

JUSTICE AND IMPUNITY

GUATEMALA'S HISTORICAL
CLARIFICATION COMMISSION
10 YEARS ON

**AMNESTY
INTERNATIONAL**



10 years ago, Guatemala's Historical Clarification Commission delivered its landmark report on human rights violations committed during the 36-year internal armed conflict. Some of the Commission's key recommendations have never been implemented, depriving survivors, victims and their families of justice and reparation.

An estimated 200,000 people were subjected to enforced disappearance or extrajudicially executed during Guatemala's internal armed conflict (1960-1996). A landmark inquiry into the gross human rights violations of the conflict years was carried out by the Historical Clarification Commission (Comisión de Esclarecimiento Histórico, CEH) under the terms of the UN-brokered Peace Accords that ended the conflict.

The CEH report, *Memory of Silence*, was presented on 25 February 1999. It contained crucial findings on the widespread and systematic human rights violations, many of which constitute crimes against humanity, which were committed during the conflict. The report also contained a series of key recommendations designed to deliver justice and reparation and ensure that such atrocities could never occur again. However, 10 years on some of its most important recommendations have still not been implemented and those responsible for the human rights violations it documented have not been brought to justice.

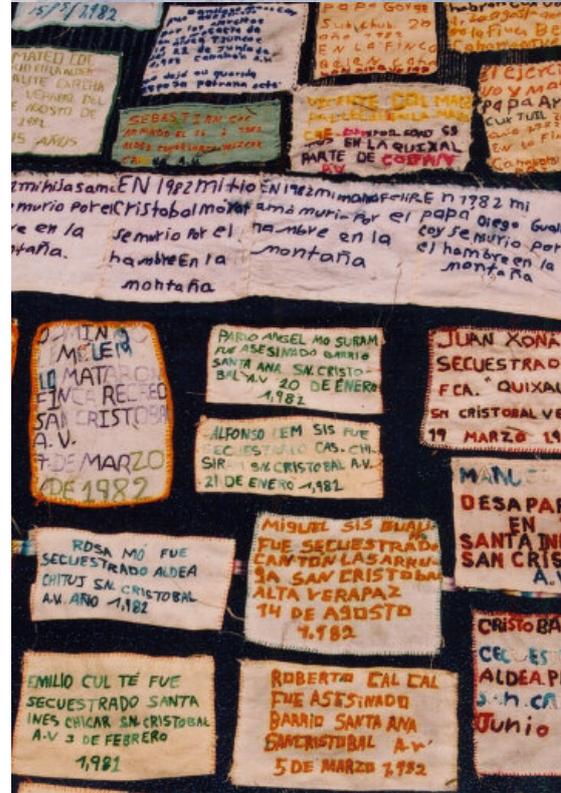
JUSTICE

The CEH found that the Guatemalan military and their allies had been responsible for the vast majority of abuses, including enforced disappearances, extrajudicial executions and torture, committed during the conflict years. The extent and nature of the violations were such that the CEH concluded that the army was guilty of the genocide of Guatemala's Indigenous Peoples in four parts of the country.

In total, the CEH documented 669 massacres, 626 of which were attributable to state security forces. To date, less than five such cases of serious human rights violations have resulted in convictions in a Guatemalan court, and even then only of low-ranking officers. No high-ranking officer or official has ever been brought to justice for their role in ordering, planning or carrying out the widespread and systematic human rights violations over which they presided.

■ On 5 December 1982, Guatemalan security forces entered Dos Erres, La Libertad, Petén Department. When they left three days later, more than 250 men, women and children had been tortured and killed, the women after multiple rapes. The village was then razed to the ground. Since the investigation into the massacre was formally opened in Guatemala in 1994, the defence has put in at least 30 appeals, as well as invoking other judicial procedures on approximately 49 occasions. In effect, the investigation has now been open for almost 15 years without any discernible progress having been made.

■ Five massacres were carried out against members of the community of the Achí village of Río Negro, Rabinal municipality, Baja Verapaz Department, between 1980 and 1982. One, in March 1982, left 177 women and children dead. Local human rights groups believe that between 4,000 and 5,000 people were killed during that period in the wider Rabinal area, and that 444 of the 791 inhabitants of Río Negro were extrajudicially executed. After years of efforts by human





Clockwise from top: Identification of the clothing of 74 massacre victims exhumed from the former military base at Rabinal, Baja Verapaz, July 2008.

Burial of the remains of victims from the community of Río Negro; 74 people were killed in the massacre at Xococ on 13 February 1982.

Survivors of 22 massacres carried out in 1981 and 1982 mark the National Day of Dignity in 2004 with a blanket embroidered with the names of relatives killed in the massacres.

Women of the community of Río Negro, c.1978.

Cover: Relatives hold a Mayan ceremony to communicate with the dead and support the work of exhumations of victims of the internal armed conflict, April 2008.

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rights defenders to move the case forward, three members of the Civil Defence Patrol (Patrulla de Auto-Defensa Civil, PAC), a government-backed paramilitary organization, were convicted in 1998 of three of the killings (later changed on appeal to two of the killings). In 2008, six other former PAC members were convicted of the murder of 26 people. However, none of the military officials who planned, ordered or participated in the massacres have been brought to justice.

■ On 19 October 1981, soldiers and leaders of paramilitary groups entered the village of El Jute, Chiquimula Department. They detained seven men whose names appeared on a list they were holding: Jacobo Crisóstomo Chegüen, Miguel Ángel Chegüen Crisóstomo, Raúl Chegüen, Inocente Gallardo, Antolín Gallardo Rivera, Valentín Gallardo Rivera and Santiago Gallardo Rivera. The seven were never seen again. In 2005, an army colonel and three of the paramilitary group leaders believed to be responsible for their enforced disappearance were detained and charged.

The former colonel appealed on the grounds that he should be granted an amnesty under the provisions of the 1996 National Reconciliation Law.

After several legal battles, in December 2008 the Constitutional Court ordered the Supreme Court to issue a judgment reflecting the fact that the National Reconciliation Law could not be applied for the crime of enforced disappearance. This ruling is a positive step, although to date, no one has been put on trial for the enforced disappearance of the seven men.

Crucial information on these and hundreds of other cases of grave violations of human rights is believed to be contained in military files dating from the years of the conflict. On 25 February 2008, President Álvaro Colom Caballeros announced that the military archives would finally be made public. However, to date the Ministry of Defence has refused to hand over any of the information it holds.

REPARATION

Reparation is a key element of the CEH recommendations. The CEH recommended that the fate of all of those who disappeared during the conflict be investigated, and a National Search Commission for Disappeared Children be established. A bill which would establish a commission to find victims of the estimated 45,000 enforced disappearances was finally presented in 2007, but is still awaiting approval by Congress.

A second key element of reparation envisaged in the CEH report is the exhumation of the remains of those who were killed or disappeared. Previous governments provided some financial support for NGOs carrying

out exhumations. According to local NGOs, to date an estimated 5,350 victims have been recovered by such programmes, enabling their remains to be handed back to their relatives. At present it is unclear whether funding is still available or whether the government is committed to supporting continued exhumations.

On the 10th anniversary of the CEH report, Amnesty International is calling on the Guatemalan authorities to commemorate this National Day for the Victims of the Internal Armed Conflict by making renewed and concerted efforts to end impunity for those responsible for past human rights violations. This is a crucial step in building greater respect for human rights today.

TAKE ACTION NOW

Please write to the Guatemalan authorities.

■ Urge President Colom to ensure that the military files believed to contain crucial information on human rights violations committed during the internal armed conflict are released, in line with the commitment he made on 25 February 2008.

■ Urge President Colom to ensure sufficient resources are allocated to allow the exhumation from clandestine cemeteries of all those men, women and children whose remains have still not been recovered and identified.

Please send appeals to:

President of the Republic of Guatemala
Presidente de la República de Guatemala
Lic. Álvaro Colom, Casa Presidencial
6a. Avenida, 4-18, Zona 1
Ciudad de Guatemala, Guatemala

Fax: +502 2383 8390 / +502 2383 8383
(say "tono de fax por favor")

Salutation: Dear President/Estimado Sr. Presidente

■ Call on the Attorney General to expedite efforts to bring to justice those responsible for crimes such as extrajudicial execution, torture and enforced disappearance during the internal armed conflict, including those who planned and ordered such crimes.

Please send appeals to:

Attorney General
Lic. José Amílcar Velásquez Zárate
Fiscal General de la República y Jefe del Ministerio Público
8a. Avenida 10-67, Zona 1
Antiguo Edificio del Banco de los Trabajadores
Ciudad de Guatemala, Guatemala

Fax: +502 2411 9124 / +502 2411 9326

Salutation: Dear Attorney General/Estimado Sr. Fiscal General

■ Request that the President of Congress take steps to ensure that Bill 3590 presented to Congress on 18 January 2007 to establish a commission to find victims of the internal armed conflict is dealt with efficiently and without further delay.

Please send appeals to:

President of Congress
Lic. José Roberto Alejos Cámbara
Presidente del Congreso de la República de Guatemala
Congreso de la República de Guatemala
9a. Avenida 9-44 Zona 1
Ciudad de Guatemala' Guatemala
Fax: +502 2220 4024
Salutation: Dear President/Estimado Sr. Presidente

**AMNESTY
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Amnesty International is a global movement of 2.2 million people in more than 150 countries and territories who campaign to end grave abuses of human rights.

Our vision is for everyone to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

We are independent of any government, political ideology, economic interest or religion – funded mainly by our membership and public donations.

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