

GUATEMALA ADDRESSING GUATEMALA'S LETHAL LEGACY: APPEALS AGAINST IMPUNITY



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GUATEMALA

ADDRESSING GUATEMALA'S LETHAL LEGACY: APPEALS AGAINST IMPUNITY



The Peace Accords signed in Guatemala in December 1996 formally ended the civil conflict that had raged in the country over more than three decades. During that time, it is estimated that some 200,000 people suffered state-orchestrated “disappearance” or extrajudicial execution, at the hands of the police and military and their civilian adjuncts, the Civil Defence Patrols, *Patrullas de Auto-defensa Civil* (PAC). The violations reflected policies planned at the highest echelons of the state apparatus to eliminate possible or suspected government opponents or critics through selective “disappearances” and extrajudicial executions in urban areas, and a scorched earth counter-insurgency policy in the indigenous highlands. The vast majority of the victims were indigenous people, leading the United Nations (UN)-sponsored Historical Clarification Commission, *Comisión de Esclarecimiento Histórico* (CEH), to conclude in 1999 that the Guatemalan army had carried out genocide in four specific areas of the country.

The signing of the Peace Accords raised hopes both in Guatemala and abroad that implementation of the goals and principles agreed there would contribute to healing the deep social wounds inflicted by the conflict years, helping the country to confront its tragic past and move towards reconciliation. They were therefore greeted with much enthusiasm.

Unfortunately, these hopes were not fulfilled. By February 2002, and despite continuous pressure from local human rights organizations and the international community, the human rights-related elements of the Peace Accords, the recommendations of the CEH and the church-sponsored Recuperation of the Historical Memory project, *Recuperación de la Memoria Histórica* (REMHI), have not yet been implemented. The Presidential High Command, *Estado Mayor Presidencial* (EMP) and Civil Defence Patrols, *Patrullas de Auto-defensa* (PAC) set up to combat the guerrilla movement during the conflict years, and responsible for the country’s worst human rights abuses at that time, are still in place and operating with impunity behind the scenes as a “parallel power structure.” Far from building the firm and lasting peace called for by the Peace Accords, Guatemala is continuing down the path of lawlessness and terror.

Meanwhile, the human rights situation has deteriorated to such an extent over the last two years that some commentators say Guatemala is suffering a “human rights melt-down”. Human rights activists, including judges, lawyers, witnesses, journalists and students, pressing for implementation of the Peace Accords, or seeking truth and justice for the atrocities of the past, report death threats, attacks and other acts of intimidation on an almost daily basis. Those classified as “undesirable” or “disposable” - such as street children, members of street gangs, homosexuals or sex workers - have been targeted, the victims of “social cleansing”.

Others targeted include persons perceived as threats to the operations of the "Corporate Mafia State", an "unholy alliance" which draws together traditional sectors of the oligarchy, some "new entrepreneurs," elements of the police and military, and common criminals (see *Guatemala's Lethal Legacy: Past Impunity and Renewed Human Rights Violations*, published February 2002, AI Index : AMR 34/001/2002). These crime syndicates collude to control lucrative "black," "dirty" or illegal industries including drugs and arms trafficking, money laundering, car theft rings, the adoption racket, kidnapping for ransom, illegal logging and other proscribed use of state protected lands, or to ensure monopoly control of legal industries such as the oil industry. Other victims include trade unionists seeking better working conditions and peasant farmers seeking to protect lands in remote rural areas.

As in the past, the violations are covered up by state officials, or if the cases do reach the courts, threats and intimidation of witnesses and obstruction of judicial procedures ensure that in the vast majority of cases, impunity prevails, leaving victims and their relatives defenceless and without hope of truth or justice.

In Amnesty International's view, the Guatemala state's failure to bring to justice the perpetrators of the gross violations carried out during conflict years is a major contributory factor to these renewed violations. Only in exceptional circumstances have those accused of orchestrating and carrying out the gross abuses of that period been brought before the courts. Even in those cases, proceedings drag on for years, as every possible delaying tactic is used including lost evidence and intimidation of witnesses. Such anti-impunity initiatives also carry great risk for all involved: witnesses, relatives, prosecution judges and lawyers involved in anti-impunity initiatives, have been threatened, harassed, attacked and killed or driven into exile.

This situation has led to a loss of faith in the rule of law on the part of the common citizen and allowed perpetrators to continue their lawless activities with impunity. It is for these reasons that impunity remains a major Amnesty International concern in Guatemala.

The cases described in this document illustrate the difficulties, dangers and delays faced by those who seek justice in Guatemala and the way in which past impunity has contributed to new human rights abuses. They are described in greater detail in the report, *Guatemala's legal legacy: Past impunity and renewed human rights violations*.

KEYWORDS: IMPUNITY1 / AI APPEALS1 / EXTRAJUDICIAL EXECUTION1 / RELIGIOUS OFFICIALS - CATHOLIC / INVESTIGATION OF ABUSES / DISAPPEARANCES / CHILDREN / MASS KILLING // WOMEN'S RIGHTS ACTIVISTS / INDIGENOUS PEOPLE / LAND PROBLEMS / ANTHROPOLOGISTS / JUDGES / ENVIRONMENTALISTS / PHOTOGRAPHS

A P P E A L C A S E

Silencing the past: Bishop Juan José Gerardi Conedera

Bishop Gerardi headed the Guatemalan Archbishopric's Human Rights Office *Oficina de Derechos Humanos del Arzobispado de Guatemala* (ODHAG), and was the driving force behind the Catholic Church's Recuperation of the Historical Memory, *Recuperación de la Memoria Histórica* (REMHI), report into abuses committed during Guatemala's long civil conflict. On 26 April 1998, he presided over the report's presentation to the Guatemalan and international public. Two days later he was clubbed to death outside his home, the highest-ranking Guatemalan clergyman ever to be extrajudicially executed. Efforts to bring those responsible for his murder to justice illustrate the difficulties and dangers of fighting impunity.

From the beginning, official investigations seemed designed to obscure rather than uncover the causes of his death. Those pressing for genuine inquiries have suffered constant threats and harassment. The crime scene itself was not cordoned off and evidence was destroyed, removed or contaminated. Videos show investigators examining evidence without rubber gloves and tramping through Bishop Gerardi's blood.

Human rights groups believe that sectors and individuals opposed to inquiries into past human rights violations were behind the Bishop's murder. Witnesses insisted that members of the Presidential High Command (the *Estado Mayor Presidencial* - EMP) were present on the scene of the crime, even before police arrived; however, it was a year before authorities admitted this.

The authorities also refused to pursue lines of inquiry linking Bishop Gerardi's killing to his involvement in human rights activities, including REMHI. Instead, a number of unlikely theories were put forward. Among the most far-fetched was that Bishop Gerardi was killed by a dog owned by the priest he shared his house with, Mario Orantes Nájera. This theory was based on the supposed findings of a Spanish forensic expert, brought into the inquiry by the Public Prosecutor's Office. The animal

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was duly taken into custody, where it eventually died of old age. Mario Orantes was also detained for suspected involvement in the murder.

When ODHAG received co-complainant status (*querellante adhesivo*), it pressed for a second autopsy and the Bishop's remains were exhumed in September 1998. Forensic experts reported that wounds and marks on Bishop Gerardi's body did not accord with the dog bite theory and did not match the dental mould of the dog's teeth.

ODHAG and other NGOs continued to press for the investigation of three named military officials who had been cited as implicated in the killings. The European Parliament and the US government amongst others, repeatedly called for those responsible to be brought to justice. Finally, the initial prosecutor, whom ODHAG accused of incompetence, partiality and conflict of interest because of his military links, was removed from the investigation. His successor went into exile after death threats and was replaced in December 1998 by a third prosecutor, Celvin Galindo.

In March 1999, Prosecutor Galindo announced that he would investigate possible political motives for the murder. The following day, a new judge on the case withdrew after receiving threats to himself and his family. In October 1999, following repeated threats, Prosecutor Galindo also left the country.

In June 2001, three military men, one of them a former member of military intelligence, another his son and the third, a former member of the EMP, were convicted of the extrajudicial execution and sentenced to 30 years' imprisonment; Mario Orantes Nájera received 20 years as an accomplice. The case remained open against other EMP officials allegedly involved.

The convictions were immediately appealed and new threats reported against two judges and the new state prosecutor, resulting in the latter going into exile, the third state prosecutor forced to flee the country. In the course of the Gerardi case, dozens of others have reported serious intimidation and many have fled the country. Three witnesses were killed, as were six of the indigents sleeping outdoors near the Bishop's home the night he died. Meanwhile, observers continue to question whether all the material and intellectual authors of the crime have been convicted.

The many legal obstacles and obstructions faced by those seeking justice for the human rights violations described in this appeal case, and the threats and abuses they themselves have suffered because of their efforts, are described in greater detail in the report, *Guatemala's legal legacy: Past impunity and renewed human rights violations* (AI Index: AMR 34/001/2002).

ACTION AGAINST IMPUNITY - WHAT YOU CAN DO

If you would like to campaign on behalf of Bishop Gerardi, you can:

⇒ *Write to the Guatemalan authorities and/or to the Guatemalan embassy in your country highlighting the following points:*

urging that all those responsible for ordering and carrying out Bishop Gerardi's murder, including all senior military officials who may have been involved, are brought to justice;
 expressing concern at the abuses that have been directed against human rights groups and others involved in seeking justice in this case, and calling on the authorities to guarantee effective measures to protect witnesses and those involved in the judicial proceedings;
 pressing the Guatemalan government to fulfil its stated commitment to dismantle the Presidential High Command (*Estado Mayor Presidencial*, EMP) in 2003, which has been linked to the Gerardi killings and many other similar killings;

urging the Guatemalan government to implement recommendations regarding judicial reform and protection of the judiciary made by the UN's Special Rapporteur on the independence of judges and lawyers after investigatory visits to Guatemala in 1999 and 2001.
⇒ *Publicize this case in your national and local news media*

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⇒ *Distribute information on this case widely to individuals or groups you think would be interested in it.*

⇒ *Write to leaders of the Catholic Church in your own country and ask them to put pressure on the Guatemalan government to further investigate this case.*

ADDRESSES FOR APPEALS

President of Guatemala

Lic. Alfonso Portillo Cabrera,
Presidente de la República de Guatemala,
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Ciudad de Guatemala, Guatemala
Fax: +502 239 0090,
Salutation : Excelentísimo Sr. Presidente/Dear Mr.
President

President of the Supreme Court:

Lic. Alfonso Alvarez-Lobos Villatoro,
Presidente de la Corte Suprema de Justicia,
21 Calle 7-70, Zona 1, Edificio Corte Suprema de Justicia,
Ciudad de Guatemala, Guatemala
Fax: +502 230 6028.
Salutation : Sr. Presidente de la Corte Suprema de Justicia
/Dear Sir

Minister of Defence

Gral. Alvaro Leonel Méndez Estrada,
Ministro de Defensa Nacional, Ministerio de Defensa
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Antigua Escuela Politécnica,
Avenida Reforma 1-45, Zona 10
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Fax: + 502 360 9909.
Salutation : Sr. Ministro/Dear Minister

Attorney General of the Republic:

Lic. Adolfo González Rodas,
Fiscal General de la República,
Ministerio Público,
8a. Avenida 10-67, Zona 1, Tercer nivel,
Ciudad de Guatemala, Guatemala
Fax: + 502 221 2718
Salutation : Sr.Fiscal General/Dear Attorney General

COPIES:

Human Rights Office of the Archbishop of Guatemala

Oficina de Derechos Humanos del Arzobispado de
Guatemala (ODHAG),
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GUATEMALA,
Fax:+ 502 232 8384

A P P E A L C A S E

**The anguish of not knowing:
The "disappeared"
children of Adriana
Portillo**

Adriana Portillo's two daughters Rosaura (10) and Glenda (9) as well as her 18-month-old baby half-sister Alma Argentina Portillo, and other relatives "disappeared" on 11 September 1981. Their case illustrates the prolonged and continuing anguish caused by "disappearances".

The three children had travelled to the capital with Adriana's father to celebrate a family birthday party. Adriana arrived the next day to find heavily armed members of the security forces surrounding the house. Her father had been seized earlier at work; he was never seen again. The authorities claimed they found subversive materials at the house, but said no-one was home when they raided it. However, Adriana saw security force agents washing blood from the floors of the house. Neighbours said they had clearly heard voices of women and children crying and pleading for help; a local shop-keeper saw two adults and three young girls taken out of the house.

In a testimony given to Amnesty International and others, including the Comisión de Esclarecimiento Histórico, (CEH), Historical Clarification Commission, Adriana Portillo conveyed the anguish she experienced when her relatives "disappeared":

"I remember very little of my feelings and the things I did that day, I think I was in shock. I could not believe, I could not accept what the army was saying. Very deep within myself I wanted to believe that my family had fled although part of me could not believe that. I knew my own government. I knew how the army operated in those years, I know what they did. ... I could not cry because I was in shock. I don't think that I accepted what had happened for the next three years, which were the years that we remained in Guatemala. Whenever friends asked where my daughters were, I would say that they were in Mexico, that my father had got a job and that they were in Mexico. ... When my other two daughters would go to school and my husband would go to work, I would just board a bus and go anywhere looking for them. ... I went to the orphanages and I would just stand there and look at all the children who came out to play, but

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they weren't there, I went to the women's prisons asking if anyone had seen them. But I never found them."

As to the psychological effect upon herself, Adriana is clear:

"These 16 [now more than 20] years have been the greatest torture there could ever be. .. Years of agony, desperation, anguish, pain ... I don't know whether or not they are alive ... or dead ... I think the worst thing which could happen to me is never finding out what happened; this is the perfection of torture. I have thought, what will I do if I find them alive? I think of course I will be happy. I think I would also be consumed by pain because if they are alive I don't know the circumstances of their lives and it would be very painful to know that we were separated for ... years and the injustice of that, but I would be very happy if they were happy. If they were alive and didn't want to see me I guess it would be very hard, but I could at least be at peace knowing they are alive... If I don't see their bodies I won't believe that they are dead and this torture of not knowing where they are would continue. But again I think the worst thing would be never finding out. I think I could probably deal with either situation, but I don't think I could go on any more feeling like I do right now."

The many legal obstacles and obstructions faced by those seeking justice for the human rights violations described in this appeal case, and the threats and abuses they themselves have suffered because of their efforts, are described in greater detail in the report, *Guatemala's legal legacy: Past impunity and renewed human rights violations* (AI Index: AMR 34/001/2002).

ACTION AGAINST IMPUNITY - WHAT YOU CAN DO

If you would like to campaign on behalf of Rosaura, Glenda and Alma Argentina Portillo, you can:

⇒ *Write to the Guatemalan authorities and/or to the Guatemalan embassy in your country highlighting the following points:*

☒ **urging the Guatemalan authorities to initiate a full, immediate and in-depth investigation into the "disappearance" of Rosaura, Glenda and Alma Argentina Portillo on 11 September 1981 and make the results public;**

☒ **urging them to establish a National Commission for the Search for "Disappeared" Children (*Búsqueda*), as recommended by the Historical Clarification Commission (*Comisión de Esclarecimiento Histórico* - CEH);**

☒ **pressing them to legislate to allow parents and other relatives of missing children access to court documents and other relevant files to assist in their efforts to ascertain if "disappeared" children were placed or sold for adoption and, if so, where they may be now;**

☒ **urging them to effectively implement elements of the UN Convention on the Rights of the Child, to which Guatemala has been party since 1990, relating to children separated from parents against their will through "disappearance", and to illegal adoptions.**

⇒ *Publicize this case in your national and local news media*

⇒ *Distribute information on this case widely to individuals or groups you think would be interested in it, especially children's rights groups.*

ADDRESSES FOR APPEALS

Vice-President of Guatemala

Lic. Juan Francisco Reyes López

Vicepresidente de República de Guatemala

6a. Avenida "A" 4-18, Zona 1

Ciudad de Guatemala, Guatemala

Fax: +502 221 4537

Minister of the Interior,

Gral. Eduardo Arévalo Lacs

Ministro de Gobernación, Ministerio de
Gobernación,

6ª Avenida 4-64, Zona 4,

Ciudad de Guatemala, Guatemala,

Fax:+ 502 362 0239/ 362 0237

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Salutation : *Señor Vicepresidente*/Dear Mr. Vice-President Salutation : Sr. Ministro/Dear Minister

Attorney General of the Republic:
Lic. Adolfo González Rodas,
Fiscal General de la República, Ministerio Público,

8a. Avenida 10-67, Zona 1, Tercer nivel,

Ciudad de Guatemala, GUATEMALA.

Fax: + 502 221 2718

Salutation : Sr.Fiscal General/Dear Attorney General

COPIES:

*WATCH/ Where are the children?
(Organization set up by Adriana Portillo to
assist
in the search for Guatemala's "disappeared"
children)*

5258 South Christiana Avenue

Chicago, Illinois

60632

Fax: +1773 776 8097

Newspaper: *El Periódico*

15 Ave 24-51, Zona 13

Ciudad de Guatemala, Guatemala

Fax: +502 332 9761, e-mail: opinion@elperiodico.com.gt

APPEAL CASE

A window into Guatemala's illegal adoption racket?

Mayra Gutiérrez

Mayra Angelina Gutiérrez Hernández, university professor and women's rights activist, "disappeared@ on 7 April 2000, when she set off as usual to catch the bus to Huehuetenango to teach her weekly university class. She has not been seen since. Local observers fear that her Adisappearance@ may signal a return to repressive tactics of the past, when the authorities carried out Adisappearances@ to eliminate opponents or perceived opponents, while evading accountability and leaving the families in agonized uncertainty.

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As with cases which occurred under previous military governments, the authorities first denied that Mayra Gutiérrez had disappeared for political reasons and insisted that she had run off or been killed by a married lover. These suggestions were vehemently rejected by her family, including her 17-year-old daughter.

Friends and colleagues have suggested she may have been targeted because of her affiliation to the National University, the *Universidad de San Carlos* (USAC), a long-term target of political repression, or as a further reprisal against her politically active family, two of whom "disappeared" in the 1980s.

Friends and colleagues also believe Mayra Gutiérrez's work on women's issues, including research on Guatemala's illegal adoption racket, may explain her disappearance. Her findings were compiled in a report submitted to the UN's Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography, during the latter's 1999 visit to Guatemala. The Rapporteur's subsequent critical report, which included a section on Guatemala's adoption racket, was presented to the UN Human Rights Commission. It received considerable publicity in Guatemala days before Mayra Gutiérrez went missing. Others with access to information about Guatemala's adoption racket were also threatened during the same period.

In December 2000, apparently in response to public pressure, the Guatemalan Congress mandated the Human Rights Procurator (Ombudsman) to act as special investigator into Mayra Gutiérrez' "disappearance". However he returned to the hypothesis that her disappearance was a crime of passion. The accused former lover (not a Guatemalan) presented evidence (air tickets, receipts, and phone bills) apparently confirming he was out of the country at the time of Mayra Gutiérrez' "disappearance". He fled the country with his family, believing that he would not receive a fair hearing in Guatemala and that he and his family were in danger.

It subsequently emerged that Mayra Gutiérrez' name appeared on a government database apparently compiled by military intelligence during the 1980s, and made public in May 2000.

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Over six per cent of the population were listed on this database as “suspected subversives”– 650,428 names. Each entry was given a code apparently referring to their status, for example, "under surveillance", "detained", "released", "disappeared".

The many legal obstacles and obstructions faced by those seeking justice for the human rights violations described in this appeal case, and the threats and abuses they themselves have suffered because of their efforts, are described in greater detail in the report, *Guatemala's legal legacy: Past impunity and renewed human rights violations* (AI Index: AMR 34/001/2002).

ACTION AGAINST IMPUNITY - WHAT YOU CAN DO

If you would like to campaign on behalf of Mayra Gutiérrez, you can:

⇒ *Write to the Guatemalan authorities and/or to the Guatemalan embassy in your country highlighting the following points:*

☒ **requesting that the investigation into the “disappearance” of Mayra Gutiérrez continue until her fate and whereabouts are established, as stipulated in the Inter-American Convention on Forced Disappearance of Persons; and to fully explore the possibility that her “disappearance” was politically motivated;**

☒ **insisting that the investigation fully exhausts all lines of inquiry and that the results are made public;**

☒ **insisting that the authorities carry out a full investigation into the military intelligence database, to establish those responsible for its compilation and links between the database and those who were detained or “disappeared”, including Mayra Gutiérrez. Legal mechanisms should be established to allow individuals access to information regarding their person and rights to redress;**

☒ **urging the authorities to ensure that all necessary steps are taken to protect those like Mayra Gutiérrez carrying out independent inquiries into Guatemala's illegal adoption racket**

☒ **urging the Guatemalan authorities to effectively implement elements of the UN Convention on the Rights of the Child, to which Guatemala has been party since 1990, relating to children separated from parents against their will through “disappearance”, and to illegal adoptions.**

⇒ *Publicize this case in your national and local news media*

⇒ *Distribute information on this case widely to individuals or groups you think would be interested in it, eg. women or children's rights groups.*

ADDRESSES FOR APPEALS

Vice-President of Guatemala

Lic. Juan Francisco Reyes López

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Fax: +502 221 4537

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Human Rights Procurator

Lic. Julio Eduardo Arango Escobar,

Procurador de Derechos Humanos,

Procuraduría de los Derechos Humanos

12 Avenida 12-72, Zona 1

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6ª Avenida 4-64, Zona 4,

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Salutation : Sr. Ministro/Dear Minister

COPIES:

Newspaper: *El Periódico*,

15 Ave 24-51, Zona 13,

Ciudad de Guatemala, GUATEMALA,

Fax: +502 332 9761, e-mail: opinion@elperiodico.com.gt

Association of Relatives of the “Disappeared”

Addressing Guatemala's lethal legacy: Appeals against impunity

Salutation : Sr. Procurador/ Dear Mr. Procurator General FAMDEGUA

2a calle A 7-13, Zona 2, Ciudad de Guatemala , Guatemala

APPEAL CASE

No justice for the poor: Rosa Pec Chub

Rosa Pec Chub lived in El Sauce, a community of 15 indigenous families in El Estor, Izabal. The community had been in a long-term dispute with a local landowner who apparently wanted their lands for his cattle ranching and illegal logging enterprises. Employees of the Guatemala subsidiary of an international mining company have allegedly colluded with him to allow his illegal logging activities, while preventing local peasants from accessing lands where they had traditionally collected firewood.

On 24 January 1997, the landowner allegedly led some 70-100 heavily armed private security guards¹ in a 5 a.m. raid on El Sauce. The squad claimed to be carrying out an eviction order. The landowner reportedly fired at several women preparing breakfast, killing 57-year-old Rosa Pec Chub. When her son protested, the landowner reportedly swore at him and shot him in the side. The assailants then began destroying the community's homes, crops and chapel. A judge who subsequently saw the devastation said they had acted "with brutal perversity, cruelty, premeditation".

El Sauce received little support from state officials in their efforts to bring Rosa Pec Chub's killers to justice. The day after the attack, villagers travelled seven hours to El Estor with her body to denounce the incident and arrange the autopsy required for legal burial. No municipal officials were available.

Although arrest warrants for murder, grievous bodily harm and arson were issued against the landowner and some of his henchmen, the landowner disappeared from the area, and no efforts were made to search the location where he was widely rumoured to be hiding.

The landowner eventually returned to his estate and lived openly in the area for many months, even visiting the local police despite an outstanding arrest warrant against him. It was not until August 1998, after continued local and international pressure that the landowner was arrested. In December 1998, charges were dropped and he was released on the grounds that he was too old and infirm to have travelled to El Sauce and taken part in the attack. Local residents, however, had reported seeing him

¹ Private security guards fall under jurisdiction of the Ministry of the Interior.

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riding horses and driving cars, displaying physical capabilities which he claimed to lack. It was also claimed that witness testimony was unreliable as it was too dark to identify the landowner at 5 a.m. when the attack took place. However, at over six feet tall, with silver grey hair, the landowner would have been instantly recognizable amongst a crowd of dark-haired indigenous Kekch'és of small stature.

The landowner was re-arrested in March 1999, and the case heard again in September. Court-ordered interpreters did not arrive, and a prisoner was brought to translate witness testimonies. Despite eye-witness identification of the defendant as Rosa Pec Chub's murderer, he was absolved on account of "insufficient evidence."

Guatemalan human rights groups judged the prosecuting attorney had been partial to the defendant and had not acted in the public interest. With few further legal avenues open to them in Guatemala, and fearing reprisals now the landowner is free, relatives have since petitioned the Inter-American Court of Human Rights for precautionary measures and recognition that their rights under the Inter-American Convention including to a fair trial (Article 8) and to judicial protection (Article 25) have been violated.

The many legal obstacles and obstructions faced by those seeking justice for the human rights violations described in this appeal case, and the threats and abuses they themselves have suffered because of their efforts, are described in greater detail in the report, *Guatemala's legal legacy: Past impunity and renewed human rights violations* (AI Index: AMR 34/001/2002).

ACTION AGAINST IMPUNITY - WHAT YOU CAN DO

If you would like to campaign on behalf of Rosa Pec Chub, you can:

⇒ *Write to the Guatemalan authorities and/or to the Guatemalan embassy in your country highlighting the following points:*

- ☒ **expressing concern that those responsible for the killing of Rosa Pec Chub have not yet been brought to justice;**
- ☒ **requesting an immediate investigation into the failure of the local authorities to properly investigate the case and into allegations of collusion between local officials and landowners allegedly responsible for continued abuses and threats against local peasants;**
- ☒ **urging the authorities to adopt a legally binding code of conduct based on the UN's Basic Principles on the Use of Force and Firearms by Law Enforcement Officials as regards private security guards operating under licence to the National Police;**
- ☒ **reminding the Guatemala government of their responsibility to develop an integrated rural development strategy, aimed at facilitating peasants' access to land and other protective resources, ensuring them judicial protection and encouraging resolution of conflicts in rural areas, as called for in the Socio-Economic and Agrarian plank of the Peace Accords agreed in 1996.**

⇒ *Publicize this case in your national and local news media*

⇒ *Distribute information on this case widely to individuals or groups you think would be interested in it, such as women's groups and indigenous rights activists.*

ADDRESSES FOR APPEALS

President of Guatemala:

Lic. Alfonso Portillo Cabrera,
Presidente de la República de Guatemala,
6a. Avenida "A" 4-41, Zona 1, Ciudad de Guatemala, Guatemala
Fax: +502 239 0090,
Salutation : Excelentísimo Sr. Presidente/Dear Mr. President

President of the Supreme Court:

Lic. Alfonso Alvarez-Lobos Villatoro,
Presidente de la Corte Suprema de Justicia,
21 Calle 7-70, Zona 1, Edificio Corte Suprema de Justicia, Ciudad de Guatemala, Guatemala
Fax: +502 230 6028.

Salutation : Sr. Presidente de la Corte Suprema de Justicia /Dear Sir

Minister of Defence

Gral. Alvaro Leonel Méndez Estrada,
Ministro de Defensa Nacional, Ministerio de Defensa Nacional,
Antigua Escuela Politécnica, Avenida Reforma 1-45, Zona 10
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Salutation : Sr. Ministro/Dear Minister

Attorney General of the Republic: Lic. Adolfo González Rodas,
Fiscal General de la República,
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Salutation : Sr. Fiscal General/Dear Attorney General

Addressing Guatemala's lethal legacy: Appeals against impunity

COPIES: Human Rights Office of the Archbishop of Guatemala
Oficina de Derechos Humanos del Arzobispado de Guatemala 6a Calle

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APPEAL CASE

Confronting the past: Denese Becker, Jesús Tecú and the Río Negro massacres

There were five army-led massacres at the Achí village of Río Negro, Rabinal municipality, Baja Verapaz Department between 1980 and 1982 in the course of the army's counter-insurgency campaign there. Local human rights groups estimate 4,000 to 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, at least 85 of them children, three as young as six months. Most of the young women were raped before they were killed.

Río Negro may have been especially targeted because Guatemala's State Electricity Institute, the *Instituto Nacional de Electrificación* (INDE), wanted to clear the area and use the land for the Chixoy hydroelectric power dam. The dam was part of the government's economic development plan for the *Transversal del Norte* zone, where many generals, including the country's then President, General Lucas García and his brother, General Manuel Benedicto Lucas García, had property. Initial funding for the project, in which several foreign companies participated, came from the Inter-American Development Bank and the World Bank, but much of it reportedly ended up in the pockets of corrupt military officials.

The first of the massacres occurred in February 1982, when 74 Río Negro villagers travelled, as ordered, to present identification documents to the Civil Defence Patrol, *Patrullas de Auto-defensa Civil* (PAC) of a neighbouring village, Xococ. Only one returned. The others had been massacred, the young women having been raped first, by the Xococ patrollers and soldiers.

The Xococ patrollers returned repeatedly to Río Negro, searching for "guerrillas". Fearing for their lives, the remaining Río Negro men fled to the mountains, believing that their families would not be targeted. However, on 13 March 1982, the army and Xococ patrollers again returned to Río Negro, rounded up 70 women and 107 children, marched them into the mountains and killed them. Three women escaped and 18 children were taken by patrollers as child slaves. After years of beatings and other ill-treatment they were finally allowed to return to their few surviving family members. Several of these children, including Jesús Tecú, now adults, have been key witnesses in efforts to bring those responsible for the Río Negro massacres to justice, and to obtain compensation for the loss of their

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relatives and community lands, possessions and sacred sites. Another child, 9 year-old Dominga Sic Ruíz, fled for her life, with her 9-day-old sister strapped on her back. The baby died, but Dominga was eventually adopted into the United States, where she is known as Denese Becker. She is also seeking justice and compensation.

For many years, the survivors, remained silent about their ordeal, fearing further repression. In the early 1990s, the truth about the massacres gradually began to emerge. Between 1994 and 1995 relatives filed 27 requests with the Public Ministry for exhumations of more than 60 mass graves in Rabinal. By 1994, exhumations by independent forensic anthropologists at three sites had uncovered 143 remains.

In 1994, the commander, sub-commander and one member of the Xococ PAC were detained and charged with murder, aggravated theft and illegal possession of firearms. Despite threats against the Widows and Orphans association, ADIVIMA, relatives and complainants, none of these acts of intimidation were investigated. The prosecutor assigned to the case did not reply to requests, including from four US Senators, for witness protection.

In December 1998, after many other delays and obstructions, and 16 years after the Río Negro massacres, three civil patrollers were the first to be convicted of any of the army-led massacres of the late 1970s and early 1980s when they were found guilty of the murder of three women, identified because of their advanced pregnancies. They were sentenced to 50 years' imprisonment. There were immediate acts of intimidation against relatives of those who had pressed for justice in the case.

No arrest warrants have yet been issued against other patrollers involved in the massacres. None of the military officials who planned, ordered and led the massacres have been called to testify. Survivors fear further reprisals and attacks from families and former colleagues of those convicted. However, they continue their struggle for compensation for relatives, community lands, possessions and sacred sites lost in the Río Negro massacres.

The many legal obstacles and obstructions faced by those seeking justice for the human rights violations described in this appeal case, and the threats and abuses they themselves have suffered because of their efforts, are described in greater detail in the report, *Guatemala's legal legacy: Past impunity and renewed human rights violations* (AI Index: AMR 34/001/2002).

Addressing Guatemala's lethal legacy: Appeals against impunity

ACTION AGAINST IMPUNITY *What you can do* **IN THE RÍO NEGRO MASSACRES**, you can:

⇒ Write to the Guatemalan authorities and/or to the Guatemalan embassy in your country highlighting the following points:

- ☒ urging the government to set up a full investigation to identify all the intellectual and material authors of the Río Negro rapes and massacres and bring them to justice;
- ☒ calling on the authorities to ensure that all reports of clandestine graves are fully investigated and that exhumations are conducted promptly and according to the United Nations' Manual on the effective prevention of extra-legal, arbitrary and summary executions;
- ☒ calling on the authorities to guarantee effective measures to protect all those organizations and individuals involved in seeking justice for past human rights violations, and particularly that the safety of those involved in legal proceedings relating to the Río Negro massacres be guaranteed;
- ☒ urging the government to ensure that survivors of massacres such as Río Negro receive compensation for the loss of their relatives, homes, property and sacred sites as recommended by the Historical Clarification Commission, Comisión de Esclarecimiento Histórico (CEH) ; and that those children forced to serve as child slaves also be compensated for their enforced servitude;
- ☒ urging the Guatemalan authorities to effectively implement elements of the UN Convention on the Rights of the Child, to which Guatemala has been party since 1990, relating to care for children affected by armed conflict and promoting physical and psychological recovery and social integration of child victims of armed conflicts, torture or cruel, inhuman or degrading treatment or punishment.

⇒ Publicize this case in your national and local news media

⇒ Distribute information on this case widely to individuals or groups you think would be interested in it, for example indigenous rights, children's and women's groups.

ADDRESSES FOR APPEALS

President of Guatemala

Lic. Alfonso Portillo Cabrera,
Presidente de la República de Guatemala,
6a. Avenida "A" 4-41, Zona 1,
Ciudad de Guatemala, Guatemala
Fax: +502 239 0090,
Salutation : Excelentísimo Sr. Presidente/Dear Mr.
President

Attorney General of the Republic:

Lic. Adolfo González Rodas,
Fiscal General de la República,
Ministerio Público,
8a. Avenida 10-67, Zona 1, Tercer nivel,
Ciudad de Guatemala, Guatemala
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Salutation : Sr.Fiscal General/Dear Attorney General

Minister of Defence

Gral. Alvaro Leonel Méndez Estrada,
Ministro de Defensa, Ministerio de Defensa,
Antigua Escuela Politécnica,
Avenida Reforma 1-45, Zona 10
Ciudad de Guatemala , Guatemala.
Fax: + 502 360 9909.
Salutation : Sr. Ministro/Dear Minister

COPIES TO:

Centre for Legal Action in Human Rights
Centro para la Acción Legal en Derechos Humanos
(CALDH)
9ª Av. 2-59, Zona 1,
Ciudad de Guatemala, Guatemala

ADIVIMA - Widows & Orphans Association
7a Avenida, 2-06, Zona 2
Rabinal, Baja Verapaz, GUATEMALA

A P P E A L C A S E

The long road to justice: **The extrajudicial execution of Myrna Mack**

In 1989 in a ground-breaking study, anthropologist Myrna Mack, founder member of the social science research institute AVANSCO, concluded that government counter-insurgency policies caused internal displacement of Guatemala's indigenous peoples and their resultant suffering. The study was published as peace talks began, and was highly damaging to the government. On 11 September 1990, she was stabbed to death as she left AVANSCO's office in the capital.

A member of the notorious *Estado Mayor Presidencial* (EMP), Presidential High Command, sergeant Noel de Jesús Beteta Alvarez,

Addressing Guatemala's lethal legacy: Appeals against impunity

was eventually convicted of the killing in 1993 and jailed for 25 years. However, today, more than 11 years after her death, the victim's sister, Helen Mack, and others remain unsuccessful in their tireless quest to convict the higher-ranking military officials who ordered the killing.

From the beginning, the case has been characterized by irregularities, incompetence and attacks against witnesses and professionals involved in the investigation. Valuable evidence was destroyed from the start when, despite the presence of the Police Chief, the murder scene was not properly protected. Eventually, two former members of the police criminal investigations unit gave eye-witness testimony that the victim had been under surveillance by army intelligence, including Beteta Alvarez. Police investigators considered that Myrna Mack was murdered because of her report on the displaced, but their conclusions were suppressed.

It was only when the police report finally became public much later, that the Attorney General admitted the killing was political. Shortly afterwards, the police inspector responsible for the report was shot and killed as he prepared to travel to testify before the Inter-American Commission on Human Rights (IACHR) on the case. His co-investigator fled the country.

By 1991, when Beteta Alvarez was arrested in the USA for illegal entry and deported to face charges for the murder, 13 judges had handled the case; many withdrew for security reasons. Several witnesses withdrew their original statements following threats; several of Beteta Alvarez's fellow inmates in prison were killed, allegedly to intimidate him and any others from giving evidence about higher-ranking military officers ordering specific killings; journalists covering the case were also threatened.

Since it was formed to seek justice on the case, staff of the Myrna Mack Foundation have also been constantly threatened and harassed.

Meanwhile, judges and officials from the Attorney General's office (*Ministerio Público*) repeatedly "lost" evidence, denied they were competent to hear the case and tried to restart proceedings under an obsolete penal code. The military officials whom Helen Mack believes ordered her sister's killing have argued that they should benefit from pre-Peace Accord amnesty laws or be tried before military courts.

Oral hearings against the alleged intellectual authors of the crime were at last scheduled to begin in October 2001, eight years after first requested, but were delayed again after a further defence appeal.

Helen Mack has also pursued the case via the Inter-American system where Guatemala eventually accepted institutional responsibility for Myrna Mack's death and agreed to pay compensation. A decision on the case from the Inter-American Court of Human Rights is expected in 2002.

The many legal obstacles and obstructions faced by those seeking justice for the human rights violations described in this appeal case, and the threats and abuses they themselves have suffered because of their efforts, are described in greater detail in the report, *Guatemala's legal legacy: Past impunity and renewed human rights violations* (AI Index: AMR 34/001/2002).

ACTION AGAINST IMPUNITY - WHAT YOU CAN DO

If you would like to campaign on behalf of Myrna Mack, you can:

⇒ *Write to the Guatemalan authorities and/or to the Guatemalan embassy in your country highlighting the following points:*

expressing concern that, in spite of the 1993 conviction of the material perpetrator of the 1990 murder of Myrna Mack, higher ranking Guatemala military officials allegedly involved in the killing have still not been brought to justice;

expressing concern over the numerous abuses directed at witnesses and professionals involved in this case, and calling on the authorities to guarantee effective measures to protect witnesses and those involved in the judicial proceedings on behalf of Myrna Mack;

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- ☒ **pressing the Guatemalan government to fulfil its stated commitment to dismantle the Presidential High Command (*Estado Mayor Presidencial*, EMP) in 2003, which has been linked to the Myrna Mack killing and many other similar killings;**
- ☒ **urging the Guatemalan authorities to appoint a special attorney (*fiscal especial*) with specific responsibility for investigating cases of harassment, threats and other human rights violations against human rights defenders;**
- ⇒ **Publicize this case in your national and local news media**
- ⇒ **Distribute information on this case widely to individuals or groups you think would be interested in it, eg. lawyers, judges, bar associations, women's groups.**

ADDRESSES FOR APPEALS

President of Guatemala

Lic. Alfonso Portillo Cabrera,
Presidente de la República de Guatemala,
6a. Avenida "A" 4-41, Zona 1,
Ciudad de Guatemala, Guatemala
Fax: +502 239 0090,
Salutation : Excelentísimo Sr. Presidente/Dear Mr.
President

Minister of Defence

Gral. Alvaro Leonel Méndez Estrada
Ministro de Defensa, Ministerio de Defensa,
Antigua Escuela Politécnica,
Avenida Reforma 1-45, Zona 10
Ciudad de Guatemala, Guatemala.
Fax: + 502 360 9909.
Salutation : Sr. Ministro/Dear Minister

President of the Supreme Court:

Lic. Alfonso Alvarez-Lobos Villatoro,
Presidente de la Corte Suprema de Justicia,
21 Calle 7-70, Zona 1, Edificio Corte Suprema de Justicia,
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Fax: +502 230 6028.

Attorney General of the Republic

Lic. Adolfo González Rodas,
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Ministerio Público,
8a. Avenida 10-67, Zona 1, Tercer nivel,
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Fax: + 502 221 2718
Salutation : Sr.Fiscal General/Dear Attorney General

COPIES:

Myrna Mack Foundation:

Fundación Myrna Mack,
6a Calle 1-36, Zona 10, Edificio Valzari, Of. 504
Ciudad de Guatemala, Guatemala

A P P E A L C A S E

Killing off competition: Edgar Ordóñez Porta

Edgar Ordóñez Porta was seized by individuals in a vehicle with polarized windows and "disappeared" on 3 May 1999 near San José, Escuintla. His mutilated body was recovered several days later from a nearby well. After in-depth inquiries, his brother and business partner, Hugo Ordóñez Porta, a director of a prominent Guatemalan newspaper, concluded that military personnel were the probable intellectual authors of the killing.

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The Ordóñez brothers were partners in ORPOR, a small oil refining business. Just days before he “disappeared,” Edgar Ordóñez received threats from residents who claimed the plant was polluting the environment. He asked the authorities for protection and provided residents with results of pollution tests, which the brothers considered proved the allegations baseless. They believed the complaints were orchestrated by officials, including military personnel, concerned that ORPOR could offer competition to Basic Resources, the Guatemalan subsidiary of a major oil company, traditionally controlled by the Guatemalan military. Hugo Ordóñez came to believe these interests tried to mask the murder as the work of environmentalists, tarnishing the environmental lobby, while eliminating a business competitor.

On 6 May, Hugo Ordóñez Porta was informed that his brother's body had been recovered from the well and was held at the Escuintla departmental morgue, where he was found to have suffered such massive head wounds as to be virtually unrecognizable. His finger tips had also been cut off and his identity only established by a receipt in his pocket.

Shortly after Edgar Ordóñez “disappeared”, military officials offered Hugo Ordóñez special assistance from military intelligence to help locate him. After the body was found, they said they would carry out their own special investigation into the murder, parallel to police inquiries. Hugo Ordóñez Porta gradually became convinced that the "parallel" investigation was actually intended to divert enquiries and protect the real perpetrators. He then undertook his own investigations into his brother's death as co-complainant (*querellante adhesivo*).

Hugo Ordóñez learned that the policemen involved in initial inquiries were ordered to change their reports or were pulled off the case. Witnesses changed their testimony after intimidation. He also discovered that it had been the police themselves who cut off the victim's finger tips. Furthermore, although the official forensic pathologist in Escuintla reported that an autopsy established cause of death as gunshot wounds to the head, when the body was exhumed for a “further” autopsy, it was discovered that there had been no autopsy and the victim had actually died from blows with a heavy object.

Two members of a gang of petty criminals eventually tried for the murder were acquitted in August 2000. The Court ruled that the Attorney General's office (*Ministerio Público*) had been remiss in permitting other agencies to carry out an illegal investigation and informed the Public Prosecutor that the principle of objectivity had been violated. It said the forensic pathologist who falsely testified regarding the supposed first autopsy, and those who spuriously attempted to implicate the gang of petty criminals, were liable to prosecution for perjury. The case was left open against the military officials whom Hugo Ordóñez believed involved in the murder. Fearing for their own security, Hugo Ordóñez and his family have since gone into exile.

The many legal obstacles and obstructions faced by those seeking justice for the human rights violations described in this appeal case, and the threats and abuses they themselves have suffered because of their efforts, are described in greater detail in the report, *Guatemala's legal legacy: Past impunity and renewed human rights violations* (AI Index: AMR 34/001/2002).

ACTION AGAINST IMPUNITY - WHAT YOU CAN DO

If you would like to campaign on behalf of Edgar Alfredo Ordóñez Porta, you can:

⇒ *Write to the Guatemalan authorities and/or to the Guatemalan embassy in your country highlighting the following points:*

Addressing Guatemala's lethal legacy: Appeals against impunity

- urging that those responsible for ordering and carrying out the killing of Edgar Alfredo Ordóñez Porta be brought to justice;**
- expressing grave concern over military interference in the investigations into the death thus far and calling for proceedings to continue against the military officials against whom the case has been left open;**
- urging the authorities to ensure autopsies are carried out into all suspicious deaths and the findings properly documented.**

⇒ *Publicize this case in your national and local news media*

⇒ *Distribute information on this case widely to individuals or groups you think would be interested in it.*

ADDRESSES FOR APPEALS

President of Guatemala

Lic. Alfonso Portillo Cabrera,

Presidente de la República de Guatemala,

6a. Avenida "A" 4-41, Zona 1,

Ciudad de Guatemala, Guatemala

Fax: +502 239 0090,

Salutation : Excelentísimo Sr. Presidente/Dear Mr. President
General

Minister of Defence

Gral. Alvaro Leonel Méndez Estrada,

Ministro de Defensa, Ministerio de Defensa,

Antigua Escuela Politécnica,

Avenida Reforma 1-45, Zona 10. Ciudad de Guatemala , Guatemala. 8a. Avenida 10-67, Zona 1,

Fax: + 502 360 9909.

Salutation : Sr. Ministro/Dear Minister

COPIES:

Newspaper: *El Periódico*,

15 Ave 24-51, Zona 13,

Ciudad de Guatemala, Guatemala, Fax: +502 332 9761,

e-mail: opinion@elperiodico.com.gt

National Civil Police

Comisario Luís Arturo Paniagua Galicia

Director General de la Policía Nacional
Civil

6ª Avenida 13-71, Zona 1

Ciudad de Guatemala, Guatemala

Fax: +502 251 9382

Salutation: Sr. Director General/Dear Director

Attorney General of the Republic:

Lic. Adolfo González Rodas

Fiscal General de la República,

Ministerio Público,

8a. Avenida 10-67, Zona 1,
Tercer nivel,

Ciudad de Guatemala, Guatemala.

Fax: + 502 221 2718

Salutation : Sr.Fiscal General/Dear

Attorney

General

A P P E A L C A S E

Striking at the Judiciary: Judge Epaminondas González Dubón

Judge Epaminondas González Dubón, President of Guatemala's highest judicial organ, the Constitutional Court, died in an apparent extrajudicial execution in April 1994, when unidentified men fired on his car as he returned home to Guatemala City. There have been convictions, but grave doubts remain as to whether the real culprits and those who ordered the killing have been brought to justice.

Official obstruction has marred the enquiry from the beginning. Only hours after the judge was murdered, senior officials reportedly instructed the police to treat the case as a common crime, and it was duly announced that Judge González died in a failed car theft. Relatives remain convinced the crime was political, pointing to the anonymous telephoned death threats and funeral wreaths received by the judge the week before his murder and the men in a pick-up truck with polarised windows seen watching his home and neighbourhood. They believe hard-line Guatemalan military officials ordered his death, because of their displeasure with some of Judge González' legal rulings concerning both political issues and human rights-related cases, including the extrajudicial execution of anthropologist Myrna Mack in 1990.

In one such ruling made shortly before his death, Judge González cast the deciding vote to accept a US writ for extradition of an army lieutenant colonel wanted for drug trafficking. Nine days later he was killed and two days after that, the same court voted against the extradition. Papers relating to the original extradition decision "disappeared."

In 1996, a member of a car theft gang testified in court that an official of the *Estado Mayor Presidencial* (EMP) Presidential High Command, provided gang members with false EMP credentials and paid them to carry out the killing of Judge González.

As the family continued to press to get to the bottom of the affair, court documents went "missing," and the lawyer for two brothers charged with the killing withdrew in 1996 after receiving death threats. Six people were eventually convicted in 1996, but were subsequently freed on appeal. One had already escaped, apparently with police connivance. The Appeals Court judges then reported receiving death threats. Eventually, the Supreme Court reversed both decisions of the lower Courts, fined the judges for not having identified and corrected due process violations and returned the case to the first instance court for re-trial.

To revitalise the case, the victim's son became co-complainant (*querellante adhesivo*) in 1997 and the Constitutional Court ordered the case reactivated. The victim's nephew was then attacked in circumstances similar to those in which his uncle died, in an apparent reprisal for the family's continued pursuit of the case.

Eventually, in 1998, two men were sentenced to 27 years and another to two years, incommutable, for aggravated robbery. The escapee suspected as a material author of the killing remains at large. The intellectual authors of the murder also remain unpunished despite the naming by the Public Prosecutor's Office in 1997 of four ex-"narco-military" officials, still with the EMP in 1996, as those who ordered and contracted the car theft gang to kill Judge González.

Addressing Guatemala's lethal legacy: Appeals against impunity

The many legal obstacles and obstructions faced by those seeking justice for the human rights violations described in this appeal case, and the threats and abuses they themselves have suffered because of their efforts, are described in greater detail in the report, *Guatemala's legal legacy: Past impunity and renewed human rights violations*(AI Index AMR 34/001/2002).

ACTION AGAINST IMPUNITY - WHAT YOU CAN DO

If you would like to campaign on behalf of Judge González Dubón , you can:

⇒ *Write to the Guatemalan authorities and/or to the Guatemalan embassy in your country highlighting the following points:*

☒ **noting the 1998 conviction of several persons as material perpetrators of the murder of Judge Epaminondas González Dubón; but urging that others allegedly involved and those who ordered the killing also be brought to justice;**

☒ **expressing concern over the lack of protection offered to members of the judiciary involved in anti-impunity initiatives and calling on the authorities to guarantee effective measures to protect witnesses and all those involved in judicial proceedings around this case;**

☒ **pressing the Guatemalan government to fulfil its stated commitment to dismantle the Presidential High Command (*Estado Mayor Presidencial*, EMP) in 2003, which has been linked to the González Dubón killing and many other similar killings;**

☒ **urging that the Guatemalan government implement recommendations regarding judicial reform and protection of the judiciary made by the UN's Special Rapporteur on the Independence of judges and lawyers following fact-finding visits to Guatemala in 1999 and 2001.**

⇒ *Publicize this case in your national and local news media*

⇒ *Distribute information on this case widely to individuals or groups you think would be interested in it, including lawyers and bar associations.*

ADDRESSES FOR APPEALS

President of Guatemala Lic. Alfonso Portillo Cabrera,
Presidente de la República de Guatemala,
6a. Avenida "A" 4-41, Zona 1,
Ciudad de Guatemala, Guatemala, Fax: +502 239 0090,
Salutation : Excelentísimo Sr. Presidente/Dear Mr. President

President of the Supreme Court:
Lic. Alfonso Alvarez-Lobos Villatoro,
Presidente de la Corte Suprema de Justicia,
21 Calle 7-70, Zona 1, Edificio Corte Suprema de Justicia,
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Attorney General of the Republic:
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Fax: + 502 221 2718
Salutation : Sr.Fiscal General/Dear Attorney General
Minister of the Interior,
Gral. Eduardo Arévalo Lacs

Ministro de Gobernación,
Ministerio de Gobernación,
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Ciudad de Guatemala, Guatemala,
Fax:+ 502 362 0239/ 362 0237
Salutation : Sr. Ministro/Dear Minister

COPIES:

Colegio de Abogados y Notarios de Guatemala (Guatemala Bar Association)
0 Calle 15-46, Zona 15, Colonia el Maestro
Ciudad de Guatemala, Guatemala

Instituto de Estudios Comparados en Ciencias Penales Guatemala
Guatemalan Institute of Comparative Penal Studies
5 Calle 0-56, Zona 1
Ciudad de Guatemala, Guatemala

APPEAL CASE

Digging for the truth: The Dos Erres massacre

On 5 December 1982, an army squad of Guatemalan special forces, *kaibiles*, and some paratroopers, entered Dos Erres, La Libertad, in the Petén Department and, over three days, killed over 350 men, women and children. Many of the women were mass raped. Many of the corpses were thrown into the village well and others were left in nearby woods. The village was then razed to the ground.

In July 1994 the Argentine Forensic Anthropology Team (*Equipo Argentino de Antropología Forense*) was invited by two leading Guatemalan human rights NGOs, the Association of Relatives of the "Disappeared" (FAMDEGUA) and the Guatemalan Archbishopric's Human Rights Office, *Oficina de Derechos Humanos del Arzobispado de Guatemala* (ODHAG), to exhume the site where Dos Erres once stood. By July 1995, the team had uncovered 171 remains, most from the well, others from the woods. Sixty-seven were aged under 12, many still bore milk teeth. The forensic team established the identities of three of the victims and relatives and survivors identified 16 others, aged between six and 65.

Despite the appointment of a special investigating attorney (*fiscal especial*) in 1996, little occurred until July 1997 when Mynor Melgar, a human rights lawyer from ODHAG's legal department, replaced the first special investigating attorney and called senior army officers to testify, including Generals Efraín Ríos Montt and Humberto Mejía Vítores, in power at the time of the massacre. In October 1997, Mynor Melgar announced he would charge 14 soldiers with the massacre and was considering charges against Generals Mejía Vítores and Ríos Montt for covering-up the atrocity. The inquiries were then suspended for several months, but resumed at the beginning of 1998.

Soldiers present at the massacre testified that an army intelligence (G-2) commander at the Santa Elena military base had ordered the massacre. They described how the *kaibil*-paratrooper unit wore guerrilla clothing and was provided with guerrilla weapons to confuse villagers and avoid army accountability.

At the beginning of 1999 Special Investigating Attorney Mynor Melgar's contract was not renewed. Many people believe that he was taken off the case because he called Generals Ríos Montt and Mejía Vítores to testify. He subsequently received further death threats and temporarily left Guatemala.

Addressing Guatemala's lethal legacy: Appeals against impunity

In April 2000, the Attorney General's office (*Ministerio Público*) announced that police had "not been able to locate" any of the 15 accused soldiers to serve them with arrest orders and that nine had fled the country. FAMDEGUA filed an unsuccessful *habeas corpus* for one of the six remaining soldiers. FAMDEGUA also asked that General Ríos Montt be stripped of his immunity as President of Congress so that he could be prosecuted for the massacre. In September 2000, the offices of FAMDEGUA were raided by armed assailants and the computer files of the Dos Erres massacre along with other files and information were stolen. It is now almost 20 years since the massacre and although some compensation was finally paid in 2001, those responsible have still not been held to account.

The many legal obstacles and obstructions faced by those seeking justice for the human rights violations described in this appeal case, and the threats and abuses they themselves have suffered because of their efforts, are described in greater detail in the report, *Guatemala's legal legacy: Past impunity and renewed human rights violations* (AI Index AMR 34/001/2002).

ACTION AGAINST IMPUNITY - WHAT YOU CAN DO

If you would like to campaign on behalf of the victims of the Dos Erres massacre, you can:

⇒ *Write to the Guatemalan authorities and/or to the Guatemalan embassy in your country highlighting the following points:*

☒ **expressing concern that in the almost 20 years since this massacre was carried out, the material and intellectual authors have still not been brought to justice, and that arrest warrants against some of the soldiers allegedly involved have not been served;**

☒ **noting the number of abuses that have been directed against human rights groups and others involved in seeking justice in this case, and calling on the authorities to guarantee effective measures to protect witnesses and those involved in the judicial proceedings;**

☒ **urging the Guatemalan authorities to appoint a special attorney (*fiscal especial*) with specific responsibility for investigating cases of harassment, threats and other human rights violations against human rights defenders;**

☒ **welcoming the compensation finally paid to the survivors of this massacre at the end of 2001, but urging the government to ensure that adequate compensation is also paid with respect to the more than 600 army-led massacres carried out during the conflict years.**

⇒ *Publicize this case in your national and local news media*

⇒ *Distribute information on this case widely to individuals or groups you think would be interested in it, e.g. groups working on indigenous issues, Latin America.*

ADDRESSES FOR APPEALS

President of Guatemala: Lic. Alfonso Portillo Cabrera,
Presidente de la República de Guatemala,
6a. Avenida "A" 4-41, Zona 1,
Ciudad de Guatemala, Guatemala
Fax: +502 239 0090,
Salutation : Excelentísimo Sr. Presidente/Dear Mr.
President

President of the Supreme Court:
Lic. Alfonso Álvarez-Lobos Villatoro,
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Minister of the Interior,
Gral. Eduardo Arévalo Lacs. Ministro de Gobernación,
Ministerio de Gobernación, 6^a Avenida 4-64, Zona 4,
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Salutation : Sr. Ministro/Dear Minister

Attorney General of the Republic:

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Fiscal General de la República,
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Salutation : Sr. Fiscal General/Dear Attorney General

COPIES :

Association of Relatives of the "Disappeared"

FAMDEGUA
2a calle A 7-13, Zona 2
Ciudad de Guatemala , Guatemala

A P P E A L S C A S E

Environmental protection : Victim of the Corporate Mafia State? The CONAP cases

Erwin Haroldo Ochoa López, a Legal Advisor for Guatemala's National Council for Protected Areas, *Consejo Nacional de Áreas Protegidas*, (CONAP), and his administrative assistant, **Julio Armando Vásquez Ramírez**, were fatally shot on 29 February 2000 in Puerto Barrios, Izabal Department. CONAP is a direct dependency of the President's office.

Erwin Ochoa had received repeated death threats, allegedly emanating from military authorities with holdings in the Basic Resources Oil Company. He had worked in Petén Department investigating activities allegedly being carried out by Basic in the protected Biotopo *Laguna del Tigre* Reserve and National Park. A CONAP report found these activities had adverse environmental effects including damage to flora and fauna. Guatemala's Human Rights Procurator found Basic's operations in the park illegal and a violation of human rights, and blamed government authorities for granting the company rights to operate in a protected area.

Following death threats received by Erwin Ochoa because of his work in Petén Department, he was transferred to Izabal. There, he investigated illegal deforestation. Drug running is well-established in the region, and the area he investigated as having been unlawfully cleared had allegedly been prepared to serve as an illegal landing strip.

Six weeks before his death Erwin Ochoa met the Governor of Izabal and his advisor, a former army colonel, concerning illegal deforestation. Following the meeting Erwin Ochoa reported that the advisor had made threats against those investigating illegal timber-cutting operations.

Investigations into the killings of Erwin Ochoa and Julio Vásquez have proceeded slowly. The victims' colleagues believe local police were involved in a cover-up. First-aid workers who arrived shortly after the shooting said police prevented them from approaching to see if the victims could be treated. Witnesses gave police the license number of the motorcycle on which the killer fled, but the

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police did not report it or pursue the lead. When the local public prosecutor's office questioned them, all eight policemen had "lost their notes."

In May 2000, an Amnesty International delegation was told by CONAP officials that the investigation was proceeding smoothly. However relatives told the delegation of their dissatisfaction with the slowness of the inquiry.

In the following months, the case was moved from court to court, and a number of Public Ministry investigators reported constant threats and intimidation. In March 2001, it was reported that the prosecutor pursuing the case had been able to establish the intellectual and material authors of the killings, but was removed from the case when he requested arrest warrants to be issued. No further developments have been reported.

The many legal obstacles and obstructions faced by those seeking justice for the human rights violations described in this appeal case, and the threats and abuses they themselves have suffered because of their efforts, are described in greater detail in the report, *Guatemala's legal legacy: Past impunity and renewed human rights violations* (AI Index AMR 34/001/2002).

ACTION AGAINST IMPUNITY - WHAT YOU CAN DO

If you would like to campaign on behalf of Erwin Haroldo Ochoa López and Julio Armando Vásquez Ramírez were, you can:

⇒ *Write to the Guatemalan authorities and/or to the Guatemalan embassy in your country highlighting the following points:*

expressing concern over the killing of Erwin Haroldo Ochoa López and Julio Armando Vásquez Ramírez and calling for those responsible be brought to justice;

calling on the authorities to ensure the security of all individuals and groups investigating ecology concerns and working to protect the environment.

⇒ *Publicize this case in your national and local news media*

⇒ *Distribute information on this case widely to individuals or groups you think would be interested in it, e.g. environmental/ecology groups.*

ADDRESSES FOR APPEALS

President of Guatemala

Lic. Alfonso Portillo Cabrera,
Presidente de la República de Guatemala,
6a. Avenida "A" 4-41, Zona 1,
Ciudad de Guatemala, Guatemala
Fax: +502 239 0090,
Salutation : Excelentísimo Sr. Presidente/Dear Mr.
President

Minister of Defence

Gral. Alvaro Leonel Méndez Estrada,
Ministro de Defensa, Ministerio de Defensa,
Antigua Escuela Politécnica,
Avenida Reforma 1-45, Zona 10
Ciudad de Guatemala, Guatemala.
Fax: + 502 360 9909.
Salutation : Sr. Ministro/Dear Minister

Minister of the Environment and Natural Resources

Lic. Carlos Cáceres Ruiz

Ministro del Ambiente y Recursos Naturales
Ministerio del Ambiente y Recursos Naturales
10a Calle 6-81, Zona 1, Edif. 7&10
Ciudad de Guatemala, Guatemala

National Civil Police

Comisario Luís Arturo Paniagua Galicia
Director General de la Policía Nacional Civil
6ª Avenida 13-71, Zona 1
Ciudad de Guatemala, Guatemala

Fax: +502 251 9382

Salutation: Sr. Director General/Dear Director General

Izabal District Attorney:

Lic. Albert Clinton White Bernard,
Fiscal Distrital de Izabal, Ministerio Público,
7 Calle y 2 Avenida, Puerto Barrios,
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