of violence committed during the conflict. According to the CEH report "*Guatemala: Memory of Silence*," during the conflict there were "626 massacres committed by State forces, mainly the Army, supported in many cases by paramilitary structures such as the Civil Defense Patrols (Patrullas de Autodefensa Civil (PAC)) and the military commissioners,"¹ resulting in more than 200,000 victims, including people killed and disappeared.²

Of the total number of massacres recorded, 52³ of them were carried out between 1980 and 1982 by the army against the Maya-Ixil people, who the military forces unjustifiably considered to be an internal threat to the State, mainly in the municipalities of Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul in the department of Quiché. **As a result of these massacres, around 7,000 Maya-Ixil people were victims of serious human rights violations, including torture, rape, forced disappearances and murder.**⁴

In March 1982, General José Efraín Ríos Montt, together with General Horacio Egberto Maldonado Schaad and Colonel Francisco Luis Gordillo Martínez, took power by force in Guatemala, and in June of that year Ríos Montt proclaimed himself President of the Republic. His government team included the Ministry of National Defense and the Army General Chief of Staff as part of the Council of State, members of the country's business elite. It was at this time that violent attacks and repressive actions against the indigenous population increased significantly in both quantity and severity.

2. Background describing the significant date or event that is being commemorated

Understanding the current social and cultural context in Guatemala requires an understanding of what happened during the country's 36 years of internal armed conflict, when the civilian population, including girls, boys, peasant women and men, academics, members of the clergy, students, and opposition politicians suffered serious human rights violations, including violations of the rights to freedom, integrity, sexual dignity, and life, at the hands of the country's military forces, by decision or with the consent of those in power during that period.

During Guatemala's conflict, various violent events took place that still live on today in the memory of those who suffered them, and who after the laying down of arms in 1996 with the signing of the Peace Accords, began to seek justice through the legal mechanisms available nationally and internationally, so that those responsible for committing such atrocious acts against their integrity would finally be held accountable and punished accordingly.

As a result of these efforts, **on May 10, 2013, General Ríos Montt, who, as mentioned, held power in the early 1980s and conducted military actions of the utmost cruelty against the civilian population during his time in power, was convicted of genocide and crimes against humanity.** This historical ruling is remembered in very different ways by the victims of the dictator and those who initiated the struggle to have him investigated and criminally prosecuted, compared to others who have historically been linked to the powerful sectors of the country due to their economic influence and people in government positions in recent years.

THE GLOBAL INITIATIVE FOR JUSTICE, TRUTH, AND RECONCILIATION

In 2014, the International Coalition of Sites of Conscience (ICSC) launched the Global Initiative for Justice, Truth & Reconciliation (GIJTR), a consortium of nine international organizations focused on offering holistic, integrative, and multidisciplinary approaches to issues of truth, justice, and reconciliation. GIJTR works primarily with local populations, civil society organizations, survivors, and governments to develop transitional justice approaches that are victim-centered and collaborative and support dignity, respect, inclusion, and transparency in societies emerging from conflict or periods of authoritarian rule. Since its founding, GIJTR has engaged with people from 72 countries, worked with 681 civil society organizations, conducted 323 community-driven projects, and documented more than 5,040 human rights violations.

For more information, please visit gijtr.org.



GIJTR

Global Initiative for Justice
Truth & Reconciliation

This work recounts **what happened before, during and after the aforementioned court decision, which, despite having been overturned days after its issuance, is still remembered and celebrated in different ways by the victims of the internal armed conflict with the aim of keeping the spirit of justice at that time alive in the country's memory.** It also alludes to specific events and efforts in which people from the country's institutional and business sectors promoted an official narrative to deny the genocide committed by the State of Guatemala against the indigenous population.

2.1 Background on the official/dominant narratives and the narratives of victims and survivors around the significant date or event

Following the signing of the Peace Accords, organizations in Guatemala began efforts to hold accountable those responsible for massacres committed during the internal armed conflict, including acts of genocide. In 2000, the Center for Legal Action on Human Rights (Centro para la Acción Legal en Derechos Humanos (CALDH)) and the Association for Justice and Reconciliation (AJR) denounced before the Public Prosecutor's Office the serious human rights violations committed between 1982 and 1983 in the context of the internal armed conflict.

General Ríos Montt and José Mauricio Rodríguez Sánchez, director of military intelligence during Ríos Montt's government, were accused of committing acts of genocide and crimes against humanity against the Mayan-Ixil population in the department of Quiché. Both were indicted by the Public Prosecutor's Office in January 2012 and brought to trial.

After an extensive and lengthy criminal trial, characterized by malicious litigation by the defense team, threats and intimidation against the victims, human rights defenders, the public prosecutors who conducted the investigation and the members of the Court of First Instance for High-Risk Criminal Sentencing A, the latter issued its decision of 718 pages, the summary of which was read by the president of the Court on May 10, 2013. The judgment established the following:

"II) That the accused JOSE EFRAÍN RÍOS MONTT is responsible as the perpetrator of the crime of GENOCIDE committed against the life and integrity of the civilian inhabitants of the villages and hamlets located in Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul. III) For this crime he should be sentenced to FIFTY YEARS OF INCOMMUTABLE PRISON. IV) That the accused JOSE EFRAIN RÍOS MONTT is responsible as the perpetrator of the CRIMES AGAINST HUMANITY committed against the life and integrity of the civilian inhabitants of the villages and hamlets located in Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul. V) For this crime he should be sentenced to THIRTY YEARS OF INCOMMUTABLE PRISON [...]"⁵

As a sign of what was to come, on May 13 of that year, the Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations (CACIF), the most powerful business conglomerate in the country, through a paid campaign, petitioned the Constitutional Court to overturn the decision, arguing that the violent events during the conflict had not constituted genocide. Thus, on May 20 of that same year, the Constitutional Court, ruling on a complaint filed by the defense, overturned the aforementioned decision, leaving the victims of genocide in a state of defenselessness, diminishing their confidence in the justice system and reviving the still fresh wounds suffered during the conflict.

2.2 Are there/what are the gaps or points of contention that exist between official narratives and the narratives of victim and survivor groups?

The lack of certainty in the Guatemalan justice system has not prevented the victims of the massacres that took place in the 1980s, people associated with them, and human rights organizations from commemorating May 10, 2013, with special decorum and pride. That was the date when the State first issued the pronouncement that the systematic attacks against the Maya-Ixil people violated their human rights, and that those attacks were supervised, permitted, and authorized by Ríos Montt, thus constituting the crime of genocide and crimes against humanity.

These remembrances have been manifested over the years in public statements by victims of the genocide and human rights organizations, peaceful marches, artistic movements, literary publications, social media campaigns and various other expressions. At the same time, various state bodies and actors have sought to downplay or even ignore the existence of the genocide in Guatemala and the content of the May 2013 court decision.

3. How is the significant date or event commemorated in the public sphere by officials? How is the significant date or event commemorated in the local sphere by victim and survivor communities/ victim- or survivor-centered associations/civil society organizations? How is the significant date or event commemorated in at your organization?

Some of the activities of victims and civil society commemorating the emblematic ruling, as well as the concrete actions carried out by institutions and the country's economic and business sector to deny the genocide perpetrated by the State, are presented below by year.

2013

Two days after the court ruling, CACIF held a press conference in which its leaders rejected the conviction against Ríos Montt, arguing that genocide had not been committed in Guatemala, and that the High-Risk Sentencing Court A had therefore incorrectly classified the crime; they also considered that during the trial there had been serious violations of due process. Based on the above, they asked the Constitutional Court to overturn the ruling.⁶ These arguments continued for several days through paid publicity campaigns and publications on the organization's official social networks.

In June 2013, just one month after the ruling and its subsequent overturning, the publishing house F&G published the book "Convicted of genocide: Conviction against José Efraín Ríos Montt (fragments) (*Condenado por genocidio, Sentencia condenatoria en contra de José Efraín Ríos Montt (fragmentos)*)," in tribute to the victims of the violence perpetrated by the State of Guatemala and to recognize the witnesses who participated in the criminal proceedings for their perseverance and courage.

It should be noted that during his presidency, Otto Pérez Molina (a retired military officer) publicly denied on several occasions that a genocide had ever taken place in the country, including during the trial against Ríos Montt and at an event organized by CACIF, stating that there was no evidence of such an event.

The following year, in an initiative by Guatemalan sociologist and historian Dr. Marta Elena Casaús Arzú, whose research focuses on systemic racism and oppression in Guatemala (including their maximum expression through acts of genocide committed during the internal conflict), and taking advantage of the still new reach of social media at that time, a commemorative campaign was carried out around the world with posts on Facebook or Twitter with the hashtags: #genocidiogt, #sihubogenocidio, #sentenciaporgenicidio.

As part of this media campaign, human rights organizations and collectives published excerpts from the May 2013 ruling, with photographs of the trial and the victims. These actions expressed solidarity with the victims of the genocide and those who took part in the process as witnesses. In various countries around the world, the sentence was read out collectively. For instance, events were held at the Spanish Bar Association on May 9, 2014; and in various parts of the city of Buenos Aires, Argentina, by the Guatemala-Argentina Solidarity collective.

On May 13 of that same year, on the initiative of Deputy Luis Fernando Pérez of the Institutional Republican Party (PRI), a far-right political party created in 1989 by Ríos Montt, known as the Guatemalan Republican Front until 2013 (and which had selected Ríos Montt as their candidate in Guatemala's 2003 presidential elections), the Guatemalan Congress issued Resolution Point 3-2014, in which it made several considerations related to human rights, the internal armed conflict and the duties of the State; however, in the sixth recital of the aforementioned resolution, the legislative body stated:

*"That as a consequence of the criminal indictment already known as 'the trial of the century,' despite the fact that the prevailing legislation shows that the elements that make up the criminal offenses mentioned above are legally unfeasible in Guatemala, mainly in terms of the existence on our soil of genocide during the internal armed confrontation [...]."*⁷

Although the resolution lacked binding effects in the national legal system, it was clear that Congress identified with the discourse of the business sector and the high courts, denying the existence of genocide in Guatemala.

Two years later, activities were still taking place internationally to commemorate the issuing of the 2013 genocide ruling. Among these activities was the one held on May 16, 2015, in Madrid, Spain, by the Madrid Peace and Solidarity Foundation of Comisiones Obreras, in which the book "Convicted of Genocide" was presented, with the participation of officials from the Spanish Supreme Court and the Center for Legal Action on Human Rights (CALDH), an entity that participated as a plaintiff in the trial against Ríos Montt.⁸

At the local level, the victims of the massacres and their families continued to organize to demand justice for the violations suffered during the armed conflict. On May 9 and 10, 2015, organizations of the Mayan-Ixil people of Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul held commemorative events to mark the second anniversary of the ruling, including a remembrance of the content of the ruling and a ceremony to honor the victims of the massacres. On that occasion, the indigenous mayor of Nebaj said:

"The Ixil peoples are not really interested in whether the Western justice system overturned the ruling initially handed down against Efraín Ríos. What should be emphasized is that there was a ruling and that it was condemnatory."⁹

This reveals that for the Mayan-Ixil people, the ruling and its meaning continued to be valid, regardless of having been subsequently overturned.

These commemorative acts also took the form of artistic expressions, such as the one on May 10 of that year on Paseo de la Sexta in zone 1 of Guatemala City, in front of the Centro Cultural España. The artist Regina Galindo, accompanied by the musical group Estudio Coral Guatemala, performed the song "Culpable" to remember the 80-year prison sentence handed down to Ríos Montt two years earlier. According to media reports covering the event, around 400 people attended the performance.

2016

Just as the victims of genocide, their families and human rights organizations had sought to keep alive the meaning of the emblematic court decision, there were also pronouncements by authorities of the highest state hierarchy, in relation to that event. Proof of this was what happened on December 27, 2016, when then Vice-President of the Republic, Jafeth Cabrera, avoided describing as genocide the acts perpetrated by the State of Guatemala against the civilian population during the internal armed conflict, stating that

"[...] genocide is the extermination of an entire conglomerate, of an ethnic group. And really in Guatemala there were multiple deaths in both ways, both of people who participated in the guerrilla, as well as in the executive, the government, and people who were innocent, who fell victim to the bullets of the conflict."¹⁰

The government's official position on this issue was clear, since months earlier President Jimmy Morales had also taken a denialist stance on the matter, stating that it was up to the courts to clarify this issue.

2017

On May 10, 2017 on the fourth anniversary of the genocide, an exhibition of the original ruling with an altar in memory of the victims was held in the "Kaji Tulam" House of Memory located in the historic center of the city. Two days later, a concert and poetry reading were held at the same location. As in previous years, these activities were conducted to remind people of the significance of the ruling and to pay tribute to those affected by the massacres during the armed conflict.

In observance of the fifth anniversary of the historic judicial resolution, commemorative activities were also carried out to preserve it in the memory of Guatemalans. CALDH and the Association for Justice and Reconciliation organized a series of academic and artistic activities from May 9 to 16, 2018, including: “Foro Impacto Sentencia por genocidio;” the exhibition “Pilares de Justicia,” featuring documents, objects and garments used in the genocide trial; the already well-known performance by artist Regina Galindo and Estudio Coral Guatemala, interpreting the song “Culpable;” the concert “Un Canto a la Memoria y la Justicia” by Fernando López and his band Jazz Fusion; and a conversation on racism with Marta Elena Casaús as keynote speaker.

2019 was a year of great concern for people working on cases related to transitional justice, since the Congress of the Republic began discussion of a bill (initiative 5377 presented a year earlier) to reform the Law of National Reconciliation with two objectives: to allow police and military officers sentenced to prison for human rights violations committed during the internal armed conflict to regain their freedom; and to bring to an end any active investigations into the matter.¹¹

Faced with the possible approval of the reforms by the Congress of the Republic, the victims of the genocide, accompanied by human rights organizations, filed an amparo (for constitutional protection) against the drafting, approval or enactment of any amendments to the National Reconciliation Law, which, once finally resolved on February 9, 2021 by the Constitutional Court, definitively prevented the approval of these reforms.

Although unsuccessful, it was another effort by State bodies to ensure impunity for those responsible for acts of genocide and serious human rights violations during the internal armed conflict, and at the time the bill was being debated, it gave rise to various demonstrations by members of parliament who denied the existence of the atrocities committed against the Guatemalan people at the time.

Over the past three years, the victims of the internal armed conflict, especially those who were involved in the criminal proceedings against General Ríos Montt, as well as the human rights organizations that provided technical and legal support in the case as co-plaintiffs, have continued to commemorate the day when Ríos Montt was found guilty of committing genocide against the Maya-Ixil people.

In this year’s commemorative activity, the CALDH organization and survivors of the massacres in Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul, held a ceremony to commemorate the day when victims’ testimonies were given probative value and, although short-lived, justice was done.

At the local level, activities were also held to commemorate the ninth anniversary of the genocide ruling. In San Gaspar Chajul, municipality of Quiché, members of the Maya-Ixil people remembered the victims of the genocide, paying tribute to them in a ceremony led by ancestral authorities of the community.

It is important to point out that the “Kaji Tulam” House of Memory has a room specially dedicated to the commemoration of such a momentous event, because of what it meant at the time and what it continues to represent for all those who suffered violations of their freedom, personal and sexual integrity, and life at the hands of the military forces of the State of Guatemala. Likewise, due to the adaptation needs brought about by the COVID-19 pandemic, since last year a virtual modality of visits to the center has been implemented, which also includes a virtual space dedicated exclusively to the conviction of General Ríos Montt on May 10, 2013.

4. Lessons Learned and Best Practices

With resilience and perseverance, the surviving victims of the massacres perpetrated during the internal armed conflict, their families and human rights organizations that participated in the trial against Ríos Montt for genocide and crimes against humanity, have sought to preserve the State’s acknowledgement of these crimes for nearly ten years in the country’s collective memory. For them, this decision meant justice for the grave suffering they experienced; for the country, a lesson in what happened over the 36 years of internal armed conflict and the hope that holding the perpetrators accountable might prevent an event of such magnitude from being repeated; and for the world, an example of what could be achieved in terms of restorative justice.

With special dedication and effort, these people have organized and participated in these commemorative activities, opting for solemn, spiritual, academic, and artistic expressions to remember and honor those who sought justice for the grave human rights violations suffered by the Maya-Ixil people in the 1980s.

On the other hand, State bodies, military leadership, and the business sector, represented by CACIF, have insisted on denying the massacres perpetrated against indigenous peoples and opponents of the military regime during the years of the internal war. From the beginning, these acts of denial have been aimed at covering up and ensuring impunity for those responsible for the massacres and serious human rights violations.

A retrospective analysis shows that over time, these efforts took different forms, depending on the legal instance or the time of discussion. Initially and during the criminal proceedings against General Ríos Montt, the trials were said to be malicious litigation, but eventually these accusations escalated into threats and intimidation of both the surviving victims, the organizations supporting the victims, and the justice operators who participated in the proceedings. After the decision was handed down, there were public pronouncements that sought to discredit the judicial decision; and after the decision was overturned, the speeches that failed to acknowledge the reality of the genocide soon became official resolutions and legislative efforts that expressly stated that genocide had not taken place in the country.

The case of Guatemala demonstrates how, in some countries, powerful groups that held political control during an armed conflict can remain influential, and in fact with significant power, following a conflict's end. This explains why the Genocide Case trial created a very large backlash, as well as persecution of those who work for justice and accountability for violations committed during Guatemala's internal conflict. In the years since the historic sentence, and particularly since the current Attorney General took office in 2018, there have been increasingly intense concerted efforts to undo advances for memory and accountability in Guatemala. Prosecutors, judges, and other human rights defenders who contributed to seeking justice in conflict-era cases have been and continue to be targeted for their role in those cases, and a climate of generalized impunity for perpetrators of crimes of the past continues to be the norm.

Despite all this, the trial and sentence in the Genocide Case were, and remain, incredibly significant for the transitional justice process in Guatemala. The Genocide Case made it very clear that a genocide *did* indeed take place in Guatemala, and the case has great impacts in terms of memory for the victims and for society.

A memorialization process should be an opportunity for the victims to be subjects of their own action, to speak their truth to overcome fear and to restore their dignity and the dignity of others who have died. Historical memory should be a starting point for deep processes of social awareness about the causes, effects, and consequences of State terrorism. If we cannot extract lessons from deeply painful times in the past, we will be doomed to repeat history over and over again. Engaging in memory and memorialization processes not only helps to preserve history and keep the memory of victims alive, but also pushes us to continue seeking justice, and thus challenge the idea that perpetrators can continue to have power over the victims and society.

ENDNOTES

- 1 Commission for Historical Clarification (CEH) (1999). *Guatemala: Memoria del Silencio*. Guatemala: UNOPS. Volume III. Page 252.
- 2 Burt, J. and Estrada, P. (April 27, 2018). Ríos Montt's legacy. *El País* [online]. Disponible en: https://elpais.com/elpais/2018/04/25/contrapuntos/1524648058_296679.html [22/07/2022].
- 3 Ibid. Volume III. Page 335.
- 4 Ibid. Volume III. Page 359.
- 5 Guatemala. Tribunal Primero de Sentencia Penal, Narcoactividad y Delitos contra el Ambiente, *Condenado por genocidio, Sentencia condenatoria en contra de José Efraín Ríos Montt (fragments)*. Guatemala: F&G Editores, 2013. Page 133.
- 6 Alvarado, H. and Contreras, G. (May 13, 2013). Piden reparación digna para víctimas. *Prensa Libre* [online]. Available at: https://www.prensalibre.com/guatemala/justicia/piden-reparacion-digna-victimas_0_918508171-htm/. [21 July 2022].
- 7 The resolution was published on Thursday, May 29, 2014 in the Diario de Centro América.
- 8 Peace Movement (28 May 2014). *Presenting the book "Condemned for Genocide."* Available at: <http://www.mpdl.org/noticias/america-latina/derechos-humanos/presentado-libro-condenado-genocidio#sthash.hh9WHQWJ.RClu7z4O.dpbs>. [July 21, 2022].
- 9 Figueroa, O. (May 10, 2015). Conmemoran segundo aniversario de sentencia por genocidio (Second anniversary of genocide sentence commemorated). *Prensa Libre* [online]. Available at: <https://www.prensalibre.com/ciudades/quiche/conmemoran-segundo-aniversario-de-sentencia-por-genocidio/>. [21 July 2022].
- 10 EFE (December 27, 2016). Guatemala's vice president dodges labeling armed conflict as genocide. *Agencia EFE* [online]. Available at: <https://www.efe.com/efe/america/politica/el-vicepresidente-de-guatemala-elude-tildar-genocidio-conflicto-armado/20000035-3135017>. [July 21, 2022].
- 11 Miller, L. (February 26, 2019). Despierta temor posible amnistia en Guatemala. *Los Angeles Times* [online]. Available from: <https://www.latimes.com/espanol/internacional/la-es-posible-amnistia-en-guatemala-despierta-temores-de-impunidad-y-venganza-de-ex-militares-20190226-story.html>. [July 21, 2022].



GIJTR

Global Initiative for Justice
Truth & Reconciliation