



Research Report

We Struggle With Dignity: Victims' Participation in Transitional Justice in Guatemala

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Authors

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Acknowledgements

Impunity Watch thanks the victims and human rights activists who participated in this study, who generously and sincerely shared their perceptions and experiences about TJ locally and nationally. To protect informants' identities, the names of interviewees are not included in this report but are rather identified by code. IW thanks each of them for collaborating, and expresses admiration for their persistent struggle for their own rights and those of their loved ones. This study was conducted with the invaluable collaboration of the Regional Victims' Coordination of the Ixcán (CORVIMI); the Association for Memory, Dignity, and Hope of Santa Lucía Cotzumalguapa (AMDE); the Victims' Group of San Martín Jilotepeque; the Pocomchí Solidarity Support Group (GASPO); and the Truth and Life Association. Ralph Sprenkels, Megan O'Riordan and Marina Oliver-Tomić provided editorial support for the English version of the study. We are grateful the Oak Foundation and Hivos for their continued financial support for our work, including their funding of this research.

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Introduction

The spirit of transitional justice (TJ) is to promote ways of honouring victims and to foster their full participation in policies surrounding truth, justice, and reparations, as well as in non-repetition measures. In this regard, United Nations rapporteur Pablo de Greiff notes, “None of the proclaimed goals of [transitional justice] can happen effectively with victims as the key without their meaningful participation.”¹ De Greiff refers to “victims’ meaningful participation” as an indispensable condition for providing them with recognition and trust and for strengthening the rule of law. However, this axiom is often not fulfilled in practice, and victims tend to occupy a secondary or purely symbolic place in TJ policies.

In recent years, international interest has grown around the impact of TJ policies in societies with a violent past, as well as the possible benefits or risks to victims for participating in TJ processes. The problem is that TJ policies are generally conceived and implemented from the top down, without considering victims’ cultural perspectives or situations. On the contrary, victims are often re-victimised, and the policies do not respond to their interests or needs. In this sense, it is necessary to know first-hand victims’ experiences and expectations of TJ, and to evaluate the impact of TJ on national reconciliation processes.

This study forms part of a broad investigation that Impunity Watch (IW) conducted in five post-conflict countries to examine victims’ participation in TJ mechanisms. Research was carried out in Burundi, Cambodia, Honduras, Kenya, and Guatemala. A sixth research project was carried out in collaboration with the University of York and Tunisian organization KADEM on victim participation in the TJ process in Tunisia. The aim of these studies is to examine victims’ participation in policies surrounding truth, justice, and reparations, and the impact of TJ policies on victims and communities affected by violence. The study was based on victims’ perceptions and expectations and includes a careful analysis of the socio-political context of each country.

This report relates to the investigation conducted in Guatemala, a Latin American country that was hit hardest by the anti-communist repression of the 1970s and 80s. Guatemala’s internal armed conflict (1960-1996) resulted in over 200,000 dead, over 45,000 disappeared, and over a million people forcibly displaced by the horrors of war. 93% of these crimes were committed by the army against the civilian population, the majority of them indigenous people, because the army considered them “suspicious” for potentially collaborating with the guerrillas. According to the Historical Clarification Commission (CEH) (1999), the State went so far as to commit acts of genocide against Guatemala’s indigenous population as part of its counter-insurgency strategy.²

The first efforts towards TJ in Guatemala were initiated in the mid-1980s when the intensity of the internal armed conflict started to diminish and the process of transitioning to democracy began (1985-1990).³ During this period, the term “transitional justice” was not used because it was a relatively new

¹ Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, Pablo de Greiff, to the United Nations General Assembly (2012). UN Doc. a /HRC/ 21/46, available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-46_en.pdf

² Historical Clarification Commission (1999). *Guatemala: Memory of Silence*. Guatemala: UNOPS.

³ In 1984, the military began transitioning to democracy to yield political power to civilians. In 1985, a new Political Constitution of the Republic was issued, and in 1986 a civilian president came to office and a Congress with multi-party representation was formed. However, the process of transitioning to democracy was overseen by the military because the armed confrontation had not formally ended.

term in the human rights field.⁴ At that point however, women and victims' organisations began to denounce the disappearance of their loved ones and the massacres committed in indigenous communities.

The Peace Accords between the government and the guerrillas (1990-1996) provided for certain TJ measures, such as the creation of the CEH, attention to refugees and internally displaced people, the demobilisation of guerrilla groups, the dismantling of civil defense patrols (paramilitary groups), reforms to the army, the creation of a new National Civilian Police, reforms to the justice system, and other measures.⁵ The State began implementing a great deal of these measures after the Peace Accords were signed in 1996, with the support of the United Nations Verification Mission in Guatemala (MINUGUA) and through monitoring by the international community.

Thanks to victims' persistent struggle, important progress has been achieved in TJ matters. To date over 8,000 exhumations of victims affected by the internal armed conflict have been carried out, two truth commissions have been created, 15 trials against perpetrators of severe human rights violations have been held in Guatemalan courts, the National Reparations Program (PNR) has been created, historic archives have been recovered, and various memorials have emerged at the local level, such as the construction of monuments, museums, documentaries, and books, among other initiatives. A great deal of these efforts, have however been achieved thanks to support from human rights organisations and the international community, rather than by State initiatives.⁶

However, this progress seems minimal compared to the magnitude and severity of the tragedy that Guatemala experienced. The majority of the victims of the internal armed conflict are indigenous people who continue to be marginalised and face major obstacles in achieving justice and reparations. Moreover, they must face manifold barriers and hostility on behalf of powerful groups that shared responsibility in the crimes of the past, including members of the economic elite, former military, and paramilitary members, who are interested in promoting policies of pardon, forgetting, and impunity. These groups systematically deny crimes of the past, disparage accounts by victims and human rights activists, seek refuge in amnesty laws to avoid justice, and promote a revisionist discourse. Since the 1996 Peace Accords, many former military members and civilians who participated in the internal armed conflict have continued to hold public office or have maintained their power within the State, and they have set out to obstruct TJ initiatives and prevent deep-seated transformations within the Guatemalan State.

This study examines victims' participation in three official TJ mechanisms, that is, mechanisms formally acknowledged or promoted by the Guatemalan State:

- a. The CEH, created as part of the Peace Accords between the government and the guerrilla, and directed by the United Nations.
- b. The trials for crimes occurring during the internal armed conflict that have been held in Guatemalan courts, including the case that charged former head of State Efraín Ríos Montt with genocide against the Ixil people.

⁴ In Guatemala, the concept of TJ began to be used after 2005, when the United Nations Human Rights Council published the Set of Principles for the protection and promotion of human rights through action to combat impunity. This international instrument sets out States' responsibilities for protecting the rights of victims of severe human rights violations in terms of truth, justice, reparations, and non-repetition guarantees.

⁵ A total of 13 peace accords were signed on different topics including respect of human rights, socio-economic rights and the agrarian situation, reforms to the State, indigenous peoples' rights, military reform, the creation of the National Civilian Police, and the installation of the Historical Clarification Commission, among others.

⁶ Impunity Watch (2012). *Guatemala se resiste a olvidar: iniciativas de memorialización en el post-conflicto* (Guatemala Resists Forgetting: Post-Conflict Memory Initiatives). Guatemala: Impunity Watch.



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- c. The National Reparations Program (PNR), created in 2003 by the Guatemalan government to provide reparations to victims of the armed conflict, whose mandate concludes in 2023

Methodology and Places Studied

In conducting this study, three research methods were combined: semi-structured interviews, focus groups, and a review of relevant literature. The investigation was conducted in five localities that were hit hard by the internal armed conflict: Ixcán, San Cristóbal Verapaz, San Lucía Cotzumalguapa, San Martín Jilotepeque, and Guatemala City. In these places, Guatemala's IW team has built trusting relationships with victims' organisations over several years, which helped in obtaining victims' consent for conducting the interviews. It is important to emphasise this because many people in Guatemala are tired of repeating their story to human rights organisations or social investigators who never share the results of their studies with them. Moreover, many of them feel re-victimised by public officials who grotesquely demand that they describe their stories in lurid detail and precision in order to document their cases with State institutions. This not only reopens the wounds of the past but also makes them feel humiliated.

A total of 52 interviews were conducted with victims of the internal armed conflict, human rights activists, and public officials; the majority of interviewees were poor indigenous women and men, and all were adults. Moreover, five focus groups were carried out in the places studied with representatives of victims' organisations and human rights activists; these groups discussed TJ in Guatemala, victims' participation in TJ mechanisms, and reconciliation. Field research was carried out with the collaboration of four local victims' organisations: the Regional Victims' Coordination of the Ixcán (CORVIMI); the Association for Memory, Dignity, and Hope of Santa Lucía Cotzumalguapa (AMDE); the Victims' Group of San Martín Jilotepeque; and the Truth and Life Association. Following is a brief description of each place included in the study:

a. Santa Lucía Cotzumalguapa, Escuintla

The municipality of Santa Lucía is located in the department of Escuintla on the south coast, 90 kilometres from Guatemala City, in the middle of the most important sugar-producing region in the country. The majority of the population lives in conditions of poverty or extreme poverty. In the 1970s, many plantation workers formed labour unions to fight for better working conditions and joined the Peasant Unity Committee (CUC), but the State, in complicity with plantation owners, responded with violence, executing and forcibly disappearing peasant and religious leaders. During the war, many families were displaced to the capital or other regions, and many fled the country. Silence was imposed; no one dared to speak, find out what had happened, or seek accountability. Currently, victims' family members have organised collective efforts to seek the truth of what happened in Santa Lucía.

b. San Martín Jilotepeque, Chimaltenango

San Martín Jilotepeque is located in the department of Chimaltenango, 71 kilometers west of Guatemala City. The majority of the population works in agriculture and lives in poverty. Since San Martín was a guerrilla-operating zone, the army persecuted, disappeared, and murdered many community and cooperative leaders whom they considered guerrilla collaborators. Hundreds of inhabitants were forced to flee their communities and seek refuge in the capital and other cities in the country. In the 1990s, victims began to denounce the human rights violations in the area and to seek the disappeared. With the support of national and international human rights organisations, the first exhumations were undertaken in the area, and later the Association for Justice and Reconciliation (AJR) was formed. In 2001, the AJR and



the Center for Human Rights Legal Action (CALDH) presented the first lawsuit against former heads of State Romero Lucas García and Efraín Ríos Montt for genocide against the indigenous population. The AJR is currently promoting the dissemination of historic truth, the search for justice for the perpetrators of human rights violations, and reparations for victims.

c. Ixcán, Quiché

The Ixcán municipality is located in the north of the Quiché Department, bordering Mexico. Its inhabitants are indigenous people who migrated in the 1960s in search of land; many of them are of Mam, Q'anjob'al, Akateco, Chuj, K'iche', and Q'eqchi' descent and Ladinas/os (Mestizas/os). In the 1980s, the army brutally attacked these communities because the guerrillas were operating in the area, which forced the inhabitants to seek refuge in Mexico or to live in hiding in the jungle. In the 1990s, as part of the peace negotiations, many people returned to their communities but were unable to reclaim their land. The communities of the Ixcán maintain a strong capacity for community organisation as they continue to struggle to reclaim their land and pursue dignified reparations from the State.

d. San Cristóbal Verapaz, Alta Verapaz

The San Cristóbal municipality is located in the Alta Verapaz department, to the north of the capital, and its inhabitants are primarily indigenous Poqomch'is who work in agriculture and trade. In the late 1970s, many inhabitants of the region's communities were expelled by the army due to the installation of a foreign hydroelectric dam on the Chixoy River. Many inhabitants were resettled in places under military control, and those who resisted were persecuted, disappeared, or killed by the army. The community of San Cristóbal remained silent for many years, until 2012 when over 500 skeletal remains were found in the CREOMPAZ Military Training Center; some of the bones belonged to people who had been disappeared in San Cristóbal in the 1980s. This recent discovery motivated victims' family members to mobilise and awakened interest among young people to learn what happened in the past and to demand justice.

e. Guatemala City

Guatemala City is the most populated city and the centre of political and economic power in the country. The three branches of the State are headquartered in the capital, as are financial institutions, the Chamber of Commerce, and most industries. As a result, social and labour organisations and most non-governmental organisations also have their primary offices there. During the internal armed conflict, the repression carried out in the capital city was selective, rather than massive and indiscriminate as in rural communities. That is, leaders and members of student, social, and labour organisations were followed and then later extrajudicially executed or forcibly disappeared, whether or not they were linked to guerrilla organisations, since the army considered them "suspicious" of supporting the guerrillas. While victims' organisations of the internal armed conflict may have their primary social base in the rural communities, they cannot do without some form of representation in Guatemala City, since it is the centre of political decision-making in the country and the natural site for carrying out advocacy work.

Report Structure

This report is organised into four chapters. The first chapter examines the situation of victims of the internal armed conflict in the Guatemalan context and the debates in the country around the concept of “victim.” The second explains victims’ participation in the CEH, the impact and follow-through on the CEH report, and the significance to victims of preserving and disseminating historic memory. The third describes the obstacles faced by victims, most of them indigenous women, to access justice and participate in legal processes, as well as the minimal progress achieved so far in Guatemala, relative to the severity and magnitude of the crimes committed during the war. The fourth chapter examines victims’ participation in the PNR, both as subjects of reparations and as members of the PNR Victims’ Consultative Council. It presents victims’ expectations of reparations for the damages they endured. The final section of the report presents a series of conclusions based on victims’ opinions and experiences related to TJ.

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1. Victims of the Internal Armed Conflict

The victims of the internal armed conflict constitute a broad and diverse group comprising of those who directly suffered human rights violations such as genocide, extra-judicial execution, forced disappearance, massacres, sexual violence, torture, forced displacement. This would also include family members of victims, the survivors of violence, and the communities affected by State terror during the war. It is estimated that the armed conflict left over 200,000 dead, 45,000 disappeared — 3,000 of them children — and over a million refugees and internally displaced people. The majority of victims were civilians, of whom over 80% were poor indigenous people who lived in the mountains in the northwestern part of the country whom the army accused of being the guerrillas' social base.⁷

Today, despite the magnitude of the armed conflict, there is no official victims' registry or a specific law for victims in Guatemala, even though human rights organisations have continuously campaigned for the need for a national victims' registry. Guatemala's Criminal Procedural Code presents a general definition of victim. According to Article 117 of the Code, a victim is a person affected by the commission of a crime, as well as the person's spouse, parents, and children, or the person living with the victim when the crime was committed.⁸ The Code does not make any reference to the victims of the internal armed conflict.

The basic principles on the rights of victims of gross violations of international human rights standards and serious violations of international humanitarian law define victims as "persons who individually or collectively suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that constitute gross violations of international human rights law, or serious violations of international humanitarian law. Where appropriate, and in accordance with domestic law, the term 'victim' also includes the immediate family or dependants of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization."⁹

The CEH report refers to victims as "the noncombatant civilian population that suffered human rights violations or acts of violence," based on the Fourth Geneva Convention on the protection of civilians in times of war and in armed confrontations between a government and insurgent groups within the same country. The Geneva Conventions establish the obligation of those involved in conflict to protect those not actively taking part in the hostilities.¹⁰

The PNR initially followed the same definition as CEH and the Geneva Conventions, referring to victims as "noncombatant civilian population" as stipulated in the Accord which created the PNR.¹¹ The Public Reparations Policy, known in Guatemala as "The Blue Book", states that victims are "those who suffered directly or indirectly, individually or collectively, human rights violations contemplated in the PNR. Such violations are: forced disappearance, forced displacement of minors, sexual violence, violations against children, and massacres."¹² The National Reparations Policy does not consider genocide a human rights

⁷ CEH (1999). *Guatemala Memoria del Silencio (Guatemala: Memory of Silence)*. Volume V, Conclusiones y Recomendaciones (Conclusions and Recommendations).

⁸ *Código Procesal Penal de Guatemala (Criminal Procedural Code of Guatemala)* (1992). Article 117.

⁹ 60/147 Resolution approved by the United Nations General Assembly on December 16, 2005.

¹⁰ The Geneva Conventions consist of four international conventions regulating international humanitarian law whose aim is to protect victims of armed conflicts.

¹¹ Governmental Accord 258-2003 regarding the National Reparations Program.

¹² Programa Nacional de Resarcimiento (National Reparations Program) (2003). *Política Pública de Resarcimiento (Public Reparations Policy)*. Guatemala: Programa Nacional de Resarcimiento. pp. 13-15.

violation subject to reparations, even though the CEH report demonstrates that genocide took place in Guatemala and it has been classified as a crime in Guatemala's Criminal Code since 1974.

Governmental Accord 539-2013, which has extended the PNR for an additional ten years (2014-2023), speaks of "victims of human rights violations committed during the internal armed confrontation." This definition omits the "civilian population" status, opening the possibility of recognising civil defense patrollers as victims and subjects of reparations.¹³ The role of the civil patrols in the war has been a recurring topic of debate in Guatemala. While some state that the youth and adult men were forced by the army to conduct tasks of surveillance and control in their own communities, others attest that many patrollers participated in serious crimes against the population and cannot be considered victims. A subsequent section of this chapter examines the dilemma of whether to consider patrollers as victims or perpetrators.

1.1 Who are the Victims?

In general, there is a risk of perceiving victims as a homogenous group and as passive subjects without the capacity for leadership or for giving their political views. However, the same profound inequalities of ethnicity, class, and gender present in Guatemalan society are reproduced among victims, as are diverse political stances. The vast majority of victims are indigenous women and men from the communities in the northern and western parts of the country where the internal armed conflict was most intense, as well as family members of the disappeared in Guatemala City and other major cities. In the north and west — inhabited mainly by indigenous groups — the army indiscriminately massacred children, women, and the elderly, whom they considered the guerrillas' social base, and militarised communities, forcing youth and adult men to form civil defense patrols. State terror forced thousands of indigenous families to flee their communities and hide in the mountains or find refuge elsewhere. Meanwhile, in Guatemala City and other urban areas — inhabited mainly by *ladinas/os* — the army selectively murdered or disappeared political, social, academic, religious, labour, and student leaders considered to be guerrillas or communists.

This study demonstrated that many people consider victims to be those who suffered direct violations. This would include the dead, tortured, disappeared, raped women, among others, as well as those who faced the consequences of such acts: their families, the refugees and internally displaced, the militarised communities, and society in general, which experienced terror and distrust.

"The true victims are those who were taken away [the disappeared], but we are also victims because they were looking for us to kill us. The ones who were taken away and we are victims. Imagine, in el Puerto we could go wherever, and now where we are, in Santa Lucía, we had to move to protect ourselves. We lost our piece of land and today we're living in extreme poverty because our land was what sustained us and now we have nothing."¹⁴

¹³ Widespread debate in Guatemala has considered the role of the civil patrollers in the internal armed conflict. On the one hand, they were forced by the State to carry out surveillance tasks and to participate in counter-insurgency military actions; on the other hand, many of them committed serious crimes against members of their own communities. Impunity Watch (2014). *Monitoreo de la Justicia Transicional en Guatemala (Monitoring Transitional Justice in Guatemala)*. Guatemala: Impunity Watch. Volume III. Derecho a la reparación para las víctimas del Conflicto Armado Interno (Right to Reparations for Victims of the Internal Armed Conflict). p. 20.

¹⁴ Interview 36, Santa Lucía Cotzumalguapa.



“The victims were those who lived through the massacres, who fled to Mexico, the Communities of Population in Resistance, the people who withstood eight months fleeing to Mexico, those who died fleeing to Mexico.”¹⁵

“Both were victims, the fallen ones [the dead] as much as those who stayed behind [the survivors]. We aren’t the only victims; the fallen ones are, too.”¹⁶

“Victims are people who hoisted a flag for greater justice, for greater equity. Not just my dad, but all those who struggled for a bit more democracy.”¹⁷

“Victims are those who fought to achieve wellbeing for the poor.”¹⁸

Interviewees concur that victims and survivors of the violence continue to suffer the effects of terror to this day. They carry the burdens of unfinished grieving, anguish for the disappeared, fear, impunity, poverty, and social stigmatisation. In many places victims, especially women, have yet to talk about what happened; they live in fear because the army continues to be present in their communities, claiming to offer public safety or combat drug trafficking. Many former patrollers and military commissioners continue to live in these communities.

1.2 Indigenous and Ladino/a Victims

As indicated earlier, the majority of war victims and survivors are indigenous. Twenty Maya groups exist in Guatemala, living primarily in the northwestern part of the country in conditions of extreme poverty and marginalisation; Xinca, Garífuna, and ladino/a groups exist as well. Ladinos/as, or mestizos/as, hold the economic and political power in the country, and generally live in urban areas; however, there are also many poor ladinas/os who live in marginalised urban neighbourhoods and poor rural areas in the southeastern part of the country. Currently, ladinas/os represent an estimated 60% of the population, and indigenous people 40%.¹⁹ The CEH estimates that 83% of the victims of the internal armed conflict were indigenous. The army applied a scorched earth policy in indigenous communities where the guerrillas operated, attacking entire communities and mercilessly killing children, women, and the elderly because it considered them guerrilla collaborators. The army went so far as to commit acts of genocide against indigenous peoples.²⁰

In the capital and other urban areas, the armed conflict was less intense and State violence was selective. In cities, members of the army, police, and death squads committed extra-judicial executions, forced disappearances, torture, and acts of intimidation against students, academics, labour organisers, and other leaders whom they considered communists or guerrilla collaborators. Meanwhile, guerrilla groups committed murder, kidnapping, and attacks against diplomats, businesspeople, and politicians whom they considered their enemies. In the cities, fear and silence dominated the population.

¹⁵Interview 10, Ixcán.

¹⁶Interview 40, Santa Lucía Cotzumalguapa.

¹⁷Interview 29, San Martín Jilotepeque.

¹⁸Interview 38, Santa Lucía Cotzumalguapa.

¹⁹Instituto Nacional de Estadística (National Statistics Institute) (2013). *Caracterización estadística. República de Guatemala 2012 (Statistical Profile: Guatemala 2012)*. Guatemala: Instituto Nacional de Estadística. p. 13.

²⁰Comisión para el Esclarecimiento Histórico (Historical Clarification Commission). (1999) *Guatemala, Memoria del Silencio (Guatemala: Memory of Silence)*. Guatemala: Comisión para el Esclarecimiento Histórico. Volume III. Las violaciones de los derechos humanos y los hechos de violencia (Human rights violations and acts of violence). p. 422.

“The vast majority of victims of army repression were indigenous. There were also ladinos disappeared in the capital, but the army mostly attacked indigenous people in the villages.”²¹

“The victims were us, the poor, because as political and social spaces closed, the army came, or, well, the government made us confront one another. In the end, the victims are the indigenous because the military are with the government.”²²

The differentiation between indigenous and ladina/o victims is also reflected in victims’ organisations and their current demands. The majority of local and rural victims’ organisations are comprised of indigenous people — many of them women — who have reclaimed their rights as victims and as native peoples. Victims’ organisations in the capital and other cities are primarily comprised of ladinos/as - family members of those disappeared during the war and who reclaim their rights as victims and their loved ones’ political struggle. In general, there is little interaction between indigenous and ladina/o victims’ organisations due to cultural differences and the remoteness of indigenous communities.

1.3 From Victims to Survivors

Over time, many survivors and victims’ family members have managed to heal their pain and overcome their fear, and they have been able to take full advantage of their rights. That is, they learned to endow political significance to their loved ones’ struggle and their own struggle to locate them and honour their memory. To many of them, their family members’ struggles were just because they pursued equality and social justice, and the State had no right to kill them or illegally kidnap them; they feel that the State should have used the legal system to investigate and prosecute them if indeed they were guilty of a crime. These people consider their family members to be war heroes and martyrs, and to this day they reclaim their rights:

“I have a different concept of victim. I consider that my father was a victim, but I differ from the academics. They say that victims are civilians who were unarmed, and poor things, and the re-victimization recurs. I think it’s not like that [...] I always vindicate my father’s militancy... The people had been pushed to the edge, to rebellion, and that is a universal sacred right, all those people. To deny a family member’s political participation out of fear of repercussions is to violate their memory. With this rationale we have reclaimed that our victims were not passive victims, because the term victim depoliticizes actions. We have always argued that our victims were exercising their free right to rebellion.”²³

Survivors and victims’ family members refuse to be called victims because they consider that the term is synonymous with weakness and helplessness. They have reclaimed their disappeared or deceased relatives’ political struggle and militancy, and through doing this they find the inspiration to fight for social justice today. Many of these women and men have even become human rights defenders or leaders in their communities.

²¹Interview 37, Alta Verapaz.

²²Interview 45, Guatemala City.

²³Interview 49, Guatemala City.



Many women who suffered sexual violence also define themselves as survivors of violence and highlight women's courage in denouncing and opposing sexual and gender-based violence. During the armed conflict, sexual violence was used in many areas as a weapon of war, to exert terror and control over women and the population. The army abused women systematically and extensively in many indigenous communities, as the CEH report indicates and as was established during the trial for the genocide of the Ixil people. The May 10, 2013 sentence in the genocide trial notes that:

“Members of the Guatemalan army, civil defense patrols, and military commissioners conducted selective and massive operations and persecution against elderly women, adult women, and girls because of their gender, forcing them, among other acts, to have sexual relations with those conducting military operations. These acts were systematically executed... Girls, adult women, and elderly women were objects of diverse acts of sexual violence before they were killed. Women survivors, meanwhile, due to cultural values, kept and continue to keep silent about the acts of sexual violence due to fear of being rejected by the community and the shame that such acts have caused.”²⁴

The Sepur Zarco case also illustrates the severity of sexual violence against women. In the 1980s, military members at the military base located in the Sepur Zarco community in the Izabal department subjected Q'eqchi' girls and women in the community to sexual and domestic slavery after having disappeared or killed their fathers or husbands. For a long time, these women carried the social stigma and shame of having been considered “the army's women”. However in 2010, fifteen of them turned to the justice system to denounce the crimes, and after a long criminal process, two of the perpetrators will be prosecuted in 2016.

Sexual violence had devastating effects on women: fear, shame, social rejection, and distrust. In many places women were abandoned by their husbands or were unable to establish a relationship with someone, nor were they allowed to participate in organisations or public life, and many of them had to move forward on their own.

It is not easy to go from being a victim to a survivor. It is generally a long and painful process that takes time and requires great personal effort. Many women manage to overcome this pain with the help of other women and accompanied by social organisations that provide psycho-social support. Over time, many women survivors have taken on leadership roles in their communities, challenging the dominant cultural pattern that privileges men's social leadership. This has caused tension between genders in many places, with men considering that women should continue to hold the traditional roles as mothers, daughters, and homemakers, and not participate in public life. However, women have been able to empower themselves through gaining their rights, and they take on the responsibility of helping other women to overcome what happened to them and to fight for their children's rights.

One of the women interviewed in this study recounted a case that demonstrates the difficulties faced by women survivors of violence in their communities. In her hometown, men accused the members of the women's group of being lesbians because they regularly met on their own, citing that they liked to be with other women only. Not long afterwards, the community's board of directors practically forbade them from using the meeting hall for their meetings and pressured them to dissolve the group, demanding that

²⁴*Sentencia por genocidio y delitos contra los deberes de la humanidad contra el pueblo maya ixil (Sentence for genocide and crimes against humanity against the Ixil Maya people).* (2013)

they sign a statement attesting to the group's dissolution; however, they did not agree to sign it and they continued to meet in a different space.²⁵

1.4 Children Victims

The armed conflict impacted thousands of girls and boys; many suffered forced disappearance, died in massacres and armed attacks, were orphaned, became refugees and/or internally displaced, and thousands were forced to provide military service or to join the civil defense patrols in their communities. According to the CEH report, 18% of all human rights violations were committed against children.²⁶ In the year 2000, the Human Rights Office of the Archbishop of Guatemala (ODHAG) published a report on children disappeared during the armed conflict, finding that the main violation against children was forced disappearance.²⁷

Several interviewees in this study noted that they lost one or more of their children during the armed conflict. Some died during the forced displacement to Mexico, becoming victims of illness and malnutrition, and their parents had to abandon their bodies in the mountains, unable to bury them according to their beliefs and customs. Parents feel guilty for not having been able to save their children nor provide them with medicine to cure the diseases that caused their deaths.

Many children grew up in misery/disadvantaged because of the war. Some worked on the coffee, cardamom, and sugar plantations to support the household economy and were unable to attend school; many grew up in fear and lived in hiding with their mothers.²⁸ Orphans grew up without their parents' love, and some were sent to children's homes where they were adopted by Guatemalan and foreign families; their fate is to date unknown.

1.5 Civil Patrollers: Victims or Perpetrators?

As mentioned earlier, there is a persistent debate in Guatemala regarding whether civil patrollers (PAC) were victims or perpetrators for belonging to paramilitary groups, and whether they have the right to financial compensation. On the one hand, many patrollers argue that they were victims because they were forced by the army to carry out surveillance tasks, they endured abuse by the military, and they lost working hours; therefore, they deserve compensation from the State. On the other hand, victims' and human rights organisations argue that, while the men were indeed forced by the army to patrol, many of them abused their power and committed crimes against members of their own communities. Moreover, in many places the former patrollers continue to exercise power and intimidate people. Victims' and human rights organisations balk at seeing former patrollers as victims.

The PAC was created in 1981 by the government to involve civilians in the counter-insurgency fight and to monitor and control rural communities. The PAC was legally recognised in 1983 by the Ríos Montt's de facto government, and in 1986 they became the Volunteer Civilian Defense Committees (CVDC). It is

²⁵Interview 10, Ixcán.

²⁶ Comisión para el Esclarecimiento Histórico (Historical Clarification Commission). (1999) *Guatemala, Memoria del Silencio* (Guatemala: Memory of Silence). Guatemala: Comisión para el Esclarecimiento Histórico. Volume III. Las violaciones de los derechos humanos y los hechos de violencia (Human rights violations and acts of violence). p. 66.

²⁷ Oficina de Derechos Humanos del Arzobispado de Guatemala (Human Rights Office of the Archbishop of Guatemala). (2000) *Hasta encontrarte. Niñez desaparecida por el Conflicto Armado Interno en Guatemala* (Until We Find You: Children Disappeared in Guatemala's Internal Armed Conflict). Guatemala: Oficina de Derechos Humanos del Arzobispado de Guatemala. pp. 140.

²⁸Interviews: 40, Santa Lucía Cotzumalguapa; 29, San Martín Jilotepeque; 30, San Martín Jilotepeque; 31, San Martín Jilotepeque.



estimated that over a million peasant men were required to participate in the PAC in the 1980s, particularly in indigenous communities.²⁹ In many places the army distributed weapons to the civil patrollers, and these became paramilitary groups that committed abuses in their own communities. The PAC not only conducted surveillance; they also participated in combat against the guerrillas and executed crimes against civilians. In many places, patrollers participated in massacres, arbitrary executions, forced disappearances, and rapes of women, among other crimes. The CEH attributes 18% of the crimes committed during the internal armed conflict to the PAC.

In 1996, the State disbanded the PAC as part of the Peace Accord commitments.³⁰ According to official data, the army demobilised 2,643 committees and 270,906 patrollers, and collected 14,000 firearms. However, since the signing of the Peace Accords, many former patrollers have formed surveillance committees or local security committees with the excuse of combatting current crime and keeping control over the population. Multiple human rights reports indicate former patrollers' participation in cases of lynching, threats, murders, injuries, and illegal detention, among other crimes.³¹

In 2002, the former patrollers mobilised to demand economic compensation from the State for having "granted services to the nation" during the internal armed conflict. Patrollers carried out protests, closed down highway, and threatened to take over public buildings if the State did not respond to their demands. In 2003, President Alfonso Portillo offered former patrollers individual economic compensation,³² but the measure was criticised by victims' and human rights organisations and other social sectors who considered the government's willingness to compensate paramilitary groups, instead of promoting reparations for war victims, to be ethically and politically incorrect. In addition, the measure was interpreted as a proselytising move, since the government saw in the former patrollers and their families an important potential electorate to elect their next presidential candidate, Efraín Ríos Montt.³³ After two attempts by the Alfonso Portillo administration to legally pass this measure, it was rejected by the Constitutional Court (CC).³⁴

In 2004, the National Congress approved economic compensation for former civil patrollers using funds from the peace and reconciliation programme (Decree 28-04), but this was likewise declared unconstitutional by the CC. Finally, the Oscar Berger administration created the Forest and Water for Harmony Program (Governmental Accord 387-2005) to justify compensation to former patrollers. The programme planned to have over 500,000 former patrollers plant 30 million trees and receive individual compensation of Q5,200 (approximately US\$ 700) in three payments. In this way, the government would compensate former patrollers for a current service and not for services provided during the armed

²⁹ Schirmer J. (1998). *The Guatemalan Military Project: A Violence Called Democracy*. Philadelphia: University of Pennsylvania Press. Sanford V. (2003). *Buried Secrets: Truth and Human Rights in Guatemala*. New York: Palgrave Macmillan. Oficina de Derechos Humanos del Arzobispado de Guatemala (Human Rights Office of the Archbishop of Guatemala) (1998). *Guatemala Nunca Más (Guatemala: Never Again)*. Guatemala: ODHAG.

³⁰ In 1996, Congress issued Decree 143-96 to dissolve the Volunteer Civilian Defense Committees.

³¹ Misión Verificación de las Naciones Unidas para Guatemala (United Nations Verification Committee in Guatemala) (2002). *Informe de Verificación: Situación de los Compromisos Relativos al ejército en los Acuerdos de Paz (Verification Report: Situation of Peace Accord Commitments Related to the Army)*. Guatemala: MINUGUA.

³² The compensation was to be Q.5,241.60 (approximately US\$700). The amount was determined based on the earnings of an army soldier during three years of service, plus 30% in benefits. The contribution was to be made in three payments of Q.1,747.20, one in April 2003 and two in the following year, and was to be paid through departmental governors' offices. Centro de Investigaciones Económicas Nacionales (Center for National Economic Research) (2003). *Carta Económica (Economic Bulletin)* No. 246.

³³ Hernández, J. (2005). *Terminar la guerra, traicionar la paz: Guatemala en las dos presidencias de la paz 1996-2004 (Ending War, Betraying Peace: Guatemala in the Two Peace-time Presidential Administrations, 1996-2004)*. Guatemala: FLACSO.

³⁴ Governmental Accords 228-2003 and 566-2003, both suspended by the Constitutional Court in case file 2121-2003.

conflict. Oscar Berger's administration made the first two payments and the Álvaro Colom administration made the third. However, not all patrollers received the complete payout due to lack of funds and administrative problems. Currently, many former patrollers continue to reclaim the pending compensation and threaten to mobilise again.

1.6 Victims' Organisations

There is no unified victims' movement in Guatemala but rather a range of organisations with national representatives and small-scale local committees that reclaim specific rights. There are, for example, groups of women who seek their disappeared family members and participate in exhumations, local indigenous committees that reclaim reparations, urban youth groups that demand truth and justice, and victims' associations involved in legal processes, among others. Over time many organisations have incorporated an integrated approach into their work plan, articulating the recovery of historical memory, the search for the disappeared, and demands for justice and reparations. At times these groups unite around a common cause. For example, in the 1990s, they united to form the Convergence for Truth that backed the CEH's work; in the early 2000s, they formed the Multi-Institutional Entity for Peace and Harmony to achieve the creation of the PNR; and in 2013, they united to support the genocide trial.

Most of the organisations and local committees are comprised of indigenous people — in which many of the women do not speak Spanish — who live in remote areas and continue to live in poverty and marginalisation. Their members make a great effort to mobilise in the national capital and departmental capitals, where government offices are located, to present their demands and file administrative paperwork for justice and reparations. They often face hostilities from State bureaucracy and tolerate poor treatment by officials who discriminate them for being indigenous, peasants, or women. Moreover, they endure humiliation and intimidation by powerful groups that share responsibility for the crimes of the past — former military members, far-right political parties, and radical groups — who discredit victims and human rights defenders, accusing them of exaggerating the incidents, promoting revenge rather than justice, and contending that what they are truly pursuing is money, through the compensation granted by the State and donations from international donor agencies.

The current number of victims' committees and organisations is not known for certain, nor is the number of members who belong to them, since there is no official registry. However, many local committees and groups form part of broader national organisations such as the Mutual Support Group (GAM), the National Widows' Coordination of Guatemala (CONAVIGUA), and the Association of Family Members of the Detained and Disappeared of Guatemala (FAMDEGUA); or they take part in broader coalitions such as the National Victims' Movement, the National Victims' Network, and the National Victims' Council, which primarily focus on gaining reparations.

It is important to emphasise that national and international human rights organisations have provided invaluable accompaniment and support to victims' organisations for many years. Since the 1980s, they have granted humanitarian assistance as well as technical services for conducting exhumations, handling legal cases, strengthening local mobilisation, overcoming fear and traumas from the war, and establishing memorials, among other initiatives. Although some human rights organisations have fallen into the temptation of speaking on behalf of the victims, thereby replicating, intentionally or not, a paternalistic and protectionist model towards victims, over time many women and men leaders have emerged who represent victims locally and are publicly known and renowned in Guatemala.



In summary, for over thirty years, victims and survivors of the armed conflict have persistently struggled for the State to acknowledge and assume responsibility for the atrocities of the past, and they continue to struggle to assert their legitimate rights to truth, justice, and reparations. Victims and survivors have learned to grant political significance to the life and death of their family members and friends, and to the communities that suffered the brutality of State terror. They have done this in spite of repeated attempts by State officials and powerful groups to deny the severe violations against the civilian population, and in spite of the terrible conditions of poverty, fear, and marginalisation in which victims, particularly indigenous people and women, continue to live.

2. Victims' Participation in the CEH and Historical Memory

Victims have played a central role in recovering and preserving the historical memory of the internal armed conflict. Thousands of victims offered their testimony to the Recovery of Historical Memory Project (REMHI), run by the Catholic Church between 1995 and 1998, and the Historical Clarification Commission (CEH), run by the United Nations between 1997 and 1999. Moreover, many local victims' organisations have undertaken memorials to honour their loved ones and preserve the memory of the past; particularly noteworthy have been the publication of individual and collective histories; the building of murals, monuments, and small museums; video productions; photographic exhibits; and other community initiatives.

The CEH arose as part of the peace accords between the government and the Guatemalan National Revolutionary Unity (URNG). In 1994, the government and the guerrillas agreed to create the CEH in order “to clarify...the human rights violations and acts of violence that have caused the Guatemalan population to suffer, connected with the armed conflict; to prepare a report that will contain the findings of the investigations carried out; [and] to formulate specific recommendations... 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.”³⁵ The CEH's major limitation, however, was that it could not attribute responsibility to individuals for the crimes committed during the internal armed conflict, nor would its report have legal ramifications for those involved in the conflict.

Victims' organisations and civil society were practically excluded from the negotiations of the agreement establishing the CEH and did not participate in defining its mandate. Many victims' organisations interpreted the CEH's mandate as a pact of impunity between the government and the URNG, and had low expectations for the results of the Commission's report.

Formed in July 1997, the CEH presented its final report in February 1999. It was directed by three commissioners: the German jurist Christian Tomuschat, appointed by the United Nations; the Guatemalan activist Otilia Lux, representing indigenous organisations; and the Guatemalan lawyer Alfredo Balsells, representing civil society. The Commission had a team of 273 professionals (142 Guatemalans and 131 foreigners). The project was almost entirely funded by the international community.

The CEH travelled to the areas most affected by the armed conflict and opened four central offices located in Guatemala City, Cobán, Santa Cruz Quiché, and Huehuetenango, and ten regional offices, in Barillas, Cantabal, Escuintla, Nebaj, Poptún, Quetzaltenango, San Marcos, Santa Elena, Sololá, and Zacapa. The investigators visited close to 2,000 communities and gathered 500 collective testimonies and 7,338 individual testimonies.³⁶

³⁵ *Acuerdo sobre el establecimiento de la Comisión para el esclarecimiento histórico de las violaciones a los derechos humanos y los hechos de violencia que han causado sufrimientos a la población guatemalteca (Agreement on the establishment of the Commission to clarify past human rights violations and acts of violence that have caused the Guatemalan population to suffer)*. Oslo, June 1994.

³⁶ CEH (1999) *Guatemala, memoria del silencio (Guatemala, Memory of Silence)*. Guatemala: Comisión para el Esclarecimiento Histórico/ Historical Clarification Commission. Tomo I. Mandato y procedimiento de trabajo. Causas y orígenes del enfrentamiento armado interno (Volume 1. Mandate and work procedure. Causes and origins of the internal armed conflict). pp. 32-33.



The Commission spoke with more than 20,000 people who collaborated with investigations by providing information. Over 1,000 of them were classified as key witnesses, including: members and former members of the National Army, other State entities, and the Civil Defense Patrols; military commissioners; former combatants with guerrilla organisations; politicians; labour leaders; civil society leaders; and intellectuals. The Commission also gathered testimonies in Canada, the United States, Mexico, and several European countries. In all of these countries except Mexico, testimony collection was conducted through non-governmental organisations that generously offered their support.³⁷

2.1. The Recovery of Historical Memory Project

In 1995, the Catholic Church created the Recovery of Historical Memory Project (REMHI) with the goal of collecting testimonies from victims of the internal armed conflict and paving the way for the CEH. REMHI was headed by Bishop Juan Gerardi, auxiliary bishop of the Archdiocese of Guatemala and ODHAG. REMHI gathered over 5,000 testimonies across the country through 600 local Catholic Church collaborators known as peace promoters. Fieldwork was conducted in the archdioceses of Guatemala and Los Altos, the dioceses of El Quiché, La Verapaz, Huehuetenango, San Marcos, Sololá, Escuintla, and Jalapa; and the vicariates of Petén and Izabal.

The REMHI Project carried out twelve case studies, interviews with key witnesses, community assessments, monographs, collective interviews, and interviews with perpetrators; and compiled information related to the armed conflict such as campaign documents and military training manuals and declassified documents from the U.S. Central Intelligence Agency (CIA). The compiled information was analysed by five teams of experts in psychology, sociology, culture, gender, law, and history.

Bishop Gerardi publicly presented the report *Guatemala: Never Again* on April 24, 1998. The report is organised into four volumes: the first describes the consequences of the internal armed conflict; the second, the human rights violations and the State's counter-insurgency strategy; the third, the historical context; and the fourth presents a list of the victims of the internal armed conflict. The report demonstrates the severity and magnitude of the human rights violations committed during the internal armed conflict, primarily against defenseless civilians, and presents a series of recommendations to repair the damages, organised into three categories:

1. To mitigate damages caused to victims: the State is obligated to provide reparations for damages it caused to the noncombatant civilian population during the internal armed conflict. This includes measures for material restitution, compensation, and re-adaptation.
2. To preserve historical memory: the State should publicly acknowledge what happened and its responsibility in massive and systematic human rights violations. The historical clarification reports should be widely disseminated and should form part of official teaching texts. Disappearances should be investigated and measures taken to honour victims through exhumation programmes and restitution of memory, among other measures.
3. To prevent human rights violations: the State should guarantee that human rights

³⁷ Comisión para el Esclarecimiento Histórico/ Historical Clarification Commission. (1999) *Guatemala, memoria del silencio (Guatemala, Memory of Silence)*. Guatemala: Comisión para el Esclarecimiento Histórico/ Historical Clarification Commission. Tomo I. Mandato y procedimiento de trabajo. Causas y orígenes del enfrentamiento armado interno (Volume 1. Mandate and work procedure. Causes and origins of the internal armed conflict). pp. 33.

violations no longer be committed; to that end, it should adopt measures such as dissolving para-State armed groups and clandestine entities that operate within the State. This also entails respecting human rights, justice, and social sanctions and preventing social and community violence.³⁸

Two days after presenting the REMHI Project report, Bishop Gerardi was brutally assassinated by members of the army. Gerardi was attacked with a cement block in the garage of his home at the San Sebastián Church in the centre of Guatemala City. The blows were so severe that his face was unrecognisable, and he was essentially identified by the episcopal ring on his hand.³⁹ The crime caused serious national turmoil. A long investigation proved that the crime was politically motivated and resulted in the conviction of three members of the military and the priest that worked with Gerardi at the San Sebastián Church, who was accused of collaborating with the assailants.

The REMHI report had a significant political and social impact in Guatemala because it demonstrated the magnitude and severity of the violations committed against the civilian, predominantly indigenous, population. The report was primarily based on victims' testimonies because the REMHI Project did not have access to official army or Guatemalan State documents, nor did it have national coverage because not all Catholic Church dioceses participated in the Project.

2.2. Victims' Participation in the CEH

The CEH report was also based on the testimonies of victims of the internal armed conflict, even though the CEH had access to official State documents and declassified United States government documents; the Commission also consulted forensic reports and interviews with members of the army and the guerrillas and with other key actors who had information about the internal armed conflict. Victims participated in the CEH in three ways: a) they presented individual or collective testimonies; b) they offered information and evidence about human rights violations committed during the internal armed conflict; and c) they proposed recommendations to the CEH.

The Testimonies

The Commission gathered a total of 7,338 individual testimonies and 500 collective testimonies, and spoke with over 20,000 people, including key witnesses who offered important information about the context of the internal armed conflict. However, the number of testimonies is relatively small compared to the more than 200,000 victims of the armed conflict estimated in the CEH's own report.⁴⁰ This is due to the limited time frame in which the Commission conducted fieldwork (12 months), to the remoteness of indigenous communities affected by the armed conflict, to people's lack of knowledge about CEH, and primarily to victims' distrust and fear of repercussions by the military or paramilitary groups.

The majority of the victims interviewed for this study noted that they did not present their testimonies to the CEH, nor were they familiar with the Commission's report, which confirms the limited coverage of the CEH's fieldwork and the scant dissemination of its report. However, practically everyone says that they “have heard” about the CEH report, they feel that the report “tells the truth about what happened,” and

³⁸ ODHAG (1998) *Guatemala, Nunca Más (Guatemala: Never Again)*. Guatemala: ODHAG/REMHI. Tomo IV. Víctimas del Conflicto (Volume IV. Victims of the Conflict). pp. 531-542.

³⁹ Goldman F. (2009) *El arte de un asesinato político: ¿quién mató al obispo? (The Art of Political Murder: Who Killed the Bishop?)*. Barcelona: Anagrama.

⁴⁰ Comisión para el Esclarecimiento Histórico/Historical Clarification Commission. (1999) *Guatemala, Memoria del Silencio (Guatemala, Memory of Silence)*. Tomo I. Mandato y procedimiento de trabajo. Causas y orígenes del enfrentamiento armado interno (Volume 1. Mandate and work procedure. Causes and origins of internal armed conflict). pp. 33.



they consider it to be based on victims' voices. Interviewees say that they “have heard” about the CEH report at victims' group meetings, at workshops, and in the media, but they have never read it or seen it first-hand.

Victims offered their testimonies in an informed and voluntary way. CEH investigators explained to people the conditions for their involvement and guaranteed the confidentiality of their information; hence the CEH report does not reveal informants' names but rather includes only the codes assigned to each victim. Interviews were conducted in private places: in the local offices of the CEH or the MINUGUA, or in victims' homes; collective testimonies were gathered in churches or community buildings. There is not known to have been any security incident against CEH investigators or victims for having presented testimony to the Commission. This was substantiated in this study; practically all the interviewees who presented their testimony to the CEH said that they felt secure in that moment and that they did not receive intimidation or threats after having participated in the CEH.

The interviewees believe that many victims did not participate in the CEH out of distrust and fear. In general, indigenous communities are located in mountains and other isolated places with scant communications access. Moreover, members of the military and the PAC who committed serious crimes against the population are still present in many communities; and many victims, especially women, fear the army and the PAC.

Interviewees also pointed out that CEH employees' lack of cultural knowledge and inability to speak Guatemala's indigenous languages were limiting factors. The majority of the victims of the internal armed conflict are indigenous Mayas, and many of them, especially women, only speak their native language. Practically all of the CEH investigators, meanwhile, were foreigners or ladinos/as (mestizos/as) who were unfamiliar with indigenous culture and only spoke Spanish. Although the CEH investigators travelled to the most remote communities and were accompanied by local translators, this was not enough to motivate all indigenous victims to offer their testimonies or to ensure that the investigators fully understood the testimonies.

a. Collaboration by Victims' Organisations

More than fifty social organisations collaborated with the CEH and offered documentary information. According to the CEH report, five non-governmental organisations lent their databases with records of human rights violations and crimes committed during the armed conflict; seventeen presented documented cases and press files and thirty organisations provided information about the context of the armed conflict.⁴¹ Of the social organisations that approached the CEH, the following stand out: the University of San Carlos, labour unions, groups of business people, journalists, research centres, churches, and international entities that had information about the internal armed conflict. The guerrillas and the army likewise offered information, although the latter denied the CEH access to its files and military headquarters, citing grounds of “national security.”

In 1994, a group of victims' and human rights organisations – GAM, CONAVIGUA, Runujel Junam Council of Ethnic Communities (CERJ), Communities of Population in Resistance (CPR), National Coordinator for Human Rights in Guatemala (CONADEHGUA) and Consultative Assembly of Uprooted Populations (ACPD) – formed the Convergence for Truth with the goal of building a database to synthesise human rights violations documented by its member organisations and delivering this information to the CEH. This database was based on the files of human rights organisations that had documented cases of human

⁴¹ IDEM.

rights violations in recent decades. In 1996, CONADEHGUA's organisations decided to assemble the information held by each organisation regarding human rights violations. The task was delegated to the International Center for Human Rights Research (CIIDH) due to its experience in structuring and analysing database information. This designation was made in the framework of the definitions that CONADEHGUA stipulated in supporting the CEH's work.⁴² The CEH took this database into account when estimating the number of victims of the armed conflict.⁴³ Several interviewees mentioned how they collaborated with the Commission:

“The Convergence for Truth was formed in Guatemala. It collected testimonies for three years. We documented 38,000 cases that we shared with the CEH. That provided a base for them... Almost no one knows this, but it was a good cushion for the CEH.”⁴⁴

“Without the work by the organizations, there would have been twenty times fewer cases than the ones they managed to document.... We provided testimonies and information on how to locate victims... The same person who designed the database for the Convergence designed the one for the CEH; that's why the data was compatible. The database was purged so that names weren't repeated, and victims' testimonies and information were delivered electronically... This work was done with foreign volunteers.”⁴⁵

Interviewees also note that the REMHI Project paved the way for the CEH and provided its database to the Commission:

“The *Guatemala: Never Again* report opened the door [for the CEH]. Its aim was to give input to the CEH, with the idea that the CEH had to go beyond what REMHI presented. It provided inputs for the Commission; that was one of the project objectives.”⁴⁶

“REMHI's database was transferred to the CEH. Even people who worked for REMHI later joined the CEH to carry on their work there.”⁴⁷

Many victims' and human rights organisations also collaborated by spreading information about the Commission and inviting their members to share their testimonies with the CEH.

“The people who had links at that time to an organization had more access to information, although many of those who learned about it did not dare participate out of fear, even though they knew and were linked to organizations... The CEH reserved victims' participation based on what kind of information they were going to receive, and people

⁴² Ball, P.; Kobrak, P.; Spiner, H. (1999) *Violencia institucional en Guatemala, 1960 a 1996: una reflexión cuantitativa (Institutional Violence in Guatemala, 1960 to 1996: A Quantitative Assessment)*. Washington, D. C.: American Association for the Advancement of Science/Centro Internacional para Investigaciones en Derechos Humanos-International Center for Human Rights Research. pp. 5-6.

⁴³ Oettler, A. (2006) *Encounters with History: Dealing with the “Present Past” in Guatemala*. European Review of Latin American and Caribbean Studies 81, October. pp. 5-6.

⁴⁴ Interview 44, Guatemala City.

⁴⁵ Interview 44, Guatemala City.

⁴⁶ Interview 43, Guatemala City.

⁴⁷ Interview 43, Guatemala City.



were contacted through the organizations. Through GAM people were contacted who could give their testimony to the CEH... [CEH members] mobilized into the countryside and contacted key organizations to guarantee their security. Knowing the capacity and the power that the State had, the CEH implemented a closed-door strategy in gathering testimonies.”⁴⁸

In many places, local promoters or peace promoters from the REMHI Project collaborated with CEH investigators. Peace promoters informed people in parishes and through local radio stations about the Commission, and handed out leaflets and brochures about the Commission in communities.

“People were contacted through the peace promoters who were members of the parishes and were trained in gathering testimonies. In addition, a whole radio campaign was carried out. This facilitated the official backing held by those collecting testimonies to be acknowledged... A campaign launched on the radio had Mrs. REMHI and Mr. Forgetting as the characters. Radio spots were done that announced, if your rights were violated by the guerrilla or the army, come to your parish and tell us about it... Also posters and pamphlets were made. There was a communication strategy, especially through community radio.”⁴⁹

“It's important to highlight the work by the REMHI Project in spreading information about the CEH's job, since it supported getting the call out through the peace promoters and other people who had granted their testimony to the project, who then spread the word about the Commission's job.”⁵⁰

For many victims, accompaniment by victims' and human rights organisations was crucial for giving testimony, since the CEH did not offer victims any type of psycho-social support.

“That helped me more. We went around everywhere with them, we went to the Supreme Court, we went anywhere. Being in GAM motivated me and gave me the strength to participate.”⁵¹

The Communities of Population in Resistance (CPR) internally displaced people, refugees, and returnees also collaborated with the CEH. CEH investigators visited the CPRs and the refugee camps in Mexico several times and also interviewed several groups of returnees.

“In terms of the CPR and the returned refugee population, the people who gave testimony to the CEH received help in preparing it, which helped them construct a timeline of the events and specify the damages they had endured during the confrontation.”⁵²

⁴⁸ Interview 44, Guatemala City.

⁴⁹ Interview 43, Guatemala City.

⁵⁰ Interview 23, San Cristóbal Verapaz.

⁵¹ Interview 36, Santa Lucía Cotzumalguapa.

⁵² Interview 11, Ixcán.

“Not everyone who heard about it and were members of the CPR gave their testimonies, since specific tasks were assigned to each person, including who would give testimony and who wouldn't.”⁵³

In spite of collaboration from social organisations, many victims did not give testimony, either out of personal fear or because their family members warned them of possible retaliation by perpetrators if they participated. Meanwhile, other victims did not participate because they wanted to forget their war traumas.

“Yes, I found about it, because the colleagues came to give talks [about the CEH], but I didn't want to go or do anything else.”⁵⁴

When the victims belonged to a social group, they felt more trusting about participating in the CEH. Social organisations often not only motivated them to participate but also offered them medical and psycho-social support.

Currently, many organisations that collaborated with the CEH continue to offer assistance to victims. For example, seven of the people interviewed stated that they received psycho-social assistance (individual and group therapy), school scholarships for their children, basic goods, medical care, and that they have participated in trainings. This type of assistance is offered by organisations like *Verdad y Vida* (Truth and Life), *Familiares de Detenidos-desaparecidos de Guatemala* (Families of the Disappeared and Detained of Guatemala - FAMDEGUA), *Grupo de Apoyo Mutuo* (Mutual Support Group - GAM), *Equipo de Estudios Comunitarios y Acción Psicosocial* (Community Study and Psycho-Social Action Team - ECAP), among others. Victims' organisations also run activities to recover historical memory and honour victims, promote exhumations, offer legal assistance, and litigate cases in courts within and outside of Guatemala, among other activities.

b. Participation in CEH Recommendations

The CEH also allowed victims to participate in formulating recommendations. In May 1998, the Commission organised a national gathering of victims of the armed conflict, in which over 400 people representing 139 civil society organisations participated. At this gathering, working groups were formed to discuss the CEH recommendations. Tension arose because victims' organisations petitioned the three members of the Commission to make their proposals binding. However, the commissioners explained that they could not guarantee that the proposals would be binding because the CEH was an independent mission. Moreover, in all of the individual interviews with victims, the CEH asked interviewees for their recommendations on repairing the damages incurred and preserving victims' memory.

In the end, the CEH report included 84 recommendations, organised into five areas: a) measures to preserve victims' memory, b) reparations measures, c) measures aimed at fostering a culture of mutual respect and enforcement of human rights, d) measures to strengthen the democratic process, and e) other recommendations to promote peace and reconciliation. The CEH proposed creating a State entity in charge of propelling and monitoring the fulfilment of the recommendations.⁵⁵ In addition, they

⁵³ Interview 11, Ixcán.

⁵⁴ Interview 38, Santa Lucía Cotzumalguapa.

⁵⁵ CEH (1999). *Guatemala, Memoria del Silencio (Guatemala, Memory of Silence)*. Tomo V. Conclusiones y recomendaciones (Volume V. Conclusions and Recommendations) pp. 49-69.



envisioned active participation by victims' organisations in disseminating the report, in designing and implementing the recommendations, and in monitoring the reforms and policies proposed by the CEH.

2.3. Impact of the CEH Report

The CEH presented its report *Guatemala, Memory of Silence* on February 25, 1999. The report caused great astonishment within and outside Guatemala due to its extreme conclusions and the severity of the reported incidents. The CEH concluded that the armed confrontation led to over 200,000 victims, 45,000 disappeared, and over a million displaced people; 83% of the victims were indigenous Mayas and 17%, ladinos/as.

The CEH concluded that the State and armed groups that acted with State support were responsible for 93% of the violations committed during the conflict, especially in the period between 1978 and 1984 when the majority of the violations were committed. The CEH attributes the State with committing massacres, forced disappearances, arbitrary and summary extrajudicial executions, sexual violence against women, forced and discriminatory military recruitment, and training and supporting death squads, among other crimes. The CEH's most serious charge is that the State of Guatemala committed acts of genocide against the Maya population in military operations between 1981 and 1983.

The CEH attributed only 3% of crimes committed during the internal armed conflict to the guerrillas, who committed executions of their own members for suspicion or desertion, massacres, kidnappings, forced recruitment, and extortion. These crimes represent a lack of respect for the standards of international humanitarian law and were all committed with the knowledge, or by order, of the high-level guerrilla leadership.

The report also explains the structural causes that induced the armed conflict and the national and international context in which the events transpired. The report notes the following deep-seated causes of the conflict: structural injustice, the shutdown of political spaces, racism, and the exacerbation of exclusionary and anti-democratic institutionalism. The report explains that the Guatemalan conflict occurred in the framework of the Cold War and the implementation of the National Security Doctrine promoted by the United States, as well as the intervention of countries that backed communism and anti-communism in the region.⁵⁶

The report was well-received by victims' and human rights groups, while it was rejected by the army and conservative groups in the country who considered it biased. These groups deny the genocide, the number of victims, and the degrees of responsibility attributed to the army and the guerrillas. The Álvaro Arzú administration (1996-2000), meanwhile, downplayed the importance of the report, and days after its publication issued a statement saying that the report was "an additional contribution towards clarifying events" but that it was necessary to keep delving into what had truly happened. These stances regarding the contents of the CEH report have continued and intensified over time in Guatemala: while victims accept and promote it, the military and conservative groups reject and disparage it.⁵⁷

Victims' and human rights activists' support of the Commission was substantiated in several interviews:

⁵⁶ Comisión para el Esclarecimiento Histórico/Historical Clarification Commission. (1999). *Guatemala, Memoria del Silencio (Guatemala, Memory of Silence)*. Tomo V. Conclusiones y Recomendaciones (Volume V. Conclusions and Recommendations). pp. 18-19.

⁵⁷ Impunity Watch and Convergencia por los Derechos Humanos/Convergence for Human Rights (2009). *La persistencia de la verdad: A diez años del Informe de la CEH (The Persistence of Truth: Ten Years After the CEH Report)*. Guatemala: Impunity Watch.

“... When they gave their report, the work that they had done was very satisfying to us, because there were things that were so severe and there were crimes against humanity and no one had given that information publicly before. For us as family members [of victims], the information that the CEH gave has been vitally important and has been used in specific cases, like the Dos Erres and Choatalúm cases. The report served to demonstrate the strategy that the army used to massacre, to disappear all the people that in one way or another spoke out to demand justice in different communities. It also was used in the case of the young man who was disappeared in Chiquimula; it served to show the strategy that the army had. I consider that in a way it has served to establish precedents in Guatemala, [to show] that the army really had a strategic plan to disappear everyone who was organized or who spoke out against injustice. I insist on this because there is so much silence in the communities...”⁵⁸

“The fact that we have an official document that states that what victims had said for so long was true is a great step, since the State even repudiated victims... In the case of the disappeared, they tried to erase all evidence of their existence, but they did not manage to do so...”⁵⁹

Victims' and human rights groups have used the CEH report as documentary proof of human rights violations against the civilian population, as a historical record of the victims, as a tool to facilitate local-level reconstruction of historical memory, to seek the disappeared, to educate youth, and as documentary evidence in trials against the perpetrators of past crimes.

“In the case of Guatemala, it has aided us as a reference point in understanding the dynamics of other crimes against humanity. When we are co-plaintiffs in the Military Logbook case, there are so many crimes and ways of viewing us, and the CEH report lets us understand in general, because it encompasses several regions, crimes, and cases. It helps us with victims who don't have that knowledge. It is useful to us as a reference, to support cases and create context. It helps in understanding ways of operating, to know the military's way of thinking and operating...”⁶⁰

“The report contributed towards worldwide awareness of the State's atrocities, although knowledge of the report is lacking in the countryside. It should be taught in universities, high schools, and middle schools, and of course in elementary schools. It should be studied at every level...”⁶¹

Many victims also use the report to request reparations, presenting it to the PNR as proof of human rights violations:

⁵⁸ Interview 43, Guatemala City.

⁵⁹ Interview 44, Guatemala City.

⁶⁰ Interview 49, Guatemala City.

⁶¹ Interview 13, Ixcán.



"It has managed to support reparations processes although it has some mistakes in the [victims'] names that are incorrect..."⁶²

"As a piece of evidence to access reparations, though it definitely has certain errors..."⁶³

According to several victims and human rights activists, the report's reach was limited:

"It didn't fulfill all that it should have done, since as we were saying, they [the Commission] speak based on the group that gave testimony, but not everyone's account is included."⁶⁴

"It did not fully document what happened. It should have investigated further, because it wasn't just in the highlands that massacres occurred. Severe incidents happened in Escuintla too. [The Commission] should have implemented mechanisms to cover the whole country, because there were not only massacres in one department. For example, in Petén, in Los Amates, it happened there, too, and it does not mention these places."⁶⁵

"[The report] ended up too short, because REMHI had 5,400 testimonies and the CEH had 7,000, which does not match the magnitude of the war. But it rescues the memory of the victims, of all these brave people who gave testimony, since there was a lot of fear. From my point of view it does reflect [the truth]. It would have been possible to include more testimonies, but fear persists. That fear still exists even to this day..."⁶⁶

"It's important to keep in mind that the Commission lasted for a short time period and could not gather all the testimonies, but those that it did gather were enough. I am going to speak frankly to you. It's like when a poll is taken: not everyone who is eligible and registered to vote in the Supreme Electoral Tribunal is polled; just a sample is taken, and that indicates what the tendency is. So with the sample that was taken, one has an idea of the magnitude of State terrorism..."⁶⁷

For many of the interviewees, one of the main limitations of the CEH report is that it did not record the testimonies of "all the victims." For them it is important that the names of both their loved ones and communities be recorded in an official document, but the report only includes a few victims' names. In that sense, they consider it important to continue the task of recovering the historical memory of all the communities.⁶⁸

The report has been scarcely disseminated in Guatemala; the majority of victims and citizens are unfamiliar with it. The government published a limited number of copies of the conclusions and recommendations and has never formally incorporated its contents into the curriculum of elementary or

⁶² Interview 29, San Martín Jilotepeque.

⁶³ Interview 21, San Cristóbal Verapaz.

⁶⁴ Focus Group, Santa Lucía Cotzumalguapa.

⁶⁵ Focus Group, Santa Lucía Cotzumalguapa.

⁶⁶ Interview 43, Guatemala City.

⁶⁷ Interview 44, Guatemala City.

⁶⁸ Interviews 36 and 37, Santa Lucía Cotzumalguapa.

middle schools. According to one of the interviewees, only a small number of activists and academics in the capital are familiar with the report:

“Only activists and some victims in the capital are familiar with the report because they are educated and the report has been distributed in the capital, and they have known how to use it in their struggles and their court trials. But people in the countryside are not familiar with it because the victims are indigenous and illiterate. Here people are very poor and the report never made it here.”⁶⁹

2.4. The Preservation of Historical Memory

Since the CEH report was published, many victims' and human rights organisations have promoted initiatives to recover, preserve, and share the memory of what happened locally and nationally. New organisations consisting of victims of the armed conflict have emerged as well, dedicated to the search for truth, justice, and reparations. These initiatives have allowed the memory of victims to be honoured and preserved, and have spread the word about the past, contributing to the construction of communities' collective historical memory. The State, for its part, has also implemented actions with this goal in mind through the PNR, although it cannot be affirmed that the State has a memorialisation policy; rather, these small-scale initiatives have depended upon the good will of particular public officials.

In general, the memory initiatives that civil society organisations promote include the creation of murals, the construction of monuments, the opening and maintenance of museums, the production of videos, the installation of photographic exhibits, the gathering of testimonies, and the oral reconstruction of memory, among other activities developed by victims' and human rights organisations.

For many victims, truth entails knowing the whereabouts of their loved ones, recovering local historical memory, and teaching the youth and the next generation about what happened. The following are some of the victims' responses to the question: What is truth to you?

“We, as victims' family members, have the right to know what happened to our relatives. It is a right to know what happened... That is what we wish to know: what did they do with our loved ones? Because it is difficult to find them since they moved them around from place to place, they moved them; for example, from Escuintla they brought them to Chimaltenango. Likewise, here in the cemetery they found bones with sandals... It's not just finding them but knowing what happened to them, to know what the reality is.... That is the response that one needs when certain doubts come up. We demand to know what happened.... We want to know because we are the family members. When they were taken, we were really little and we couldn't get ahead. We want to know why, because it hurt us so much that they were taken.”⁷⁰

“It should be said and it should be upheld: the State acted badly and that's true... To speak is to tell the truth and stop doing the things that hurt us... In the plaza there is a monument to victims; that is another truth... To tell my case is to tell the truth. They killed my husband and my children... The truth is that my children had the right to live... I

⁶⁹ Interview 48, Cobán.

⁷⁰ Focus Group, Santa Lucía Cotzumlaguapa.



don't know how to read and I don't know how to write because of the violence. I say that now because I have to tell the truth... Not everything has come and gone; we continue to suffer the causes of State violence... Not all truth is believed because the laws are bad or are used badly... I am telling the truth, my father was killed, but they did not believe me. Yet it is true and I continue to suffer from the absence of my father who was murdered by the army..."⁷¹

"People must be honoured and the clandestine cemeteries exhumed... Here we have two cemeteries. One [exhumation] was no longer continued; maybe my father's remains are there..."⁷²

"Create a compilation of testimonies, a new memory for places where there has been no access, to enlarge the existing one, to broaden and complement the report because there are many histories that do not appear."⁷³

In 2004, the National Congress approved a decree to designate February 25 as National Day of Dignity for Victims;⁷⁴ since then, many communities have commemorated that day. Moreover, as previously mentioned, victims' organisations in many areas have built museums, monuments, altars, and murals to honour the memory of the victims; some of these initiatives have been supported by the PNR, and others by the international community. For example, in the communities included in this study, victims' organisations have constructed murals in San Cristóbal Verapaz, Santa Lucía Cotzumalguapa, and Ixcán; in addition, on the streets and at local cemeteries, they have created altars and performed commemorations to honour victims.

Victims also insist that young people and the upcoming generations need to know about the tragedies of the war and that the contents of the CEH report should be taught in schools so that the crimes are never forgotten or repeated.

"The [CEH] report should be taught in the universities and secondary schools, and of course in elementary schools, to guarantee that what happened never happen again. Historical memory should be maintained always, because to the extent that we forget our history and our past, we run the risk of repeating it."⁷⁵

"We should explain to our children, families, nieces and nephews what happened... We should spread the word about what happened in schools, update the curriculum, create a specific course for every level."⁷⁶

"Historical memory must be shared with those who are growing up; it shouldn't just be something written down on paper. Youth should be taught by remembering what happened, through education and drawings. Some people don't like this and they speak

⁷¹ Interview 4 Ixcán

⁷² Interview 25 San Martín Jilotepeque

⁷³ Interview 49, Guatemala City.

⁷⁴ Decree 6-2004 of the Guatemalan National Congress.

⁷⁵ Interview 7, Ixcán.

⁷⁶ Interview 29, San Martín Jilotepeque.

up against it, saying that it's made up, that what happened should be forgotten; they settle for the little bit that the rich give them. But the truth of what happened should be taught."⁷⁷

Victims and survivors of the internal armed conflict continue to struggle so that the State, particularly the army, would acknowledge what happened and undertake more incisive measures to honour victims, repair the damages, and bring those responsible for the crimes to justice. Victims continue to struggle to ensure that truth and historical memory prevail over the denial and the policies of pardon, forgetting, and impunity that powerful groups in Guatemala attempt to impose.

⁷⁷ Interview 2, Ixcán.



3. The Pursuit of Justice and Participation in Criminal Proceedings

Many victims and survivors of the internal armed conflict have tirelessly pursued justice, but rarely has the State responded to their demands. Since the mid-1980s, women and family members of the disappeared have turned to judicial institutions to seek their loved ones; they have filed complaints and lodged remedies of habeas corpus; they have sought their relatives in police stations, military bases, municipal jails, hospitals, morgues, and cemeteries. Family members of indigenous victims who suffered the horrors of genocide and massacres have also turned to national and international entities in the pursuit of justice, but the justice system has rarely responded to their demands:

“My family filed a remedy of habeas corpus two days after my father’s disappearance.... There are over eighty remedies of habeas corpus because my mother was a founder of GAM.”⁷⁸

“To this day I have not found my daughter, and the perpetrators have not yet been punished... When we presented the remedy of habeas corpus in the Supreme Court, the persecution against us increased.”⁷⁹

“Here in Guatemala there is no justice for indigenous people, only for the rich. Where can we go for justice if in Guatemala there is no justice?”⁸⁰

The Guatemalan criminal justice system provides four ways for victims to participate: as complainants, witnesses, co-plaintiffs, and subjects of reparations. Nevertheless, for the majority of the population, especially indigenous people, it is nearly impossible to access justice and participate in a criminal process. The Office of Public Prosecution and the Justice System only have offices in the major cities; the criminal justice system is slow and bureaucratic, most justice workers are ladinos/as who only speak Spanish, and many of them do not thoroughly fulfil their responsibilities due to overwork or negligence.

The Human Rights Prosecuting Unit, created in 2005 within the Office of Public Prosecution, is in charge of investigating cases from the internal armed conflict. This Prosecution Unit has two specific entities for investigating cases from the armed conflict: a) the Unit for special cases from the internal armed conflict (created in 2005), which investigates human rights violations committed by the State and paramilitary groups; and b) the special Unit for investigating crimes committed by armed, non-State groups (created in 2011) in charge of investigating crimes committed by the guerrillas.⁸¹

The Human Rights Prosecuting Unit has a broad mandate: “to investigate and criminally prosecute those attributed with crimes committed against journalists, labour unionists, justice workers, human rights activists, and all acts that affect interests, especially those that may originate from acts undertaken by the

⁷⁸ Interview 49, Guatemala City.

⁷⁹ Interview 36, Santa Lucía Cotzumalguapa.

⁸⁰ Interview 21, San Cristóbal Verapaz.

⁸¹ In 2011, the Office of Public Prosecution (MP) created this Special Agency to respond to pressure by former military members and conservative groups in the country who criticised the MP for only pursuing the military and not progressing on investigations involving high-level guerrilla leaders.

CEH; and to investigate crimes committed by illegal groups and clandestine structures.”⁸² The Unit is organised into six prosecuting entities, with each one handling specific cases held against human rights activists, justice workers, journalists, labour unionists, and victims of the internal armed conflict. All of these prosecution units are located in the capital, have minimal staff and resources, and face work overload.

Cases regarding the armed conflict are heard by regular courts because there are no special courts in Guatemala to prosecute crimes of the past. However, some cases of national and international significance, such as the Ixil genocide case and the Sepur Zarco case involving sexual violence against women, are heard by high-risk courts. These courts were created in 2009 to handle cases with high-level social impact; they require special security measures to protect the justice workers, witnesses, and other people involved in the proceedings.⁸³ Only three high-risk courts currently exist. Located in the capital, they handle dozens of different kinds of cases: homicide and femicide, corruption, drug trafficking, human trafficking, extortion, as well as cases of severe human rights violations.

As of late 2015, over 3,500 cases from the internal armed conflict are being processed by the Office of Public Prosecution (MP), but the courts have only tried 15 cases. The following feature among the cases prosecuted in the Guatemalan court system: the Ixil genocide case, the burning of the Spanish Embassy, the Dos Erres community massacre, the forced disappearance of Fernando García, and the El Aguacate massacre perpetrated by guerrilla forces.⁸⁴

Chart 1. Cases Tried in Guatemalan Courts

No.	Case name	Plaintiff	Year sentenced	Summary of the ruling
1.	Assassination of Myrna Mack	Helen Mack	1993	Military officer Noel de Jesús Beteta sentenced to 25 years in prison as direct perpetrator of the assassination.
	Assassination of Myrna Mack	Helen Mack	2002	Coronel Juan Valencia sentenced to 30 years in prison as intellectual perpetrator of the assassination.
2.	Massacres in Tuluché, Chiché.	CONFREGUA and CONAVIGUA	1999	Former military commissioner Cándido Noriega sentenced to 220 years in prison for murder, kidnapping, aggravated robbery, arson, and rape.
3.	Massacre in Río Negro, Rabinal.	ADIVIMA	1999	Three former military commissioners convicted of murder.
	Massacre in Río Negro, Rabinal.	ADIVIMA	2008	Five former patrollers sentenced to 780 years in prison and ordered to pay Q100,000 to each injured family.
4.	Assassination of Bishop Gerardi.	ODHAG	2001	Coronel Byron Lima, Captain Byron Lima, and specialist Obdulio Villanueva sentenced to 30 years in prison for murder. Priest Mario Orantes sentenced to 20 years in prison for complicity.

⁸² The Office of Public Prosecution created the Human Rights Prosecuting Unit in 2005 through Accord 03-2005.

⁸³ Ley de competencia penal en procesos de alto riesgo (Criminal Jurisdiction Law for High-Risk Proceedings) (Congressional Decree 21-2009).

⁸⁴ Impunity Watch (2014). *Monitoreo de la Justicia Transicional en Guatemala, Tomo II: Derecho a la Justicia (Monitoring Transitional Justice in Guatemala, Volume II: The Right to Justice)*. Guatemala: IW.



5.	Massacre in Xamán, Ixcán.	Rigoberta Menchú Foundation	2004	Captain Antonio Lacán and 13 soldiers sentenced to 40 years in prison for the extra-judicial execution of 11 people.
6.	Disappearances in Chuatalúm, San Martín Jilotepeque.	FAMDEGUA	2009	Former military commissioner Felipe Cusanero sentenced to 150 years in prison for the forced disappearance of 6 people.
7.	Forced disappearance in El Jute, Chiquimula	GAM	2009	Coronel Marco Antonio Sánchez and three military commissioners sentenced to 53 years in prison for the forced disappearance of 8 people.
8.	Massacre of Las Dos Erres, La Libertad, Petén	FAMDEGUA	2011	Four <i>kaibiles</i> (members of elite military corps) sentenced to 6,030 years in prison for the extra-judicial execution of 201 people.
9.	Massacre of Plan de Sánchez, Rabinal.	ADIVIMA	2012	Former military commissioner and 4 former patrollers sentenced to 7,710 years in prison for the extra-judicial execution of 256 people.
10.	Forced disappearance of Edgar Sáenz	GAM	2012	Pedro García Arredondo sentenced to 70 years in prison for forced disappearance and crimes against humanity.
11.	Forced disappearance of Fernando García	GAM	2010	Héctor Ramírez Ríos and Abraham Lancero Gómez, former National Police (PN) officers, sentenced to 40 years in prison for forced disappearance.
	Forced disappearance of Fernando García	GAM	2013	Jorge Alberto Gómez and Coronel Héctor Mario Bol de la Cruz, former director of the National Police, convicted of a forced disappearance.
12.	Forced disappearance of Edgar Paredes Chegüen	FAMDEGUA	2013	Former military commissioner Isidro Cardona sentenced to 50 years and 6 months in prison for forced disappearance and crimes against humanity.
13.	Genocide of the Ixil people	AJR and CALDH	2013	General Efraín Ríos Montt sentenced to 80 years in prison for genocide and crimes against humanity.
14.	Massacre in El Aguacate, San Andrés Itzapa.	GAM	2014	Former insurgent Fermín Solano sentenced to 69 years in prison for the continuous murder of 22 people.
15.	Assault on the Spanish Embassy	Rigoberta Menchú Foundation	2015	Pedro García Arredondo sentenced to 90 years in prison for murder and crimes against humanity.

Source: Impunity Watch (2014) *Monitoreo de la Justicia Transicional en Guatemala (Monitoring Transitional Justice in Guatemala)*. pp. 15-26. El observador (The observer). *Memoria y verdad: territorios en disputa (Memory and truth: disputed territories)*. Year 10, Nos. 46-47. pp. 8-18.

As demonstrated in the above chart, the greatest number of cases (10) were tried between 2008 and 2015. This is partly due to the fact that the MP began to fulfil the resolutions issued by the Inter-American Court of Human Rights (IACHR) that require the State to respond to the demands of justice made by victims of the internal armed conflict and to prosecute severe human rights violations. As noted in the chart, in some cases two separate criminal proceedings occurred, as in the cases of the Myrna Mack

assassination and the massacre of Río Negro indigenous communities; this is because investigations continued after the first trial and other people involved in the crimes were subsequently prosecuted.

Despite this progress, victims believe that impunity for crimes of the past persists, considering the magnitude and severity of the crimes committed during the internal armed conflict. Victims constantly reiterate expressions like “the military and the commissioners who committed the massacres are walking free on the streets,” “they keep living well and we keep living in poverty and fear,” and “there is no justice in Guatemala.” The slow pace of the justice system discourages victims; therefore, some prefer to resort to the IACHR to pursue justice.

Furthermore, victims’ participation in Guatemalan criminal proceedings will be examined, along with victims’ perceptions of justice, which go beyond criminal punishment for the perpetrators of the crimes; victims also demand public acknowledgement of the atrocities of the past and that the State comply with its responsibility of providing reparations to victims.

3.2 Victims’ Participation in Criminal Proceedings

Victims or witnesses in Guatemala can denounce crimes in either verbal or written form to the police, the MP or judicial courts anywhere in the country.⁸⁵ However, this is practically impossible for indigenous victims who are poor, live in remote areas, don’t speak Spanish, or are illiterate, and many of whom are ill. Moreover, indigenous peoples have traditionally resolved problems through their own justice system, which is based on ancestral indigenous principles, procedures, and leadership. Indigenous peoples rarely resort to the official justice system because they do not trust the State and are even afraid of the State because many military and public officials implicated in war crimes continue to hold power.⁸⁶

As previously indicated, the MP has received over 35,000 complaints about crimes from the internal armed conflict, many presented by victims’ organisations and human rights groups or forwarded by the PNR based on the reparations cases that it handles.⁸⁷ Groups of former military members and relatives of fallen military have also presented complaints to the MP for crimes that they attribute to guerrilla forces. However, victims rarely file complaints to the MP individually; they generally file through a victims’ or human rights organisation, which reflects their fear and their minimal trust in the justice system.

Meanwhile, the MP does not launch proactive investigations into severe human rights organisations, although legally they have the authority to do so. Therefore, victims’ and human rights groups often complain publicly about the justice system’s inefficiency and slowness.

⁸⁵ Código Procesal Penal (Criminal Procedural Code), Article 297.

⁸⁶ Sieder R. (1996). *Derecho consuetudinario y transición democrática en Guatemala (Customary law and democratic transition in Guatemala)* (Vol. 16). FLACSO.

Sieder R. y Flores C. (2011). *Autoridad, autonomía y derecho indígena en la Guatemala de postguerra (Authority, autonomy, and indigenous law in post-war Guatemala)*. Guatemala: F&G Editores.

⁸⁷ During President Álvaro Colom’s administration (2008-2012), the PNR forwarded hundreds of complaints to the MP based on reparations files being processed, but during President Otto Pérez’s administration (2012-2016), the PNR did not send any complaints to the MP.



“Very few cases have been investigated, and there are no proactive investigations... The MP has had its ups and downs depending on prosecutors’ political will.”⁸⁸

“The justice system and the authorities do not investigate, and everything depends on the authorities. But they don’t investigate, they don’t say, ‘Let’s get to work!’”⁸⁹

The Testimonies

Victims’ testimonies constitute fundamental proof in criminal proceedings, although for indigenous victims it is very difficult to testify in judicial institutions because justice workers do not understand indigenous languages and the justice system does not have qualified translators. Criminal proceedings are often held in Spanish, and indigenous people do not understand justice workers’ technical and legal terminology or the arguments and allegations of the defense lawyers, which limits victims’ full participation in criminal proceedings.

“Unfortunately, justice workers are not Mayan speakers, they are monolingual in Spanish; they need translators or interpreters, which is often not as objective as we’d like. This brings bias to the investigation, the interpretation brings all kinds of biases, and in the end the conclusions don’t produce the expected result, even when the best proof or evidence has been provided.”⁹⁰

Victims’ and human rights organisations express concern that many of the witnesses are growing old, are ill, and some have even passed away without having been able to testify or achieve justice. Moreover, it is difficult for many of the witnesses to travel to the capital or the courts to testify.

“The people involved in the case are getting old. Fear still persists around the threats that have been made and the violence of which they were victims; that’s why many people don’t want to talk.”⁹¹

“Many of the survivors are dying, so there are no convincing, truthful eyewitness testimonies about the violent incidents. This is something that also affects access to Western justice. The other thing is that there are people who might be direct witnesses to the violent acts, but no one knows who they are. No one has taken on the task of seeking out those testimonies, and no one has valued those testimonies’ access to Western justice.”⁹²

“The perpetrators are so old that they can no longer be prosecuted, and the media sells an image of them that makes people feel sorry for them.”⁹³

⁸⁸Interview 49, Guatemala City.

⁸⁹Interview 36, Santa Lucía Cotzumalguapa.

⁹⁰Interview 21, San Cristóbal Verapaz.

⁹¹Interview 49, Guatemala City.

⁹²Interview 21, San Cristóbal Verapaz.

⁹³Interview 49, Guatemala City.

It is especially difficult for women victims of sexual violence to publicly testify in the courts because of a profound social stigma in Guatemala against women who suffer sexual abuse. In spite of this, several indigenous women have bravely testified to the sexual abuse committed by members of the military in the Ixil genocide case and the Sepur Zarco case. In the latter case, a former member of the army and a former military commissioner were charged with the rape and sexual slavery of 15 Q'eqchi' indigenous women at a military base during the war.

Sepur Zarco Case

Sepur Zarco was a military base situated near the community of the same name which was comprised of Q'eqchi' Maya peasants who were struggling to acquire property titles for the lands that they farmed. In the 1980s, many men in the community were kidnapped and later extra-judicially executed or forcibly disappeared. The women, especially the spouses of the disappeared and murdered men, were subjected to sexual and domestic slavery on the military base; many of them and their daughters were systematically raped by military men over a long time period.

This case exposes the brutality of violence against women perpetrated by the Guatemalan army during the internal armed conflict. The CEH report *Guatemala: Memory of Silence* indicates that sexual violence was used by the military as an intimidation tactic when women showed up to reclaim their disappeared relatives and as a weapon of war to generate terror in the population.

The Sepur Zarco case charged Lieutenant Coronel Francisco Reyes, who was the commander of the military base in 1982 and 1983, with rape, sexual slavery, murder, and other inhumane or degrading treatment against Q'eqchi' women. Military commissioner Heriberto Valdez Asij is charged with forcibly disappearing seven peasants from the Sepur Zarco community. Both are charged with submitting 15 Q'eqchi' Maya women to sexual slavery. This case has made a significant impact nationally and internationally because it reveals the severity of crimes committed against indigenous women in Guatemala.

The Criminal Procedural Code states that the State should guarantee victims' and witnesses' protection. The MP has a small witness protection programme for high-risk cases, but the programme has minimal resources to transport witnesses to secure places and safeguard them there. Victims and witnesses in cases dealing with the armed conflict are practically unprotected and susceptible to intimidation or attack. In this sense it is important to highlight the invaluable support provided by human rights organisations that accompany victims and witnesses in the cases, such as the Human Rights Defenders Unit of Guatemala (UDEFEQUA), the Coordination of International Accompaniment in Guatemala (ACOGUATE), and the Network in Solidarity with the People of Guatemala (NISGUA), which work in collaboration with the Office of Public Prosecution.

The Co-plaintiffs

Basically the only way to move a case forward in the justice system is to become a co-plaintiff.⁹⁴ The legal concept of *querellante adhesivo* (co-plaintiff or joint complainant) is established in Guatemala's Criminal Procedural Code, which stipulates that in publicly actionable crimes, the injured party or a representative can induce criminal prosecution or join the criminal actions undertaken by the Office of Public

⁹⁴ The Guatemalan Criminal Procedural Code allows participation by victims or their representatives in criminal proceedings through the legal status of co-plaintiffs (Article 116), especially in publicly actionable crimes and human rights violations.



Prosecution. Any citizen or citizens' association can exercise this right against officials or public employees who directly violated human rights in their position or who abused their power.⁹⁵

The Code states that the co-plaintiff can collaborate with the prosecutor and contribute to the investigation into the crimes, and can request anticipatory evidence and any other judicial proceedings covered by law. The prosecutor should then consider such requests and act according to such proceedings. If the co-plaintiff differs from the prosecutor's decision, they can approach the jurisdictional First Instance judge, who will schedule a hearing within 24 hours to become familiar with the situation and to listen to both the co-plaintiff and the prosecutor. Then they will immediately determine the judicial proceedings to be undertaken. The judge, if deeming it appropriate, will refer to the Attorney General regarding a change of prosecutor in charge of the case.

Co-plaintiffs generally work closely with prosecutors: they propose testimonies and documentary evidence, recommend expert witness reports, participate in exhumations and reburials, and persistently monitor the actions of the prosecutors, judges, magistrates, and defense lawyers. Victims practically become the investigators of their own cases and experts in the criminal process. This entails major personal sacrifice, as they invest years in the criminal proceedings, incur financial costs face hostility from public officials and deal with criticism from family members, neighbours, and the general public. In addition, they often receive threats and intimidation from groups interested in upholding impunity.

Unfortunately, not all victims have the capacity to join cases as co-plaintiffs because doing so requires education, time, and financial resources. Moreover, co-plaintiffs often confront a slow justice system that is susceptible to corruption and frightened of powerful groups.

"Lawyers must confront impunity, corruption, and the ideological political stance of certain judges... Some lawyers have limited will, not all of them, because fortunately we have lawyers who really work hard on the case regardless of what they are like. Even when the cases are tough because we are accusing high-level people, they fulfill their role... It's also difficult in the justice system because they say one thing to the client and then in the accusation the result turns out to be different."⁹⁶

Co-plaintiffs also need to be prepared to respond to the malicious tricks played by defense lawyers, who use ruses of all kinds to prevent justice from being applied: they attempt to take refuge behind amnesty laws, use false arguments, recuse justice workers, discredit witnesses and expert witnesses, appeal all rulings, and put pressure on judges and prosecutors.

Meanwhile, co-plaintiffs must tolerate pressure and smear campaigns by groups of former military members interested in maintaining impunity. Former military members that participate in the Military Veterans' Association of Guatemala (AVEMILGUA) and the Foundation Against Terrorism constantly discredit victims and co-plaintiffs, calling them guerrillas or terrorists, and even initiate criminal lawsuits against indigenous leaders, defense attorneys, human rights activists, and prosecutors. Mainstream media has covered the opinions of the military and the members of the Foundation Against Terrorism and has barely considered the voices of victims of the armed conflict and co-plaintiffs. The upshot is that public opinion only has a partial outlook on the incidents.

⁹⁵ Código Procesal Penal (Criminal Procedural Code), Article 116.

⁹⁶ Interview 49, Guatemala City.

Moreover, the obstacles to justice do not end with sentencing. In many cases, the State and the defendants do not comply with the reparations measures ordered by the courts, and this heightens victims' frustration. One of the interviewees expressed this clearly in commenting: *"organizations have achieved sentencing in many cases in the national and international spheres, but reparations are not fulfilled."*⁹⁷

3.3 Genocide Case

The Ixil genocide trial caused major social and political impact both within and outside of Guatemala, not only because of the severity of the crimes but also because the defendant was de facto head of State Efraín Ríos Montt, a powerful military officer with major political influence in the country. Victims and the Guatemalan public were impressed at seeing Ríos Montt in the dock of the accused, and to see on the media how a Guatemalan court sentenced him to 80 years in prison for genocide and crimes against humanity.⁹⁸

The genocide case lasted over 12 years. In 2001, indigenous victims belonging to the AJR and lawyers with the CALDH filed a lawsuit for genocide with the MP. However, the MP took 12 years to present an accusation to the courts, and finally the trial took place in 2013. Over the course of 27 sessions, over 90 Ixil indigenous survivors of violence and victims' family members testified, as did experts from different fields and disciplines. Military documents, forensic reports, historic documents, and other pieces of evidence were presented to prove the crimes. Yet the Constitutional Court annulled the sentence after ten days, citing procedural problems during the trial, and ordered a retrial.

The genocide trial hit a nerve with the administration in power – headed by former military officer Otto Pérez Molina (2015-2015) – and with the former military and the country's economic elite, who openly denied genocide and opposed the trial. Powerful groups have never accepted that there was genocide or deep-seated racism in Guatemala; they contend that the massacres against civilians were "excesses" that occur in any war.

"The Ríos Montt trial awakened interest, even if simply motivated by curiosity, about what happened. Some people managed to get closer to what had happened."⁹⁹

"I'd say that the conviction, even though it lasted such a short time, confirmed that there was genocide. And I believe that it's a historic detail that allows us to say that there was genocide, just as we've been reiterating for many years, because that genocide was structural... Ríos Montt represented the unity of the nation, and the court was made aware of the execution orders that were given from that scenario. So even though this has resulted in, let's say, convictions of the accused, we're talking about the direct perpetrators and the masterminds, but also those who financed the war do not approve of the court ruling."¹⁰⁰

⁹⁷ Interview 49, Guatemala City.

⁹⁸ On May 10, 2013, the High-Risk Court A ruled that Ríos Montt was guilty of the crime of genocide and crimes against humanity against the Ixil people. These crimes are included in Articles 376 and 378 of the Guatemalan Criminal Code.

⁹⁹ Interview 43, Guatemala City.

¹⁰⁰ Interview 45, Guatemala City.



Women's participation in the trial was impressive. Women testified that they were sexually abused by the military; they recounted how their family members were killed, all the atrocities that they endured during the time of the massacres, and how they escaped from their communities. Moreover, women participated as leaders and representatives of their communities:

"This was the first time that women came to speak in an urban setting to a high-impact court. Many women had done so previously in other courts in El Quiché or in other areas, but this time it was highly publicized in the media. I think that it made a big impact because it was heard not only locally, but also at a national, departmental, and international level."¹⁰¹

"This also showed that when there is will, decisiveness, and processes are respected, it is possible to make it. That is, I don't know if it's because they are women that they have greater human sensitivity, because a process of this nature done by men has never been seen. What I mean is that the judge was a woman, the prosecutor was a woman, and so I think that has a lot to do with it: women's sensitivity and charisma to be able to feel another's pain. That's also why a conviction was handed down – at least, unless the contrary happens in a different trial. At least, it has mostly been men who have given rulings that uphold impunity: all those kinds of court rulings have not given us a sense of trust to be able to change our vision"¹⁰²

Victims also acknowledge that the trial had negative impacts, especially the hostile reaction by powerful groups and the social polarisation that resulted. In the media and on social networks, numerous racist comments were made against indigenous people and the victims of the armed conflict, as were expressions of hatred against Guatemala's former guerrillas and leftist sympathisers. Conservative groups in the country accused victims of seeking vengeance and not justice. The national government and Congress, meanwhile, made public statements against the genocide case.

"Since the conviction, the racist discussion against indigenous people worsened. It is an urban discussion that affects the dignity of us indigenous people who have a different culture..."¹⁰³

"The trial did not strengthen [the organizations], the fact that the case was lost did not strengthen them. In terms of whether or not it was useful, I don't know, because it polarized society. Before the genocide trial, certain sectors couldn't care less about it, but now they're into it. So society is more polarized, and even the most ignorant go out and say their opinion..."¹⁰⁴

"The polarization was really intense, with those who were against [the trial] not even knowing why, and society fell into that scheme. New organizations did not emerge, but the existing ones simply took advantage of the divided context, like the Foundation

¹⁰¹Interview 45, Guatemala City.

¹⁰²Interview 46, Guatemala City.

¹⁰³Interview 45, Guatemala City.

¹⁰⁴Interview 44, Guatemala City.

Against Terrorism, to provide rationale to people who are against putting crimes like these on trial...”¹⁰⁵

One of the statements that made the greatest impact was a declaration by 12 former officials who participated in the peace process and who warned about the serious consequences that they felt a genocide conviction would have on peace and security in Guatemala. In the statement, they warn that a genocide conviction “*would entail serious dangers for Guatemala, including an exacerbation of social and political polarization that would roll back the peace achievements to date.*” They declare that a conviction in the genocide case would be “*an imminent danger that political violence might reappear, which would betray the goal and the victory of peace,*” and affirmed that “*the charge of genocide is a legal fabrication.*”

In the same vein, the country’s economic elite, organised in the Coordinating Committee of Agricultural, Commercial, Industrial, and Financial Associations (CACIF), called a press conference to express its disagreement with the genocide conviction and to request that the trial be annulled because “due process was not followed”, and attesting that the conviction was due to international pressure.¹⁰⁶ The National Congress, meanwhile, issued resolution item 3-2014 that denies genocide; it was passed by 87 representatives from the right-wing parties.

The annulling of the sentence, the media treatment of the trial, and the newfound denial of the crimes of the past had a negative impact on victims and witnesses, reaffirming their distrust with the justice system.

“They said that there was no genocide in Guatemala, but there was. They said that there wasn’t in order to be set free, but in Guatemala so many inhabitants were taken away by threat, but not them. We suffered, and then to have people say that there was no genocide, when there was. In the villages, in the communities, we were hit. Maybe we are outcasts; people don’t want to see us because they say that we are guerrillas, but we aren’t. This is how we’ve gotten to this point. Now we want justice: as was done to us, for those who did bad things to our families too. Ríos Montt says that he didn’t do anything, but he was head of State. Yet he denies it and says that it didn’t happen. It did happen; we were hit. The one who owes needs to pay back. So we want to see the reality with these men who did wrong to our fellow people, to our families, to all the human beings, because we are all human. When they were in power, they didn’t care about us, they treated us like dogs. Well, now they need to pay”¹⁰⁷

Many victims recognise the commitment to TJ held by Attorney General Claudia Paz y Paz, a renowned human rights defender who headed the Office of Public Prosecution from 2010 to 2014. During her term, important cases from the armed conflict progressed in the justice system, such as those involving genocide, the El Aguacate massacre, the disappearance of Fernando García, among others.

“When Doctor Claudia Paz was in office, we had a lot of hope in the cases. For instance, five kaibil [elite military] patrollers and the lieutenant from the Las Cruces military base in Petén were able to be sentenced. She [Claudia Paz y Paz] played a very important role in

¹⁰⁵ Interview 43, Guatemala City.

¹⁰⁶ Plaza Pública, August 21, 2013.

¹⁰⁷ Interview 30, San Martín Jilotepeque.



justice in Guatemala. She showed that justice is possible. With her actions she showed, for instance, that the genocide case could in fact take place; that was historic.”¹⁰⁸

Now the victims and witnesses continue to await Ríos Montt’s retrial with trepidation. The process has been delayed for over two years due to legal ruses filed by Ríos Montt’s defense lawyers. In 2015, Ríos Montt was declared mentally unfit to stand trial since he is almost 90 years old and suffers from “senile dementia.” The retrial will be held behind closed doors without Ríos Montt in attendance, and only a “symbolic conviction” is expected.

3.4 Pursuit of International Justice

Due to the slow pace and the inefficiency of the Guatemalan justice system, some victims and human rights activities have turned to the IACHR to pursue justice. The State of Guatemala recognised the Court’s jurisdiction in 1978 when it subscribed to the American Convention on Human Rights, and in the last 15 years the IACHR has issued 12 convictions against the State of Guatemala for cases involving the internal armed conflict.

CHART 2
Cases Tried in the Inter-American Court

No.	Case name	Co-plaintiff(s)	Year sentenced
1.	Kidnapping and murder of Nicholas Chapman Blake.	International Human Rights Law Group	1999
2.	Kidnapping, arbitrary arrest, inhumane treatment, torture, and murder of Paniagua Morales and others (White van).	CEJIL, Human Rights Watch/Americas, and Mark Martel	2001
3.	Forced disappearance, torture, and extra-judicial execution of Efraín Bámaca.	CEJIL	2002
4.	Extra-judicial execution of Myrna Mack Chang.	Helen Mack, Georgetown University, Lawyers’ Committee for Human Rights, Hogan & Hartson law firm, and CEJIL	2003
5.	Arbitrary arrest and torture of Maritza Urrutia.	CALDH	2003
6.	Forced disappearance of the child Marco Antonio Molina Theissen.	CEJIL	2003
7.	Massacre of Plan de Sánchez, Rabinal.	CALDH	2004
8.	Extra-judicial execution of Jorge Carpio and others.	Martha Arrivillaga de Carpio, Karen Fischer, CEJIL, ODHAG, Human Rights Watch/Americas, and International Human Rights Law Group	2004
9.	Forced disappearance of María Tiu Tojín and her daughter Josefa.	CALDH	2008
10.	Massacre of las Dos Erres, La Libertad.	ODHAG, CEJIL, and FAMDEGUA	2009

¹⁰⁸ Interview 49, Guatemala City.

11.	Forced disappearance of Florencio Chitay Nech and others.	Astrid Odete Escobedo Barrondo and Carlos María Pelayo Möller	2010
12.	Forced disappearance, torture, and extra-judicial execution of Gudiel Álvarez and others (Military Logbook).	Myrna Mack Foundation and International Human Rights Law Clinic at the University of California-Berkeley	2012

Source: Original compilation based on Inter-American Court of Human Rights sentences available at: <http://www.corteidh.or.cr/>

However, international justice processes are also slow. To access the Inter-American system, victims' and human rights organisations require legal and financial support from international organisations because the system is complex and the process is costly. Among those that have utilised the Inter-American system, the following organisations can be highlighted: CALDH, ODHAG, FAMDEGUA, and GAM, which have benefited from collaboration with the Center for Justice and International Law (CEJIL).

"We've had support from the international community in the Dos Erres case and the Panzós massacre. We've had financial support for mobilizing, but not enough for mobilizing the families as much as we'd like. They pay for a lawyer and a paralegal. International support has been key..."¹⁰⁹

*"The Military Logbook appeared in 1999, and I began to get involved in the movement to pursue truth and justice. That's when the paperwork began to bring the case to the Inter-American Commission on Human Rights.... It took eight years for the case to make it to the Inter-American Court. In 2012, the Court condemned the State of Guatemala for the Military Logbook... We are providing follow-through to the Military Logbook case in the national court system along with other organizations..."*¹¹⁰

However, the IACHR has various limitations, including overwork, because it hears cases from all countries in the Americas; lack of coercive means to enforce States' compliance with its sentences; and the inability to penalise individual perpetrators of crimes, as it can only issue moral and economic sanctions to States and order reparations measures.

For example, in the Plan de Sánchez, Rabinal massacre case, the IACHR condemned the State of Guatemala for its responsibility in the massacre of 268 people. The Court stipulated that the case *per se* entailed a type of reparations, and ordered the State to investigate, prosecute, and penalise the direct perpetrators and the masterminds of the massacre. It also ordered the State to publicly acknowledge its responsibility through a public act in the village of Plan de Sánchez with the presence of high-level State officials, community members, and victims from neighbouring villages. This act was to take place in Spanish and in the Achí Mayan language, and the State was to publicise the final sentence through the official daily newspaper and other media.

In addition, the Court ordered the State to provide medical and psychological care free of charge to victims, to grant adequate housing to victims that needed it, and to develop the following programmes in affected communities: a) to teach and disseminate the Achí culture in the communities; b) to maintain

¹⁰⁹Interview 49, Guatemala City.

¹¹⁰Interview 44, Guatemala City.



and improve the roads between the communities and the municipal seat of Rabinal; c) to install sewage systems and a potable water supply; d) to hire teaching staff trained in inter-cultural, bilingual education for the communities' elementary and secondary schools; and e) to establish a health centre in the village of Plan de Sánchez with trained staff and decent conditions, and to train personnel at the Rabinal Municipal Health Center in providing medical and psychological care. In terms of economic compensation for victims, the Court ordered the following amounts:

CONCEPT	BENEFICIARIES	AMOUNT (US\$)
Material damages	45 survivors from Plan de Sánchez	225,000
	272 survivors from other communities	1,360,000
Intangible damages	45 survivors from Plan de Sánchez	900,000
	272 survivors from other communities	5,440,000
Non-repetition guarantees	Community of Plan de Sánchez	25,000
Costs and expenses	CALDH	55,000
TOTAL		8,005,000

In the case of Gudiel Álvarez and others (Military Logbook), the IACHR found the State of Guatemala to be responsible for the forced disappearance and violation of the freedom of association of 26 victims, the detention and torture of Wendy Santizo Méndez, and for the violation of the right to family protection of Reyna de Jesús Escobar Rodríguez, Marlyn Carolina, Juan Carlos, and José Geovany Hernández Escobar.

Again in this case the Court considered that the sentence *per se* entails a type of reparations and ruled that the State should undertake, continue, and complete the necessary investigations and prosecution, with the aim of establishing the truth behind the crimes, and should also determine and sanction the perpetrators of the forced disappearances. The State should conduct, as quickly as possible, a thorough search to determine the whereabouts of the 24 victims who are still disappeared. The State should provide psychological or psychiatric treatment to the victims who request it, and if necessary, should pay for the psychological or psychiatric treatment of victims who live outside of Guatemala. The State should publish selected sections of the sentence within six months of notification. Similarly, it should create an audio-visual documentary about the victims and the crimes in the case, the context in which the crimes occurred, and the families' pursuit of justice. The State should build a park or plaza to honour the memory of the victims in this case, to serve as a space where the families can remember their loved ones. The Court stipulated the following compensation amounts:

CONCEPT	BENEFICIARIES	AMOUNT (US\$)
Income no longer earned	26 victims' families	2,841,175
Consequential damage	26 victims' families	520,000
Intangible damage	Wendy Santizo Méndez and Igor Santizo Méndez	20,000
Impact of extra-judicial execution and lack of investigation into the crimes	Rudy Gustavo Figueroa Muñoz and family members	60,000
Costs and expenses	Myrna Mack Foundation	70,000
	International Human Rights Law Clinic at the University of California-Berkeley	10,000

TOTAL	3,521,175
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The State has however not fully complied with the IACHR sentences. In this regard, on November 24, 2015, the Court issued a resolution¹¹¹ on supervising compliance with the reparations measures in the 12 cases mentioned.¹¹² The resolution notes that the State has not provided all of the requested information and that some officials question the IACHR's jurisdiction in a number of the cases. This attitude entails a clear contempt of court on behalf of the State and generates frustration among victims, as the following testimonies illustrate:

"We have cases that have spent 28 years in the [Inter-American] system and we haven't managed to see them advance... The State is put on trial there, and the State is required to pay... but the State doesn't comply, and the perpetrators of the crime are still untroubled."¹¹³

"We value the political, moral, and economic support that the international community has given, because the State was unwilling to give even one cent, I think, but maybe I'm wrong. Thanks to international donations, through their investment in accompanying the process for truth and peace, this work was possible. Because the Guatemalan State, well, never allowed any space at all...in other words it wasn't [the State] that paid for the CEH's operations."¹¹⁴

Victims have accessed the Inter-American system with the hope of attaining justice and ensuring that the State assume responsibility for the crimes, but the State apparently does not consider it important and does not comply with its international commitments. Although important convictions have been achieved internationally, victims do not feel fully acknowledged or satisfied due to the Guatemalan State's lack of responsibility.

3.5 Desires for Justice

In spite of the obstacles, many victims and survivors maintain their desire for justice and hope that the perpetrators of the crimes will "someday" pay for their acts. It is important to them that the perpetrators of past atrocities be tried in Guatemalan courts to establish a precedent and prevent such crimes from recurring. This was expressed by several interviewees:

"We want justice for that man [Ríos Montt]. He says on TV that he didn't do anything, but he did a lot of damage. Many families died because of him. If he hadn't ordered the soldiers and the military commissioners, nothing would have happened. That is why we

¹¹¹This can be viewed at: http://www.corteidh.or.cr/docs/supervisiones/12_casos_24_11_15.pdf

¹¹²Blake, White Van, Street Children, Bámaca Velásquez, Mack Chang, Maritza Urrutia, Plan de Sánchez Massacre, Molina Theissen, Carpio Nicolle and others, Tiu Tojín, Dos Erres Massacre, and Chitay Nech.

¹¹³Interview 44, Guatemala City.

¹¹⁴Interview 45, Guatemala City.



are in the AJR... I cannot hide the things that have happened to me, I have to testify. Why can't I say what has happened to me?"¹¹⁵

"We want criminal justice to establish a precedent so that these crimes never happen again. It's not possible for people to be responsible and not be put on trial. Tomorrow someone else might come and do the same thing and not go to trial. That's why they put kindred people in key posts, to guarantee that they won't stand trial.... Internationals can put pressure on, and that is one way out, but the pursuit of justice within the country should not be forgotten. The State should ask for forgiveness, but where are the military officers asking for forgiveness? The President asked for forgiveness, but the army as an institution keeps denying what happened. As long as the army doesn't acknowledge what it did, it's impossible to move forward."¹¹⁶

"For me, justice entails assuming responsibility for the crimes. That's why the murderers are asked to pay for their crimes. That is just, because to the extent that there is impunity, the crimes will be repeated."¹¹⁷

"At some point it's necessary to do justice in a Westernized way, by bringing them to trial so that there can be concrete evidence of what happened in Guatemala, even though the damages caused happened over thirty years ago."¹¹⁸

"What we'd hope for is that the perpetrators be punished according to law. Not like the way it is now, that in spite of the barbarities that they committed, they are free and unpunished, while people's pain is ongoing. May the law truly be enforced..."¹¹⁹

"If there is a perpetrator identified by the courts there..., I think that they should be tried by law, and if it is proven in the trial that they were guilty, then what the law stipulates should be applied."¹²⁰

"We want to see justice. These people [the accused] are really content, happy, they eat well, they are comfortable; and we, poor as we are, are not worth anything."¹²¹

However, for many victims, justice is not limited to penalising the perpetrators but also includes finding their loved ones, repairing the damages, and ensuring that the next generation know about the crimes.

¹¹⁵Interview 31, San Martín Jilotepeque.

¹¹⁶Interview 43, Guatemala City.

¹¹⁷Interview 13, Ixcán.

¹¹⁸Interview 21, San Cristóbal Verapaz.

¹¹⁹Interview 23, San Cristóbal Verapaz.

¹²⁰Interview 29, San Martín Jilotepeque.

¹²¹Interview 30, San Martín Jilotepeque.

“What I want is to know who was guilty for all of this. I’d make do with at least that much. Maybe it won’t fully calm me because no price can be put on the damage that they did to us. They should tell the truth of where they left him so that we can give him a dignified burial. And if there really are laws and justice, may that justice be seen.”¹²²

“We perceive an act of justice in repairing the damage, an act of justice in ensuring non-repetition, an act of justice in honouring the memory of the dead and the memory of the survivors. To honour as well all the work that has to do with truth, justice, and the non-repetition of these crimes. It is unfortunate to see the effect that violence has now: it’s like three times worse than during the war. So now we don’t have a declaration of war, but everyone lives with fear and anxiety, lives in terror of the violence that exists. Speaking for us, well, justice is a broad topic, politically, socially, morally, and in terms of dignity...”¹²³

“Justice means that those who did this pay through jail time for what they did... Jesus Christ also states we should work for justice, so it is worthwhile to work for justice so that all the crimes don’t go unpunished, because we see that it’s all impunity; there is no justice... Imagine, we have struggled now to recover the farmland that we still had here. It was given away because there was pressure to do so, and we’ve brought it up to the government, but the government says that it can’t do anything. We want a piece of land to live...”¹²⁴

Many victims believe that the perpetrators will sooner or later pay for the damages in some way while they are alive, be it through illness, personal problems, or their family members suffering the consequences of the damages caused:

“Justice as Westerners think of it is not justice as we indigenous people think of it. For example, we indigenous people have a different concept of justice; it isn’t giving everyone what they deserve as we conceptualize it coldly. Rather, we see it differently... We see it as the result of someone’s previous actions, and this is the idea of justice for us, that one pays for their previous actions during their lifetime and it’s not necessary to go to prison to pay for the damages that were caused... The wrong that you do comes back to you; you reap what you sow.”¹²⁵

“That is why some people don’t ask for anything. It’s not because they’ve forgotten what happened, but rather they are waiting for the punishment to come back around. It’s like when they say that God knows what God does and everything is paid for in this lifetime...”¹²⁶

These comments demonstrate that victims’ desire for justice goes beyond criminal punishment. For them, it is also important that the disappeared be found, that the damages be repaired, that society is aware of

¹²² Interview 22, San Cristóbal Verapaz.

¹²³ Interview 45, Guatemala City.

¹²⁴ Interview 36, Santa Lucía Cotzumalguapa.

¹²⁵ Interview 21, San Cristóbal Verapaz.

¹²⁶ Interview 2, Ixcán.



the crimes that happened, and especially that the crimes are not repeated. In this sense, for the victims, TJ is not limited to the criminal sphere; victims tend to support an integrated concept that entails an official acknowledgement of the crimes, respect for the victims' and their families' dignity, and the rights of indigenous peoples.

4. Victims' Participation in the National Reparations Program

The PNR was created by the Guatemalan government in 2003 with the aim of “offering individual and collective reparations to civilian victims of human rights violations and of crimes against humanity committed during the internal armed conflict.”¹²⁷ The PNR was created after a long struggle by victims' and human rights organisations that joined together in the Multi-institutional Entity for Peace and Harmony in order to follow-through on the recommendations of the CEH. The CEH recommended that the State promote a reparations policy for victims and their families in order to honour them, guarantee non-repetition, and ensure respect for national and international human rights standards.¹²⁸ Likewise, the Peace Accords entailed specific commitments for reparations for war victims and survivors.

Since its inception, the PNR has functioned as a governmental programme dependent on the Peace Secretariat, even though victims' organisations insisted on the need to create a comprehensive reparations law that would guarantee the PNR's institutional stability.¹²⁹ The victims' organisations' concern stems from the fact that each government has the liberty to modify the programme at its own discretion; in fact, the governmental accord which created the PNR has been modified three times: in 2004, 2005, and 2013.¹³⁰ President Pérez Molina carried out the most recent modification in 2013, when he extended the PNR's mandate to ten additional years (2013-2023); but various modifications were also made to the original accord. For example, the concept of “civilian victims” was changed to “victims of human rights violations,” which opens up the possibility for former civil defense patrollers to also apply for reparations.¹³¹

The PNR is coordinated by the National Reparations Commission (CNR), comprised of five government representatives and presided by a President-appointed official, appointed by the President of the Republic.¹³² Victims' organisations initially participated in the CNR, but in 2005 President Óscar Berger expelled victims from programme management due to apparent disagreement. Since then, the CNR has been comprised solely of public officials. Accord 539-2013 allows for victims to participate in the PNR through the Victims' Organizations' Consultative Council, which should be convened by the CNR four times a year to inform victims about the PNR's work; however, this council has never been formed.

The reparations policy is conveyed in a document known as “The Blue Book” which was agreed upon by the government and victims' organisations in 2005. The policy contains principles, criteria, measures, and the human rights violations that should be compensated for, such as forced disappearance, extra-judicial

¹²⁷Governmental Accord 258-2003.

¹²⁸Historical Clarification Commission. *Guatemala, Memoria del Silencio (Guatemala: Memory of Silence)*. (1999). Volume V. Conclusions and Recommendations. p. 62.

¹²⁹Since 2006, victims' organizations presented bill 3551 on the National Reparations Program to Congress, but to date it has not been passed.

¹³⁰Governmental Accord 188-2004, Accord 619-2005, and Accord 539-2013; the last stipulates that the PNR will finalize in 2023.

¹³¹Impunity Watch 2013. Policy Brief: *Derecho a la reparación en Guatemala: por la senda de la negación (The Right to Reparations in Guatemala: On Track to Denial)*. Guatemala: Impunity Watch.

¹³²The National Reparations Commission is comprised of: a) a delegate appointed by the President of the Republic who presides the Commission; b) the Public Finance Minister; c) the Planning and Programming Secretariat of the Presidency (SEGEPLAN); d) the Peace Secretariat of the Presidency (SEPAZ); and e) the President of the Presidential Coordinating Commission on Executive Human Rights Policy (COPREDEH).



execution, torture, forced displacement, forced recruitment of minors, sexual violence, violence against children, and massacres. However, the reparations policy does not include the crime of genocide even though it is an internationally salient crime documented in the CEH report. The reparations policy includes four reparations measures:

- a. Material reparations measures geared at re-establishing or compensating for people's material losses during the violence, including land restitution, housing, and investment in productive projects.
- b. Economic compensation measures that essentially consist of granting a financial sum to victims or their families and by which the State acknowledges the moral, physical, and material damages caused.
- c. Psycho-social reparations measures and rehabilitation geared towards victims who suffer psycho-social or physical ailments as a result of the internal armed conflict. This includes the rehabilitation of people with disabilities; cultural recovery; education; and assistance to women victims of sexual violence, disappeared children, and the elderly.
- d. Measures for honouring victims, including commemorating National Victims' Day, disseminating the CEH and REMHI reports, creating museums and monuments, as well as supporting the exhumation and reburial of victims of the internal armed conflict.

In 2010, cultural reparations measures were added with the aim of recovering culture in indigenous communities affected by the war. This type of measure includes recovering communities' history and customs based on elders' experience, saving native languages, and fostering multiculturalism and interculturalism through other activities.¹³³ However, the PNR rarely implements these types of measures or takes into account indigenous communities' cultural diversity.

In general, the reparations policy does not encompass a gender approach that would include specific measures and procedures for women and girls who suffered human rights violations during the armed conflict.¹³⁴ On the contrary, the PNR has often even denied reparations for women who request it for cases of sexual violence, arguing that it is difficult to prove that type of crime or that "the women are lying"; this entails a violation of their human rights.¹³⁵

Until 2015 the PNR had 15 regional offices located in the major areas affected by the internal armed conflict: Ixcán, Barillas, Chimaltenango, Nentón, Chiquimula, Huehuetenango, Cobán, Mazatenango, Nebaj, Petén, Quiché, Rabinal, San Marcos, Sololá, and Guatemala City. Each site was staffed by an average of five people, who had few resources and little decision-making capacity for granting

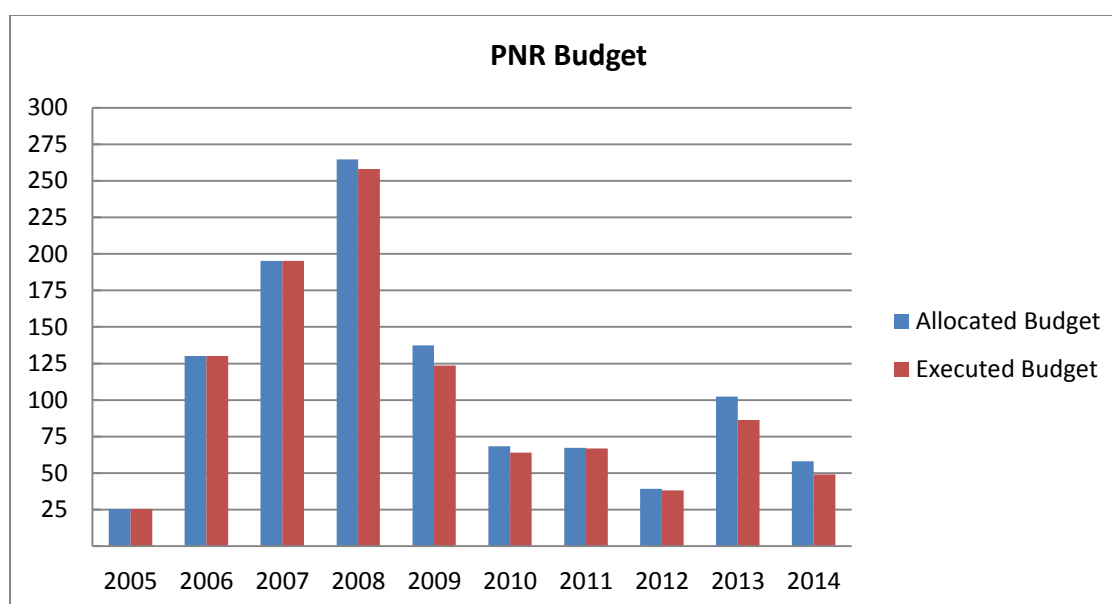
¹³³ National Reparations Program. (2010) *Política Nacional de Resarcimiento (National Reparations Policy)*. Guatemala: PNR. pp. 31-32.

¹³⁴ Impunity Watch (2014) *Policy brief: reparación con perspectiva de género, una apuesta para contribuir al cambio de las estructuras de desigualdad y discriminación en Guatemala (Policy Brief: A Gender Perspective on Reparations - a commitment to contribute to changing structures of inequality and discrimination in Guatemala)*. IW: Guatemala.

¹³⁵ Impunity Watch (2012) *Creando un espacio para las voces de todas las víctimas: Hacia procesos de verdad, justicia, reparación y no repetición con sensibilidad de género en Guatemala (Giving a voice to victims: Towards gender-sensitive processes of truth, justice, reparations, and non-repetition in Guatemala)*. IW: Guatemala.

reparations, since decisions were made at the central headquarters in Guatemala City. Overall approximately 250 people worked in the PNR, the majority at the central headquarters.¹³⁶

According to the Reparations Policy (“The Blue Book”), in terms of the budget, the PNR should receive 300 million quetzales annually, but over time this amount decreased by over half. For example, in 2014 the PNR received a budgetary allowance of 100 million quetzales, but lost over 48 million quetzales to budget cuts. PNR funds are often transferred to other public institutions due to the programme’s low level of budget implementation.¹³⁷ That year, the PNR used approximately 49 million quetzales, of which 22 million were spent on operating costs and 28 million on reparations measures for victims, a distribution that contradicts reparations policy principles and Government Accord 139-2013 which clearly stipulates that the PNR should only use 10% of its budget on operating costs and 90% on reparations measures. The following graph shows the allocated and executed budgetary amounts for the PNR over the last ten years.



Source: Original chart based on PNR 2015 data

The left column shows the amount, in millions of quetzales, that the PNR has received per year. For example, in 2005 it received 25 million; in 2008, 258 million; in 2012, 38 million; and in 2014, 58 million quetzales. In 2016, the PNR will receive only 25 million, which amounts to only 8% of the 300 million it should receive. The National Congress granted only that amount, stating that tax revenue has decreased in the country, that other public institutions and social programmes have few resources, and that the PNR has demonstrated little capacity for financial execution. This could mean that the Program’s regional offices will close and that few reparations measures will be granted to victims due to lack of funds. Victims’ and human rights organisations have denounced this situation, demanding an increase in the Program’s budget and a change in PNR leadership to improve the Program’s budgetary implementation.

¹³⁶ Human Rights Procurator’s Office/PDH (2015). *Informe de supervisión del Programa Nacional de Resarcimiento (National Reparations Program Supervision Report)*. Guatemala: PDH.

¹³⁷ Red de organizaciones sociales y de víctimas (Network of social and victims’ organizations). (2015) *Informe. Auditoría social a la política de reparación del Estado de Guatemala (Report: Social monitoring of the Guatemalan State’s reparations policy)*. Guatemala: Centro de Análisis Forense y Ciencias Aplicadas (Center for Forensic Analysis and Applied Sciences). p. 33.



4.1. Victims' Participation in Reparations Policy

As previously indicated, victims do not participate in determining the PNR's programmes or decisions. Accord 539-2013 calls for victims' involvement in the PNR through the Consultative Council of Victims' Organizations, but this entity has never been formed. The Council should be comprised of five representatives of victims' organisations who can participate, but not vote, at meetings of the CNR. The CNR is supposed to convene the Consultative Council of Victims' Organizations four times a year to inform it of the PNR's plans, activities, results, and budget; but to date the CNR has not shown the political will to create or convene the Victims' Consultative Council.¹³⁸

Victims generally do not trust the CNR or its president; they feel that Program officials only respond to the interests of the current administration and not victims' real needs. Victims' organisations believe that the PNR leadership does not take their requests or proposals seriously and rarely fulfils their promises. Moreover, they consider the Consultative Council to be a purely symbolic entity, and they are calling for true participation in PNR decisions.

Meanwhile, the PNR views victims as mere beneficiaries or recipients of reparations programmes, rather than as subjects of reparations as envisioned by international reparations standards. The United Nations document *Set of principles for the protection and promotion of human rights through action to combat impunity* (2005) indicates that "Victims and other sectors of civil society should play a meaningful role in the design and implementation of such programmes. Concerted efforts should be made to ensure that women and minority groups participate in public consultations aimed at developing, implementing, and assessing reparations programmes."¹³⁹ However, this has not been fulfilled in Guatemala.

4.2 PNR Results

According to official data, between 2005 and 2014, the PNR has offered reparations to 32,520 victims of the internal armed conflict: 20,444 (63%) women and 12,076 (37%) men.¹⁴⁰ This number is low compared to the number of victims reported by the CEH report: over 200,000 people dead, 45,000 disappeared, and over a million internally displaced by the war who lost and have not regained their land, houses, and goods. However, as previously indicated, the number of victims is not certain, since the PNR has not created a national victims' registry, despite victims' organisations requesting it for years.¹⁴¹

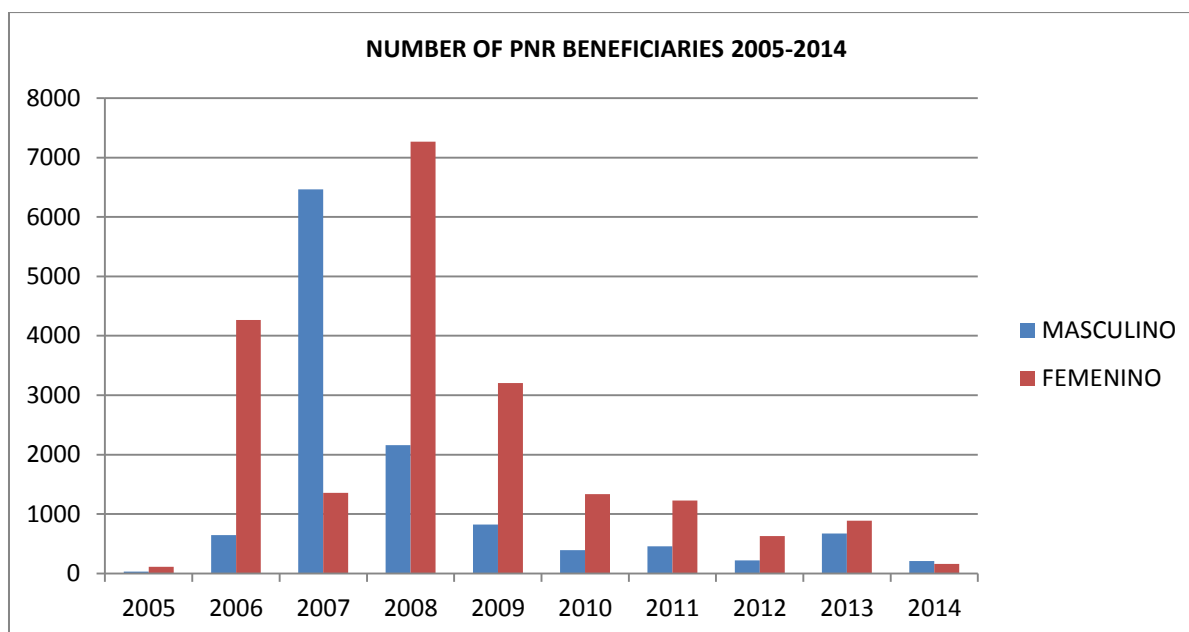
The data reveals that during the PNR's early years (2003-2005) practically no reparations were granted; rather, the reparations policy was defined, the technical team was formed, and the necessary infrastructure was created to open regional offices. The first reparations measures were granted during President Oscar Berger's administration (2004-2008); they increased considerably during President Álvaro Colom's administration (2008-2012) and decreased during Otto Pérez Molina's administration (2012-2015), as the following graph demonstrates:

¹³⁸ Governmental Accord 539-2013.

¹³⁹ United Nations (2005). *Conjunto de principios para la protección y promoción de los derechos humanos mediante la lucha contra la impunidad* (Set of principles for the protection and promotion of human rights through action to combat impunity). Principle 32, reparations procedures.

¹⁴⁰ National Reparations Program. (s. f.) *Cantidad de beneficiarios por tipo de violación del 2005-2014* (Number of beneficiaries by type of violation, 2005-2014). Guatemala: Programa Nacional de Resarcimiento.

¹⁴¹ The UNDP's Transitional Justice Program (PAJUST) has offered technical assistance to the PNR to create a national registry of victims; moreover, the Red Cross has mounted a database based on information provided by victims' and human rights organizations. However, the government has shown little interest in creating such a registry.



SOURCE: Original chart based on PNR annual reports

The graph shows that barely 1% of the reported total received reparations in 2005; 68% received reparations between 2006 and 2008; and 31% between 2009 and 2014. However, in 2014 the percentage again dropped to 1%. This reflects the lack of initiative taken by the President Pérez Molina administration (2012-2015) to provide reparations to victims of the internal armed conflict. It is important to recall that Pérez Molina is a former military official who participated in the war and has been cited for involvement in the massacres against the Ixil indigenous population in the 1980s.

To date, the PNR has primarily offered victims individual economic compensation or material reparations measures. This has been seriously criticised by victims' and human rights organisations; they feel that the government has used individual compensation as a strategy for political patronage that takes advantage of the poverty faced by most victims.¹⁴² The amount of compensation depends on the type of violation suffered. The following chart displays the compensation amounts offered by the PNR:

COMPENSATION AMOUNTS GRANTED BY THEPNR	
TYPE OF VIOLATION	AMOUNT PER FAMILY
Forced disappearance	Q 24,000.00
Extrajudicial execution	Q 24,000.00
Death related to the internal armed conflict	Q 24,000.00
Torture	Q 20,000.00
Sexual violence	Q 20,000.00
Attempted extrajudicial execution	Q12,000.00
Severe injury due to being a human shield	Q12,000.00
Severe injury due to indiscriminate attack	Q12,000.00
Severe injury due to mines	Q12,000.00
Severe injury due to being caught in crossfire	Q12,000.00

¹⁴²Impunity Watch (2014). *Monitoreo de la Justicia Transicional en Guatemala: Tomo III Derecho a la Reparación* (Monitoring Transitional Justice in Guatemala: Volume III, Right to Reparations). IW: Guatemala.



Severe injury due to persecution	Q12,000.00
Attempted arbitrary execution	Q12,000.00

Source: PNR Procedures Manual 2011.

Many victims are in favour of receiving compensation because they consider it their legitimate right, but they do not agree with the low amount provided by the PNR. In general, this amount must be distributed among all family members; for example, in a family of six, each person would barely receive Q4,000 (US\$500) for a disappeared or killed family member. Furthermore, economic payments often cause division within families and communities, because not everyone agrees with receiving money on behalf of their deceased loved ones. Many interviewees showed discomfort with the compensation money:

“Many people criticize us because they say that we are eating off the blood of the dead, but why shouldn’t we take the money if we need it? Plus, the army was the one that killed my father.”¹⁴³

“Reparations have really divided families. Many people fight over the money, and after receiving the money, many siblings don’t even talk to each other.”¹⁴⁴

“My siblings and I joined together to receive reparations, but one of my siblings was not in agreement. He said that no price could be put on my father’s life, and he didn’t want to take the cash.”¹⁴⁵

Victims repeatedly state that monetary compensation does not heal the damage committed against their loved ones; it does not even symbolically fill the void of not knowing the whereabouts of their disappeared relatives. It is more important to them to find their loved ones’ remains, understand what happened, and bury them with dignity.

“The best reparation for me would be to find my siblings’ remains. That way my siblings, even if they are no longer alive, would no longer be left the way they are. I want to take them and give them a dignified burial, somewhere where we could at least bring them candles. But if we don’t know where they are, we can’t bring them anything. That’s what it would be for me: even if they are no longer living, to be able to hold their memory.”¹⁴⁶

“They give you reparations just so you’ll forget, so that you go back to normal, the way it was before, but that is not a way to recover the dead.”¹⁴⁷

As indicated earlier, during President Álvaro Colom’s administration (2008-2012), which had social-democrat leanings, the highest number of reparations were granted to victims of the internal armed conflict. In general, compensation was accompanied by a letter of apology on behalf of the State, which at least has some symbolic value for victims. Nevertheless, many human rights activists criticised Álvaro

¹⁴³ Interview 9 Ixcán.

¹⁴⁴ Interview 49 Guatemala City.

¹⁴⁵ Interview 39 Santa Lucía Cotzumalguapa.

¹⁴⁶ Interview 38 Santa Lucía Cotzumalguapa.

¹⁴⁷ Interview 11 Ixcán.

Colom administration's "check delivery" policy, deeming it a form of political cronyism, and they demanded that other measures to honour the memory of victims be implemented in addition to compensation payments. At this time the PNR also began to provide housing to widows and the poorest families; however, many houses were never finished, and there were accusations of embezzlement in the National Fund for Peace (FONAPAZ) that was responsible for housing construction.¹⁴⁸

"The PNR left many houses unfinished, and many people are still waiting for their little houses. Look what happened with FONAPAZ: they just stole the money and didn't finish building the houses."¹⁴⁹

President Colom participated in various symbolic acts to honour the memory of victims; he publicly acknowledged that genocide was committed in Guatemala and he asked for forgiveness on behalf of the State. President Colom declared 2011 to be the *Year for the Institutionalization of Historic Memory*. The Peace Secretariat of the Presidency (SEPAZ) and the PNR organised several ceremonies to acknowledge leaders and intellectuals who died during the war, such as poet Otto René Castillo, activist Rogelia Cruz, and the young Nora Paiz, among others. Moreover, during his administration the so-called Peace Archives were created to safeguard important military documents about the internal armed conflict, and various publications related to the armed conflict and local historical memory were funded.

During President Otto Pérez's administration (2012-2015), which had a pro-military bent, the PNR began to weaken. The Program's budget was cut in half, and few individual payments and houses were granted to victims. President Pérez repeatedly denied the genocide, stopped giving apology letters to victims' families, and essentially did not participate in important acts to honour the memory of victims.¹⁵⁰ His government closed the peace archives and did not comply with the reparations measures ordered by the IACHR.¹⁵¹

The Pérez Molina administration basically promoted two types of reparations measures: productive projects for communities affected by the war and support for reburials. The productive projects essentially consisted of financing small-scale businesses run by victims' cooperatives. Victims needed to form small cooperatives and present project proposals to launch small-scale self-sustaining businesses; the PNR would provide technical support in creating the proposal and would be in charge of funding it. However, though this type of reparation raised great expectations in many communities, Pérez Molina's administration only funded six productive projects. This caused great frustration and irritation in the communities that had presented project proposals to the PNR.

At this time the PNR also supported various reburials of victims of the armed conflict. The Program paid for the vault, the cemetery niche, and the food for those involved in the reburial service; it also offered psychological support to victims' families prior to the service. And yet, it is important to remember that the State of Guatemala has never taken on exhumations related to the internal armed conflict; that work has always been conducted by civil society organisations and funded by the international community.

¹⁴⁸ Prensa Libre, June 11, 2013, *Denuncias en Fonapaz suman Q19 millones (Fonapaz complaints reach 19 million quetzales)*.

¹⁴⁹ Interview 44 Guatemala City.

¹⁵⁰ Human Rights Procurator's Office/PDH (2015). *Informe de supervisión del Programa Nacional de Resarcimiento (National Reparations Program Supervision Report)*. Guatemala: PDH.

¹⁵¹ Cerigua, May 31, 2012: *Cierre de Archivos de la paz genera rechazo (Closure of Peace Archives meets with rejection)*.



“The PNR lacks context and does not provide accompaniment to victims during reburials; it only does one or two hour-long sessions, and that is not enough to support anybody. PNR staff should speak Kakchikel, Quekchi, Pocomchi, and Achí, but they don’t, and that is a limitation. Qualified personnel are needed, and current staff needs to be evaluated.”¹⁵²

The majority of exhumations in Guatemala have been carried out by the Forensic Anthropology Foundation (FAFG) and the Center for Forensic Analysis and Applied Sciences (CAFCA). To date over 8,000 exhumations have been conducted nationwide, and the forensic findings have served as key evidence in judicial investigations. Psycho-social support for victims’ families has generally been provided by organisations such as ODHAG, the Saq b’e Maya Center, GAM, the Utz K’aslemal Group, and ECAP, among others. Victims generally trust civil society organisations more than the State institutions that have often mistreated them.¹⁵³

4.3 Application Requirements for Reparations

To apply for reparations measures, victims’ family members must visit a PNR office and meet three requirements: a) they must present testimony about the violations suffered during the internal armed conflict and identify the victims of the crimes; b) they must present their personal identification document (DPI); and c) they must present birth or death certificates for all of the victims included in the testimony.¹⁵⁴ Many people have difficulties meeting these requirements because they do not have victims’ birth or death certificates. This is because it was dangerous or impossible to obtain such certificates in the context of the war. Moreover, the State’s registry system for citizens and land has historically been deficient, and victims have not necessarily had identification or property deeds. In addition, during the internal armed conflict the registries in many municipalities and public institutions were destroyed, which affected thousands of victims who could not prove that they owned houses or land that they abandoned during the war.

The PNR generally requires that victims compile the necessary documents to apply for reparations, even though many victims are elderly people or indigenous women who live in remote areas and do not speak Spanish. Many feel frustrated by the State bureaucracy and ultimately desist from their right to reparations. PNR procedures are generally slow, and some people need to wait for over four years before receiving reparations. A number of the interviewees expressed this:

“The PNR is a slow-moving and politicized institution, so that people get tired and stop demanding what is owed to them. It is politicized in the sense of wanting to sell election votes. It shouldn’t be that way. This is another type of affront; people’s dignity is not to be played with.”¹⁵⁵

¹⁵² Interview 21 San Cristóbal Verapaz.

¹⁵³ Impunity Watch 2014. *Monitoreo de la justicia de transición en Guatemala: Tomo I Derecho a la verdad para las víctimas del conflicto armado interno (Monitoring Transitional Justice in Guatemala: Volume I, The Right to Truth for Victims of the Internal Armed Conflict)*. Guatemala: Impunity Watch.

¹⁵⁴ Manual de Criterios Básicos para la Aplicación de Medidas de Resarcimiento Otorgadas por el Programa Nacional de Resarcimiento (Manual of Basic Criteria in Applying Reparations Measures Provided by the National Reparations Program).

¹⁵⁵ Interview 13 Ixcán.

“Help should be given in Pocomchí because the people can’t read or write and don’t understand Spanish; that’s why women don’t participate.”¹⁵⁶

“There are people there who have been asking for reparations for more than five years. They turned in all their paperwork (to the PNR) and never got a response.”¹⁵⁷

In many communities, people feel insulted by the PNR’s lack of fulfilment. Program officials offer to approve their requests for individual reparations or productive projects, but then do not follow through. Officials say that the delays are because of the heavy volume of requests, or because the documentation is incomplete, or because they do not have enough funds to meet requests. In 2015, over 38,000 PNR files were unresolved.¹⁵⁸

“We want them to help victims, to fulfil the promises that the PNR has made, promises that they make and do not keep. The ones in charge there – well, I don’t know if the ones in charge are here or in Guatemala City – they say that they are going to give and then they don’t give anything. I don’t know why, what problem there is that they don’t give out anything, they trick us. When someone is poor, and can’t speak out, and can’t read, they trick them. That’s what they do. They don’t value people...”¹⁵⁹

“The PNR offers things to people and doesn’t come through, and people are always asking me when reparations are going to be given. They’ve been asking for reparations for years. Many people are elderly now and they’re sick and need help. How many people have died without receiving anything?”¹⁶⁰

4.4 Impact of the PNR

As indicated earlier, the PNR has survived thanks to the persistent struggle of victims and the sustained efforts of human rights organisations. In one way, the PNR has contributed towards empowering the rights of victims and towards keeping historical memory alive in communities affected by the war. As a result of the PNR’s creation, many victims approached human rights organisations in search of information and for support in applying for reparations; many also began to join victims’ groups or form new local committees. Many victims built up the confidence to speak out. They also organised victim groups to reclaim their rights from the State:

“We need to organize more... because there are hundreds or thousands of victims across the country, but each one pulls on their own... We have to make the effort and keep organizing.”¹⁶¹

¹⁵⁶ Interview 20 San Cristóbal Verapaz.

¹⁵⁷ Interview 23 San Cristóbal Verapaz.

¹⁵⁸ Information provided by the PNR to Impunity Watch, December 14, 2015.

¹⁵⁹ Interview 31 San Martín Jilotepeque.

¹⁶⁰ Interview 11 Ixcán.

¹⁶¹ Interview 8 Ixcán.



“The government tricks people and divides communities. They offer projects to divide people and then they don’t come through. If we were better organized, this wouldn’t happen, but as long as we are divided it will be difficult.”¹⁶²

It is important to remember that for a long time victims were afraid of making their experiences public, out of fear of retaliation by the military or the civil patrols, or out of fear of being socially stigmatised as “guerrillas” and “communists”, as well as being blamed for crimes. As noted in Chapter 1, the social stigmatisation against the victims of the internal armed conflict in Guatemala is strong.

It is also worth noting that women have increasingly taken on a higher profile in victims’ organisations and committees over time. Although the women survivors of the internal armed conflict - victims’ mothers, wives, sisters, and daughters - have always struggled to find their loved ones and denounce human rights violations, in recent years many of them can be seen reclaiming reparations and defending women’s rights.

“We want there to be help for other women to speak out. We want violence against women to stop. What women say must be valued and respected. We want women to be able to participate more.”¹⁶³

“That’s how we moved forward with women, united to achieve something good for all. I will never forget my suffering... but we should struggle together to achieve something for our grandchildren. Maybe we ourselves won’t see it, but the change will be for the grandchildren.”¹⁶⁴

National coalitions of victims’ organisations have also formed to monitor and pressure the PNR, such as the National Victims’ Movement, the National Victims’ Network, and the National Victims’ Council, which are comprised primarily of indigenous victims’ committees in rural areas. These groups provide information to people about the PNR, help them prepare their requests, monitor the request process, and also place political pressure on PNR officials to fulfil their duties. These coalitions have presented several complaints to the Human Rights Procurator’s Office (PDH) for violations of the right to reparations; they have developed monitoring reports on the PNR’s limited results; and they have met numerous times with the PNR leadership, congressional representatives, and officials from the executive branch to demand improved results from the Program.

The PDH has also periodically supervised the PNR’s performance and results. The Human Rights Procurator has issued various resolutions that conclude that there have been human rights violations during the time of the internal armed conflict, as well as supervision reports that demonstrate that reparations policies are not comprehensive and that the PNR has granted precedence to monetary and material reparations measures, disregarding the promotion of victims’ dignity, psycho-social reparations, and cultural restitution.¹⁶⁵

¹⁶² Interview 9 Ixcán.

¹⁶³ Interview 9, Ixcán.

¹⁶⁴ Interview 10 Ixcán.

¹⁶⁵ Human Rights Procurator’s Office/PDH (2015). *Informe de supervisión del Programa Nacional de Resarcimiento (National Reparations Program Supervision Report)*. Guatemala: PDH

Even though the PNR created great expectations in many communities, it also caused much disappointment and frustration. Thousands of victims and survivors feel deeply disappointed because the PNR demands from them many requirements, is slow, and ultimately does not respond to their reparations requests. Meanwhile, the granting of reparations to individuals has caused division in many families and communities because the amounts are so low and the PNR does not provide adequate guidance around the meaning of the compensation and reparations measures.

“The government has to pay for all that was lost... but up until now they don’t want to give [compensation] to families but only to the community.”¹⁶⁶

The State, meanwhile, is not fulfilling all of the reparations measures ordered by the IACHR. As explained in the previous chapter, the IACHR has issued 12 sentences against the State of Guatemala for severe human rights violations committed during the internal armed conflict, as well as for denial of justice in the Guatemalan courts. These sentences demand economic compensation and moral reparations measures for victims. However, the State has not complied with all of the reparations measures, and victims have been forced to denounce the State of Guatemala for contempt of court with regards to the IACHR resolutions.

In general, most of Guatemalan society is not familiar with the PNR or with what happened during the internal armed conflict. This is largely because the Guatemalan State has not promoted a consistent policy of disseminating historical truth or of including the contents of the CEH report in school curriculum. Currently, 70% of the Guatemalan population is under 30 years old, and the worst atrocities of the war occurred between 1978 and 1982. Moreover, many people are misinformed because radical far-right groups and former military officials constantly deny the crimes and promote misinformation campaigns to confuse public opinion.

Finally, it is important to mention that victims’ and human rights organisations are deeply concerned that victims are growing older and many are ill; many are dying in extreme poverty without receiving any type of recognition or reparations. For war victims and survivors, it is crucial that the State not only repair the damage but also acknowledge the crimes and ask for forgiveness for past atrocities, as one of the interviewees’ notes:

“Reparations means recognizing that damage was done and desiring to restore it, though actually they are not going to restore it, but it means acknowledging the damage. It means acknowledging that the State failed and that it is going to repair the damage that it did.”¹⁶⁷

The future of the PNR is uncertain because, as mentioned earlier, in 2016 the national Congress only allocated 25 million quetzales to the Program, which amounts to barely 8% of the 300 million quetzales that it is supposed to receive annually. This budget cut would entail the imminent closing of the Program’s regional offices and a drastic reduction in reparations measures for victims of the internal armed conflict. Victims’ organisations have publicly decried this situation and have asked the President Jimmy Morales’s new administration (2016-2020) to rescue and redirect the PNR in order to allow for greater participation by victims in Program decisions and reparations implementation.

¹⁶⁶ Interview 12 Ixcán.

¹⁶⁷ Interview 29 San Martín Jilotepeque.



5. Conclusions

The pursuit of TJ has not been easy for the victims of the internal armed conflict; they have confronted major obstacles to accessing official TJ mechanisms. Victims have constantly faced hostility from public officials, former military groups, and the country's economic elite — some of whom are among those responsible for the crimes of the past and continue to maintain power and influence in the State. These groups systematically oppose acknowledging the atrocities that were committed during the internal war and attempt to impose a policy of impunity and forgetting. Nevertheless, organisations continue to fight to ensure enforcement of truth, justice, reparations, and a true transformation of the State.

Over the last twenty years, important progress has been made towards TJ, such as: the creation of the CEH and the PNR; the designation of 25 February as National Victims' Day; the ratification of the Rome Statute; the 15 trials for crimes that happened during the internal armed conflict; over 8,000 exhumations of disappeared people; and the recovery of the National Police's Historical Archive, among other symbolic types of reparations. However, these measures to honour victims have had a limited reach and have had minimal social impact compared to the magnitude and severity of the crimes committed during the conflict.

In general, official TJ policies have been designed and implemented separately and have lacked an integrated approach that would incorporate victims' perspectives, especially those of indigenous people and women. Public institutions in charge of TJ operate in independent, compartmentalised ways, have limited financial resources, and do not have personnel trained in serving victims. These public entities implement policies only partially and with little interest, which reflects the State's inability to acknowledge victims.

Moreover, the State continues to fail to respond to many of the demands made by victims' organisations, such as: passing a reparations law and a law to seek disappeared people; creating a national victims' registry; declassifying army archives; publicising the CEH report and incorporating it into school teaching; implementing an official exhumations policy; demilitarisation; a purging of the army; and an exhaustive reform of the State.

Victims of the Armed Conflict Continue to be Marginalised

For indigenous people, especially women, it is nearly impossible to access TJ mechanisms when they live in remote areas, do not speak Spanish, and do not fully trust the State because the State brutally attacked them in the past. Moreover, the State currently continues to fail to assist them. Ladina/o victims, though they have greater ease in receiving information and accessing TJ mechanisms - because they live in urban areas and speak Spanish, - also have to deal with the slow pace of State bureaucracy and lack of initiative taken by public officials who refuse to assist them.

Victims have achieved some progress in TJ matters thanks to their ability to organise themselves and to support from human rights organisations and the international community. The organising capacity of victims has been key in expressing their demands to the State and in empowering them with their rights. Many people have even transformed from being passive victims to actively positioning themselves as "survivors of violence" as they vindicate their rights and those of their loved ones. Although indigenous and ladina/o victims' organisations are similar, seldom do they interact or coordinate activities due to cultural differences and because they live far away from one another.

However, most victims still do not participate in any group or present their complaints to the State. Thousands of victims continue to be anonymous, and have not spoken about what happened to them because they are afraid, are unfamiliar with TJ mechanisms, and do not trust the State. Many people prefer to forget what happened because of the emotional damage caused by the war and out of fear of rejection and social stigmatisation. Powerful groups in Guatemala continue to categorise victims as guerrillas, communists, or even terrorists, in order to discredit their demands.

Victims' Limited Participation in TJ Mechanisms

This study found that relatively few victims have participated in the three official mechanisms for TJ: the CEH, the trials, and the PNR. Only 7,338 victims presented their testimony to the CEH, only eleven groups of victims and four families have managed to participate in national-level trials, and 32,520 people have received reparations from the PNR. These numbers fall short considering the estimates of over 200,000 people dead, over 45,000 disappeared, and thousands of internally displaced people and refugees.

The data demonstrates that above all the most used mechanism is the PNR. This is due in part to the fact that the programme has operated for over twelve years, is present in the areas most affected by the war, and provides economic and material compensation to victims. Many victims approach the PNR because they are poor and need the financial support it offers, although it does not alleviate the pain of losing a loved one, because as they say, "life has no price." Furthermore, few victims participated in the CEH because it only operated for nine months in the rural areas, and many people did not know about the Commission's work. In the 1990s, many people remained very afraid to speak out about what had happened to them. The least used mechanism is still the justice system, due to the fact that the system is slow, bureaucratic, and difficult for indigenous victims to access.

In general, victim's participation has been limited to providing testimony, whether in contributing to the CEH report, testifying in a criminal case, or receiving reparations from the PNR. Victims have not been considered for implementing the CEH report's recommendations, for actively participating in the criminal justice process, or for making decisions in the PNR. Victims occupy a secondary place in all three of these TJ mechanisms, since they are implemented with a top-down structure and are managed by public officials who do not consult with victims or take indigenous peoples' cultures or a gender-based approach into account, even though the majority of victims are indigenous and women.

The spirit of TJ policies is to ensure victims' involvement in contributing to an understanding of the truth, accountability for those responsible, reparations for damages, and reconciliation, but to what extent has this been achieved in Guatemala?

Participation in Understanding the Truth

Victims' participation in the CEH was key in grasping the severity and magnitude of the war in Guatemala. Victims participated in the CEH in three ways: as witnesses, key informants, and proponents of recommendations; the CEH report clearly reflects victims' voices. The CEH also proposed that victims occupy a central role in applying its recommendations and the truth and reparations policies; this has not been fulfilled. Since the CEH report was presented in 1999, the State has made little effort to make the report familiar with victims and society, nor has it complied with the CEH recommendations. This study has shown that even after 16 years from when it was published, very few victims are familiar with the CEH report and its recommendations.



Victims' and human rights organisations that have had access to the CEH report have used it strategically to demonstrate the truth of the atrocities that they experienced during the war, and to demand that the State comply with its recommendations. Organisations have used the CEH report to identify clandestine cemeteries and conduct exhumations, to search for missing people, to provide documentary evidence in criminal investigations and trials involving the internal armed conflict, to request reparations, and to demand non-repetition guarantees. Moreover, victims in many areas continue to contribute to recovering, disseminating, and preserving communities' historical memory through books, murals, monuments, community museums, workshops, and other means.

Victims' Participation in Justice

Few victims have had access to the justice system, even though the Criminal Procedural Code allows for victims' participation in the process as complainants, witnesses, co-plaintiffs, and subjects of reparations. In practice it is nearly impossible for most victims, the majority of whom are indigenous, to access and participate in criminal proceedings due to the slow pace of institutions' bureaucracy, the remote areas in which most people live, the Western model of justice, and victims' distrust of the State.

Practically the only cases that progress through the justice system are those in which the victims officially join the process - that is, when they become co-plaintiffs to give evidence and constantly monitor the case. However, this represents a major sacrifice for the victims, because they must find a lawyer or a human rights organisation to represent them. In addition, they must invest years of their lives into the process, suffer humiliation and harassment, and appear frequently before the courts. They often suffer re-victimisation by having to constantly evoke their experiences to justice workers, many of whom lack adequate sensitivity to handle these types of cases. The process is more difficult for female victims of sexual violence, who must recount the crimes to justice workers — the majority of whom are ladino men — and the State does not provide them with any type of psycho-social care.

The justice system seems to be more attentive to defendants' rights than to victims' rights. The system allows defendants to use all manner of legal recourse and ruses to delay and obstruct criminal proceedings. Many of the accused seek protection in the National Reconciliation Law to evade justice; this law absolves perpetrators of criminal responsibility for political crimes and those committed during the armed conflict, but it excludes genocide and crimes against humanity. Moreover, the defense lawyers use the system of appeals - including appeals on grounds of unconstitutionality - to delay justice, to the extent that a criminal process can last up to ten years in the justice system.

Victims feel deeply disappointed in the Guatemalan justice system, because it is slow, bureaucratic, and insensitive. Some, therefore, prefer to look to divine justice, contending that God will judge the perpetrators or that they will pay for their guilt through illness, personal problems, or afflictions in their families. The Ixil genocide case provides the clearest example of victims' disappointment in the justice system. The investigation lasted over 12 years; finally, in 2013, former head of State Efraín Ríos Montt was tried and found guilty of genocide and crimes against humanity. However, ten days later, the Constitutional Court annulled the conviction, arguing that Ríos Montt's right to defense was not fully respected, and ordered a retrial. The new trial began in 2015, but Ríos Montt could no longer stand trial because he had developed vascular dementia. Victims feel deeply disappointed with this outcome after pursuing justice for over 15 years.

Victims' Participation in Reparations

The PNR raised the expectations of families and communities affected by the violence, who have longed for the State to repair the damages caused and to honour the victims. However, far from responding to victims' needs, the PNR seems to pay more attention to the political interests of the ruling administration. Reparations policies are not continuous but rather vary depending on each administration. For example, the PNR's governmental accord has been modified four times, the institution's budget is cut every year, and the possibility for victims to participate in PNR decisions has diminished. Practically each government administration has used the PNR for political patronage, granting monetary compensation or productive projects to victims in exchange for votes or political backing. As a result, it leads to almost no measures to honour victims or provide psycho-social and cultural reparations. The PNR appears to conceive of victims solely as beneficiaries of reparations and not as subjects of rights with decision-making abilities.

Victims who have received some form of compensation do not feel fully satisfied because the amounts are low in proportion to the damages and poverty inflicted on families. Victims had also hoped for integrated reparations measures which were at no point received. Moreover, in many areas, the granting of compensation caused tension and divisions in families and communities, because not everyone consents to receiving money or agrees with the way the money is distributed. In these cases, far from contributing to reparations and reconciliation, compensation causes strife among those involved.

In general, TJ policies have had a limited social impact. Most of Guatemalan society, particularly young people, still do not know the truth of what happened during the war. On the contrary, the population receives partial and biased information from former military and conservative groups that use the media to deny the crimes of the past, impose their own version of the incidents, and discredit victims and human rights groups.

Possible Benefits and Risks to Victims' Participation

In approaching or participating in TJ mechanisms, victims hold concrete motivations, for example: to find their disappeared family members, to denounce the violations that they suffered, to make known what happened, to demand justice for victims, to reclaim reparations, to recover their lands, etc. Whilst this process is painful and difficult for victims, it sometimes has positive effects. First, many victims feel relieved after sharing their testimonies, because for so many years they had kept quiet and repressed their pain out of fear and distrust. Many people continue to feel the need to be heard and to share their stories. Victims also feel relieved when they recover the remains of their loved ones and bury them in a dignified manner; this helps bring closure to their personal and family mourning.

Secondly, over time many families have begun to better understand what happened. To the extent that victims relate to other people who lived through similar experiences and participate in TJ mechanisms, they develop a better understanding of the dimensions of the war and the reasons behind it, and they stop feeling guilty or ashamed about the incidents. During the armed conflict, many people did not fully understand why their loved ones were kidnapped or killed, and some even felt guilty for what happened.

Thirdly, participation also favours victims' empowerment. This is clearly observed in the people who participate in victims' groups or associations who have gradually learned to endow their struggle with political significance and have empowered themselves with rights to demand responses from the State. This is the case with organisations comprised of victims who define themselves as "survivors of violence".



Yet at the same time, victims' participation can also have negative consequences; for example, it can cause re-victimisation, despair, frustration, and division among families and communities, as previously mentioned. Moreover, victims are exposed to intimidation by groups of former military members, civil patrollers, and military commissioners - many of whom live in the same communities - who systematically oppose TJ and fear being criminally investigated and prosecuted. In spite of that, the State does not provide any type of protection to victims or witnesses who participate in criminal cases against the military and civil patrollers.

Finally, it is important to highlight the accompaniment and assistance that human rights organisations, some churches, and the international community have provided to victims' organisations. This support has been key in accomplishing exhumations, providing psycho-social support, promoting criminal cases, achieving memorial initiatives, and empowering victims about their rights. However, this accompaniment has decreased over time due to a lack of financial resources and the international community's low level of interest in backing TJ efforts.

Victims' Expectations of Transitional Justice

Victims regard TJ in an integrated way, that is, that provisions for truth, justice, reparations, and non-repetition guarantees be intimately linked and complement one another. Their expectations can generally be summarised into five elements:

- Recognition of the truth. Victims demand that the State, particularly the army, publicly acknowledge the truth of what happened and assume responsibility for the crimes; many people hope that the State will acknowledge that the disappeared and murdered people were innocent and that it will respect the rights of victims and communities affected by the terror of the war.
- Finding the disappeared. Thousands of families, especially women, long to find their loved ones, whether alive or dead; they want to recover their remains to bury them with dignity according to their religion and customs.
- Dignified reparations. For many families it is important to receive financial compensation and material reparations to mitigate the poverty that they continue to endure. Likewise, they hope for reparations provisions to honour victims' memory and recover cultural identity.
- Justice. Many victims hope that those responsible for the crimes, particularly the high-level command of the army and the guerrilla, will face prosecution, and that the crimes will not go unpunished. This would serve to establish a precedent and prevent future State agents or members of any group from committing these types of atrocities.
- Publicising the truth. For victims, it is important that future generations know what happened during the armed conflict and that the CEH report's contents be taught in schools.

Finally, it is important to note that victims are deeply concerned that many of the survivors and witnesses are dying of old age and illness without having found their loved ones or receiving justice or reparations. Victims hope that their children and future generations will know what happened during the war and will continue their parents' struggle to preserve the memory of victims, to defend peace, and to monitor the State to ensure that the atrocities of the past are not repeated.

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Impunity Watch is a Netherlands-based, international non-profit organisation seeking to promote accountability for atrocities in countries emerging from a violent past. IW conducts research into the root causes of impunity that includes the voices of affected communities to produce research-based policy advice on processes intended to enforce their rights to truth, justice, reparations and non-recurrence. IW works closely with civil society organisations to increase their influence on the creation and implementation of related policies. The present Research Report has been produced as part of a multi-year comparative project aimed at supporting and strengthening the participation of victims and affected communities in transitional justice processes. We are grateful to the Oak Foundation and to Hivos for their financial assistance and continued support for our work.

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