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Justice Postponed in Guatemala: Ríos Montt —and the United States—Evade Reckoning with the Past

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In a conviction that initially reassured observers around the world, former Guatemalan dictator José Efraín Ríos Montt, was found guilty on May 10 of genocide and crimes against humanity. He was the first head of state held to account for such atrocities in a national tribunal.

For seventeen months in 1982–3, Ríos Montt implemented a ruthless counterinsurgency campaign aimed at eradicating the country’s “internal enemy,” the armed insurgents and their perceived ideological and logistical supporters among the unarmed civilian population. The conflict, which lasted 36 years, saw 200,000 Guatemalans killed, more than 45,000 were disappeared, and approximately 1 million evicted from their homes and communities. Ríos Montt was also responsible for the deaths of 1,711 Maya Ixil, an indigenous ethnic group. Through assassination, rape, violent displacement, and starvation, Ríos Montt hoped to destroy the fabric of Ixil culture.

As she delivered the guilty verdict, Judge Jazmín Barrios ordered Guatemala’s attorney general to continue investigating the crimes for which Ríos Montt was convicted. This reckoning would mark the beginning, not the end, of the encounter with Guatemala’s horrific past. Her directive did not sit well with military and economic elites who opposed the trial and openly denied that genocide occurred. The powerful business group CACIF (Coordinating Committee of Agricultural, Commercial, Industrial, and Financial Associations) demanded that the verdict be overturned, and Ríos Montt’s attorney argued that the conviction would paralyze Guatemala.

Given the politically divisive situation, it was unsurprising when on May 20, in a 3–2 decision of the Constitutional Court, Ríos Montt’s conviction was annulled. The Court also invalidated all that transpired in the trial after April 19. A simple resumption of the trial after that date would raise a host of legal issues, leaving the status of the case in turmoil. Multiple appeals are pending as well, and the Constitutional Court has yet to rule on the applicability of Guatemala’s 1996 amnesty law to Ríos Montt, although it clearly excluded genocide and crimes against humanity.

This decision struck a crushing blow to survivors and human rights advocates and raises serious concerns about the independence and integrity of the judiciary. But it is clearly not the end of the fight. Ríos Montt can never undo Judge Barrios's declaration of his guilt, and survivors and their supporters will continue their struggle for justice.

Guatemala must be lauded for this momentous, if tenuous, legal reckoning, which never would have happened without the courageous and tireless efforts of survivors, their advocates, and supporters over the last 31 years.

Many developments paved the way for Ríos Montt's conviction once he surrendered the immunity he enjoyed as a legislator until 2012. The 1999 UN-sponsored Truth Commission was one of them. The Commission found that 93 percent of the killings in Guatemala were perpetrated by the military, 3 percent by the insurgents, and 4 percent by undetermined parties. The Commission also concluded that successive military regimes had committed genocides in four regions. These efforts helped to pierce the silence surrounding the atrocities and to foster support for survivors.

Moreover, particularly during the presidency of Álvaro Colom (2008–2012), military control over societal institutions had loosened. Some independent judges have since risen through the ranks, and the judiciary is taking on charges of genocide and crimes against humanity. International tribunals have also provided Guatemalans pushing for truth and accountability some insulation from threats and harassment. A case brought in Spain under universal jurisdiction resulted in arrest warrant for Ríos Montt, and a 2004 ruling by the Inter-American Court of Human Rights declared that the July 18, 1982 Plan de Sanchez massacre was part of a genocide carried out by the state of Guatemala against its Mayan Achi population. Outside legal processes helped to collect and validate evidence that later was used against Ríos Montt in Guatemala.

In part because the international spotlight has been so effective, the defendants and their allies continue to condemn the “international meddling” in Guatemalan affairs. If these complaints signify anything, it is the danger Guatemalan elites see from a complete and thorough investigation and public legal accounting. For such an outcome threatens even the country's sitting president.

In the immediate aftermath of the trial, human rights advocates reiterated their call to investigate the role of current President and former General Otto Pérez Molina, a graduate from the U.S. School of the Americas and reportedly

a CIA asset. In 2011, several human rights organizations presented an Allegation Letter to the UN Special Rapporteur on Torture outlining evidence against Perez Molina. Their motion included a widely circulated videotape of Perez Molina in 1982 standing over battered bodies who had reportedly been subjected to abusive interrogation before being extrajudicially executed. Numerous other witnesses as well as Guatemalan military documents and U.S. cables have directly implicated Perez Molina for crimes against humanity in the Ixil triangle. There is also evidence, including declassified intelligence documents, that Perez Molina continued to perpetrate human rights abuses when he ascended to the position of Director of Military Intelligence in the early 1990s, including complicity in the torture and extrajudicial assassination of insurgent leader Efraín Bámaca Velásquez, husband of US human rights attorney Jennifer Harbury.

Although Perez Molina has the right as president to deny that genocide occurred or to refuse to give the trial his imprimatur, he was obliged to avoid obstructing the trial and infringing on judicial independence. According to journalist Allan Nairn, Perez Molina actively but unsuccessfully intervened to shut down the trial after a former soldier testifying from an undisclosed location implicated him in open court. When asked whether the guilty verdict changed his opinion that genocide did not occur in Guatemala, Perez Molina replied it did not. Though he did pledge to support the court's decision, Perez Molina observed that multiple appeals lodged throughout the process were still pending and that the highest court had not sanctioned the verdict. Asked to clarify his stance that civilians were fair targets during the conflict, Perez Molina did not back away from his prior justification that "all families [targeted] are with the guerrillas."

But the world outside Guatemala has not played a benign role in that country's horrors. Foreign governments directly and indirectly supported the Guatemalan regime, and these governments, too, bear legal responsibility. The United States in particular has bloody hands. The United States provided arms, training, funding, intelligence and boots on the ground to the Guatemalan military from the 1954 coup forward, including during the worst years of the killings. The UN Truth Commission held the United States responsible for supporting the military regime, and multiple experts in the genocide trial testified to U.S. influence and intervention in the conflict. Charges of U.S. complicity are not just the rallying cry of anti-imperialist critics—they have been confirmed repeatedly by official U.S. government documents.

Robert Parry has brought this evidence to the public's attention. For instance, he cites a newly disclosed document from the National Archives, which confirms Reagan's 1981 policy supporting not only the extermination of the armed rebels, but also the elimination of the insurgency's presumed logistical and ideological support among civilians. One memo outlines U.S. concerns about public allegations of indiscriminate killing, but the focus seems to be on reputational damage rather than protection of innocents. In the memo, a member of the U.S. administration tells a Guatemalan official that American support would be easier to secure "if you could give me your assurance that you will take steps to halt official involvement in the killing of persons not involved with the guerrilla forces or their civilian support mechanisms." Documents uncovered at the Reagan Presidential Library establish his administration's efforts to thwart a congressional ban on equipping the Guatemalan military by enlisting the assistance of Israel.

These documents make it clear that the United States wanted to advance its geopolitical and economic interests in Guatemala, irrespective of the human toll. The Reagan White House sought to dismiss the atrocities, which it asserted were either committed by insurgents or manipulated by the press. Despite his administration's clear knowledge of conditions on the ground, President Reagan himself declared, "President Ríos Montt is a man of great personal integrity and commitment. . . . I know he wants to improve the quality of life for all Guatemalans and to promote social justice."

In 1999, after the UN Commission issued its report, President Clinton apologized on behalf of the United States:

It is important that I state clearly that support for military forces or intelligence units which engaged in violent and widespread repression of the kind described in the report was wrong, and the United States must not repeat that mistake. We must and we will instead continue to support the peace and reconciliation process in Guatemala.

As noted by various critics, however, this apology suggests that U.S. complicity was a regrettable mistake rather than knowing and deliberate support of the atrocities. Perhaps more vexing, the United States did not attempt to make amends for the suffering its conduct caused.

Most recently, advocacy groups urged U.S. Ambassador Arnold Chacon to attend the Ríos Montt trial, which he declined to do during the initial weeks. When the trial seemed imperiled by legal maneuvering and threats, Chacon changed his mind and attended. President Obama later dispatched

Ambassador at Large for War Crimes Issues Stephen Rapp to urge Guatemala to respect the rule of law. But one could certainly understand the discomfort of U.S. dignitaries as they listened to various experts testify about brutal counterinsurgency techniques adopted almost verbatim from U.S. training manuals, carried out with overt and covert U.S. support.

Other international actors aided and abetted the Guatemalan genocides and crimes against humanity as well. The Generating Terror Report issued by the Jubilee Debt Campaign noted that international financial institutions have evaded responsibility for their role in the atrocities. The World Bank and Inter-American Development Bank partnered with successive military regimes and invested close to \$1 billion in the illegal and violently imposed Chixoy hydroelectric dam project in the late 1970s and early 1980s—the worst years of repression. According to the Commission, the regime’s genocide against Mayan Achi included massacres intended to depopulate communities resisting the dam project. To this day, both banks deny any responsibility and claim immunity from civil liability while efforts to hold them partially responsible for reparations are stalled at the Inter-American Commission on Human Rights.

The recent accusation against Perez Molina prompted calls in the United States and other countries for his resignation. At minimum, the Guatemalan attorney general should investigate Perez Molina’s role in crimes against humanity, even though he currently enjoys immunity from prosecution.

Likewise, the United States and other international actors must be held to account. This would require declassifying all documents related to U.S. involvement, identifying all who were involved, and issuing indictments where appropriate against U.S. officials who abetted Ríos Montt. According to the journalist Allan Nairn, this includes “top officials of the Reagan administration who made the policy” as well as “the U.S. CIA personnel on the ground who worked within the G2, the military intelligence unit that coordinated the assassinations and disappearances; [and] the U.S. military attachés who worked with the Guatemalan generals to develop this sweep-and-massacre strategy in the mountains.” Various other measures could also be taken, such as the establishment of a truth commission, Congressional hearings on U.S. complicity, a Congressional resolution, comprehensive reparations, and a sincere apology from President Obama.

The world is witnessing the gradual establishment of new standards of accountability across borders, such as the 2002 creation of the International Criminal Court, in which the United States has notably refused to participate.

Instead the United States has been abandoning its moral authority through drone strikes, torture, indefinite detention, and its continued support of Honduran police and military despite mounting evidence of their participation in death squads. Rather than move on and leave the pursuit of justice to Guatemala, the United States should take a step in the right direction by investigating and reconciling with its own culpability.

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