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## A double-edged sword -- Guatemalan court sends notorious human rights case to retrial

Today's decision by the Guatemalan Ninth Court of Appeals to send a former Guatemalan military commissioner for re-trial has been described by Amnesty International as a double-edged sword that may be intended to de-rail the case.

"On the one hand, we are pleased that the evidence against this man, for large-scale human rights violations will be re-examined. On the other, we are concerned that the extra costs which those supporting the prosecution will now have to bear to try the case again, and the continuing risks and tension a re-trial will impose on those testifying against him and those assisting or representing them, may be intended to de-rail the prosecution," Amnesty International said.

"Similar manoeuvres in other high profile cases have meant that the convictions for human rights abuses which have been gained in Guatemala can be counted on the fingers of one hand," the organization stressed.

According to the Quiché-speaking villagers of the Tululché estate in El Quiché, military commissioner Cándido Noriega, aided by his family and supporters, was responsible for more than 150 human rights violations in their community in the early 1980s, including 35 counts of murder, 44 kidnappings, 14 rapes and 53 lesser attacks on individuals.

Local sources suggest that Noriega's desire to get his hands on more of the community's land may have motivated many of the abuses. One way he is said to have done this is by accusing the local indigenous villagers of being "subversives," thereby "legitimising" their elimination by himself or his squad of henchman -- organised and sanctioned by the Guatemalan military, as the local "civil patrol".

Terrorised by Noriega for years, victims and relatives only gained the courage to initiate proceedings against him in 1992. He was found innocent of all the alleged abuses in 1997, despite numerous eye-witness testimonies implicating him in specific murders, torture, rape and "disappearance" cases.

His first trial was apparently severely legally flawed: the indigenous witnesses against him complained of inadequate translation arrangements, bias on the part of the court, and repeated intimidation by Noriega, his family and followers; the United Nations Verification Mission in Guatemala (MINUGUA) said the trial had suffered from "serious irregularities": A second trial in April 1999 found Noriega not guilty for a selected sample of the best-documented abuses of which he was originally accused.

An Amnesty International trial observer reported that this second trial again appeared to have seen bias on the part of the court officials, who refused for example to order the exhumation of one of Noriega's alleged victims, so that it could be verified whether he had in fact been mutilated before being killed. Furthermore, court officials appeared to dismiss the testimony of the indigenous witnesses against Noriega on lightly veiled racist grounds. Translation facilities remained inadequate

and there were repeated reports that Noriega, as the long-term strongman in his area, had suborned, pressured and intimidated inexperienced court officials into finding him not guilty.

Shortly after the not guilty verdict in April, an indigenous employee of the Confederation of Guatemalan Religious (CONFREGUA), who had acted as interpreter and guide for Amnesty International researchers and its trial observer, was kidnapped and told to abandon his involvement in the case.

“CONFREGUA has been supporting the villagers in their proceedings against Noriega, and this attack on their employee illustrates once again that those who attempt to support the call for justice in Guatemala still do so at risk of their lives,” Amnesty International said.

Only a handful of human rights cases have even reached the Guatemalan courts and those convicted, none of them high ranking officials, can be counted on the fingers of one hand. Tens of thousands of cases remain unresolved, with their perpetrators still free to strike again.

“It is for this reason that so many hopes had been invested in the outcome of the Tululché trial,” Amnesty International said. “Guatemala can never really cure the wounds of the war years, nor build a true democracy or lasting peace until it deals with the past. We continue to hope that justice will eventually be done for the indigenous villagers of Tululché and for the tens of thousands of others subjected to violations including massacres during the Guatemalan civil conflict.”

### **Background**

During the long-term civil conflict in Guatemala, the so-called “military commissioners” served under army discipline, as civilian agents of the army in every hamlet in Guatemala, turning the entire country into a virtual armed camp. Many were former non-commissioned officers. They acted as local representatives of the army and as intermediaries between the army and the local community. The Commissioners were frequently in charge of organizing the “civil defence patrols” -- civilian adjuncts to the army, formed under military orders and which acted at military behest. The Commissioners also had law enforcement and intelligence functions, serving as the virtual “eyes and ears of the military,” to report any suspected “subversives.”

The military commissioner network was purportedly disbanded after the Final Peace Accord formally ended Guatemala’s long-term civil conflict in December 1996, but cases like that of Cándido Noriega appear to illustrate that such local strongmen either still enjoy the support of local political and legal officials, or have intimidated or suborned the very institutions that should be responsible for ensuring that they answer for their past human rights crimes.

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