

Presentation on post-conflict Justice in Guatemala

All-Party Parliamentary Group for the Prevention of Genocide and Other Crimes against Humanity

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Introduction

Thank you for this opportunity to speak to you today about the situation in Guatemala. It is noteworthy that today's meeting is taking place just days following the National Day against Genocide in Guatemala which took place this past Monday.

My name is Guillaume Charbonneau and I am Latin America Program Manager with Inter Pares, an Ottawa-based international development organization. With the support we receive from the Canadian public and the Government of Canada through DFATD, we are currently supporting over 120 grassroots organizations across the globe that work on a variety of social justice issues.

Inter Pares has a long history of work with Guatemalan organizations dating back to the 1980s, when we provided support to populations of refugees fleeing the military dictatorships. Our main counterpart in Guatemala (both then and now) is Project Counselling Service or PCS. PCS is a highly respected regional organization that provides long-term accompaniment to communities and civil society organizations throughout Latin America. They work together to build a lasting peace through an integral and rights-based approach that seeks to address the root causes of conflict.

I'd like to start my presentation today by giving some quick background about the major factors that led up to the genocide in Guatemala, followed by an update about the Peace Accords and current moment. I will end with some specific recommendations for the Canadian government.

The lead-up to the genocide – important contextualization

The roots of Guatemala's internal armed conflict can be traced back to colonization which laid the foundations for an entrenched system of racism and the massive concentration of land into few hands.

The late 1970s and early 80s were a time of revolutions and bloody repression all across Central America. Most of the world's attention was focussed on neighbouring countries El Salvador and Nicaragua, where the US military had played a more visible role. In Guatemala, the conflict began even earlier in the 1960s. In response to a situation of profound inequities and the closing of democratic spaces, various guerrilla movements emerged at that time and fought to overthrow the military regimes.

During the next decades, the Guatemalan army systematically attacked the civilian population in the country's Highlands (in its vast majority Indigenous), whom they suspected to be sympathetic to the guerilla cause. Using a scorched earth policy, the intent was to weaken the guerilla forces at its base, "taking the water away from the fish".

As part of their counterinsurgency strategy, Guatemala's military governments established Civil Defence Patrols, or "PACs" – ostensibly "voluntary" but in most cases through forced recruitment. At their peak, 1 million people in rural areas were part of the PACs and took part in operations that frequently targeted the civilian population.

The number of refugees increased dramatically at the beginning of the 1980s. By the end of 1982, 200,000 refugees had fled to Mexico and there were as many as 1 million internally displaced people. Reports of massacres, forced disappearances and even genocide were becoming widespread.

The peace process

After a conflict that had lasted 36 years, Peace Accords were eventually signed in 1996, bringing a formal end to Guatemala's civil war.

The incredible toll of the armed conflict would be detailed in a report produced by the Roman Catholic Church (known as the REMHI report). It is noteworthy that Bishop Juan Gerardi, the Archbishop of Guatemala City who spearheaded the REMHI report, was brutally murdered only two days after the report was made public.

The UN-sponsored Historical Clarification Commission, which was created as part of the Peace Accords, echoed the findings of the REMHI report. According to the Commission, in total, 200,000 civilians (83% of Mayan origin) were killed or forcibly "disappeared" and 440 villages were destroyed. The Commission identified the Guatemalan Army and its collaborators within the social and political elite as responsible for 93% of the atrocities committed.

For many of the refugees, returning to their communities meant facing serious land disputes. Most importantly, they often had to cohabit with some of the perpetrators of the crimes that made them flee in the first place, among others the ex-Civil Defense Patrols. And the nearby presence of the Guatemalan army remained a constant source of fear. The social fabric of entire communities and regions was very badly damaged by those events, and those scars are still present today.

The current situation

The Peace Accords represented a broad condemnation of the country's structural inequalities and offered great hope for change. Unfortunately, the high hopes that had been raised with the accords and the Truth Commission that followed have not fulfilled all their promises, especially around the demands for Truth, Justice and Reparations.

As part of the Peace Accords process, the Guatemalan State committed itself to eradicate illegal groups and clandestine security organizations. Nonetheless, the high levels of impunity and the inefficient administration of justice resulted in those groups continuing to operate unhindered, paving the way for a dramatic increase in petty and organized crime rates around the year 2000, after what had been a brief improvement. In the first decade of this century alone, the number of homicides tripled in Guatemala.

One of the main causes that can explain this situation is the lack of follow-up to one of the key points of the Peace Accords, namely the demilitarization of the country and its corresponding control of private violence. For example, two much needed bills weren't adopted in timely fashion, concerning the control of the commerce of firearms, and one aimed at regulating private security companies. Today, there are an estimated 500,000 firearms circulating legally in Guatemala, and most of the private security companies (among other sectors) are now owned and controlled by former military officials who played a major role in the internal armed conflict. It is estimated private security guards in Guatemala outnumber police agents by as many as 5 to 1.

The prospects for justice in Guatemala improved in 2010 with the appointment as Attorney General, of a former colleague of Inter Pares, Claudia Paz y Paz. I believe that Mr. Dewar and others here met with Dr. Paz y Paz when she was in Canada last year.

During her brief term in office (between 2010 and 2013) Claudia Paz y Paz, made important progress in combating organized crime and impunity in the country. This was reflected in the notable drop in homicide rates during her mandate.

Claudia Paz y Paz's work paved the way to advance on several emblematic cases of impunity that had been in a latent phase for several years.

The best known of these was the historic trial of former Dictator Efraín Ríos Montt, and José Mauricio Rodríguez Sánchez, ex-director of military intelligence. In May 2013, Rios Montt was found guilty of having committed genocide and crimes against humanity against the Maya Ixil people and was sentenced to 80 years in prison. This established an international precedent, as it was the first time a former head of state had to face such charges in his or her own country.

Another ground-breaking case advanced during Dr. Paz y Paz' term in office was that of Sepur Zarco, named after a Maya Q'eqchi village in Eastern Guatemala, where rape was used as a weapon of war and intimidation during the armed conflict. In 2011, a lawsuit was launched representing the first time the Guatemalan legal system initiated a proceeding to prosecute crimes of sexual violence committed

against women during the internal armed conflict. It is also the first trial for sexual slavery that has been brought to a national court.

Unfortunately, and notwithstanding these advances, we are seeing a regression with respect to the situation of impunity in Guatemala. Claudia Paz y Paz's term was cut short on technical procedures, and she was excluded from seeking re-election as Attorney General last year, even though she earned a nominating committee's second-highest ranking among all the candidates applying for the post. The Sepur Zarco case has not progressed further due to a legal recourse presented by the Defence; and it is worth mentioning that Rios Montt's sentence was overturned in May of the same year by the Constitutional Court of Guatemala on a legal technicality, making it enter in yet another legal limbo, in which the outcome and the timeframe are unclear.

Increasingly we are seeing the re-militarization of Guatemalan society. Meanwhile, the justice system remains in a state of crisis. The fragility of Guatemala's state institutions has resulted in the judicial system becoming part of the problem, with systemic problems such as a flawed system of postulation of judges for the Supreme Court and the Court of Appeal.

Impunity is still widespread for crimes of the past, which feeds into the current impunity rates for crimes committed today. It is a strong force against which Guatemalan human rights defenders have to be fighting on a daily basis:

- 2014 saw the highest number of attacks (804 in total) against human rights defenders. These included assassinations, threats, raids, people being followed, etc.). 54% of the attacks were against women defenders.
- Violence against human rights defenders has as a background the increased stigmatization for their defense of rights. Signs of this growing stigmatization have grown since 2013 as the opposition to the trial of ex-dictator Rios Montt led to a large alliance between different actors involved in the internal armed conflict and that are now part of the government, together with the private sector, retired militaries and far-right groups.
- During her 2014 visit of Guatemala, the United Nations Deputy High Commissioner for Human Rights observed that individuals who defend fundamental rights of Indigenous and rural communities such as the rights to water, to a clean environment, as well as the right to free, prior and informed consent are criminalized and face disproportionate legal retaliation – when they should be dealt with for what they are, legitimate social movements.

Looking forward

In order to address the situation of impunity, civil society organizations, particularly human rights organizations, have urged for the creation of an international commission that would investigate and prosecute illegal groups integrated in the State apparatus. This initiative led to the creation of the International Commission against Impunity in Guatemala (CICIG, in Spanish), which currently receives funds from the government of Canada.

Implemented under the coordination of the United Nations, the CICIG started its activities in 2006, supporting the country's public prosecutor, the National Civilian Police and other judicial institutions of the State. Nonetheless, the CICIG is only an instrument, and the ultimate responsibility to protect human rights rests between the hands of the Guatemalan state. Since its creation, the mandate of the CICIG has been renewed three times, each time for two years (in 2009, 2011 and 2013).

Despite strong dilatory tactics often coming from inside the Guatemalan State apparatus, the CICIG was able to prosecute very high profile cases in recent years, as well as to push for the adoption of legal and judicial reforms in the country. The same civil society organizations that have pushed for the CICIG to be created (3 of them Inter Pares counterparts) are now asking for the Guatemalan government to renew the CICIG's mandate for a fourth term in order to enable it to continue its work. The current government, led by ex-military official Otto Perez Molina, recently stated his opposition to this.

Conclusion and recommendations

To conclude, despite the formal end of the military dictatorships in Guatemala, levels of impunity remain extremely high and human rights violations are increasing. Guatemalans are looking at countries like Canada to maintain support and vigilance to ensure that the Peace Accords are fully implemented.

1. We urge Canada to continue its much needed financial and political support towards the CICIG, and to follow the call by the Human Rights Convergence to exhort the Guatemalan government to renew the mandate of the CICIG.
2. We urge Canada to maintain political and financial support for the key role of Guatemalan civil society as a watchdog and as legitimate social actor. This is increasingly important as successive Guatemalan governments have been weakening their commitment to implement the Peace Accords and to respect human rights and democracy.
3. We urge Canada to remain vigilant and increase its efforts to express public support to human rights defenders in Guatemala who are facing heightened vulnerability.