

GUATEMALA: The Genocide Case in Spanish Courts

A Spanish judge hears testimony from expert witnesses and survivors in the genocide case against Efraín Ríos Montt, Donaldo Alvarez Ruiz & others.

BELOW (information from the CJA - Center for Justice & Accountability):

update on the Spanish "genocide" case
background to this effort of universal jurisdiction
bios of 2 witnesses

IMPUNITY IS ALIVE AND WELL, IN GUATEMALA

The (amazing) genocide cases in Guatemalan courts are going nowhere. There is no pressure from Guatemala nor from the "international community" (particularly Canada and USA) to see the cases move forward in Guatemala courts. Rights Action commends the Center for Justice & Accountability (CJA) for supporting genocide survivors in Guatemala who are pursuing justice. Since 1995, Rights Action has supported many surviving victims groups – like those of Jesus Tecu Osorio and Juan Manuel Geronim that continue to demand justice. If you want on-off this elist: info@rightsaction.org. WHA

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JUDGE PEDRAZ TAKES TESTIMONY OF CJA CLIENTS, DESPITE REFUSAL OF GUATEMALA TO EXTRADITE DEFENDANTS

[Madrid, Spain, February 5, 2008] Judge Santiago Pedraz took testimony today from couples who were victims of genocide on crimes against humanity and other abuses committed by the Guatemalan military during its campaign of terror perpetrated against the Mayan population of Guatemala in the 1980s.

The witnesses, represented by the Center for Justice & Accountability (CJA) and the Spanish Human Rights (APDHE), traveled from Guatemala to Madrid at great personal risk after the recent refusal to grant Spain's extradition request for the named defendants, all former members of the Guatemalan military involved in what has become known as the Guatemalan Genocide Case. This week's testimony underscores Judge Pedraz's resolve to move forward with this important case.

Jesus Tecú Osorio, survivor of the Rio Negro massacre and winner of the Reebok Human Rights Award, said, "This is an exceptional, historic and unexpected opportunity and I am grateful to Judge Pedraz for making this possible. My people and I feel heard, understood, and relieved. This opportunity represents justice for all Guatemalans and honors the memory of the people that we have lost."

Also testifying this week is award winning international journalist Allan Nairn who will describe how he uncovered while reporting on the abuses committed by the Guatemalan Army in the region in 1982, particularly those perpetrated in the Ixil Triangle.

CJA International Attorney Almudena Bernabeu states: "Many have worked tirelessly and made a sacrifice to make this testimony possible. I realize this is the result of a long journey for me and I am honored to be part of this historic moment."

of the international legal team.

CJA is a San Francisco-based human rights organization dedicated to ending torture and rights abuses around the world and advancing the rights of survivors to seek truth, justice and pursue litigation in the U.S. and Spain to hold perpetrators individually accountable for their actions and to develop human rights law and advance the rule of law in countries transitioning from authoritarianism.

APDHE, founded clandestinely in 1976 soon after the death of dictator Francisco Franco, is a human rights association in Spain. APDHE advocates among government agencies and civil society for the promotion of human rights. APDHE has a long tradition of working for the promotion of human rights.

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BACKGROUND

According to the [UN-sponsored Commission on Historical Clarification \(CEH\)](#), over 200,000 people disappeared between 1960 and 1996 in Guatemala. The Guatemalan Army, and forces of the Guatemalan National Revolutionary Army, indiscriminately targeted indigenous communities, labor leaders, students, religious leaders, and innocent civilians under the pretext that they supported anti-government guerrilla groups.

During the worst period of violence in 1982-1983, the army and its counter-insurgency forces (defined themselves as "killing machines"), began a systematic campaign of repression against the Mayan Indians, who they claimed were part of a communist plot against the government. Worst of all, in the Mayan region, the army and its paramilitary teams, including "civil patrols" of forcibly recruited civilians, attacked and destroyed an estimated 440 Mayan villages.

This two year period became known as the "Silent Holocaust." Extreme torture became a common method of coercion and intimidation. In the words of the 1999 CEH report on the civil war:

The Army's perception of Mayan communities as natural allies of the guerrillas contributed to aggravating the human rights violations perpetrated against them, demonstrating an additional component of extreme cruelty that led to extermination en masse of defenseless Mayan children, women and the elderly, through methods whose cruelty has outraged the most civilized world.

THE GUATEMALAN GENOCIDE CASE BEFORE THE SPANISH NATIONAL COURT

Rigoberta Menchú Tum, a Qu'iche Indian woman who won the Nobel Peace Prize in 1992 for defending the rights of indigenous peoples, lost her entire family at the hands of the Guatemalan paramilitary groups acting with the consent of the government.

In December 1999, in the wake of the arrest in London of former Chilean dictator August Pinochet and a group of Spanish and Guatemalan non-governmental organizations filed a suit in the Spanish National Court (SNC) against several senior Guatemalan government officials including former President Efraín Ríos Montt and Romeo Lucas García, and former Minister of the Interior Donaldoizo Ríos.

The complaint charged the defendants with terrorism, genocide, and systematic torture. It cited a number of notorious incidents including Rigoberta Menchú's personal story. Ms. Menchú and her family were tortured and killed by the army. Her father died when he was burned alive, along with other members of the army at the Spanish Embassy in 1982.

Ms. Menchú is a private prosecutor in the case, and other Guatemalan and Spanish organizations are also popular prosecutors. Due to CJA's record of success on other Central America human rights cases, the [Rigoberta Menchú Foundation \(RME\)](#), requested that [CJA International Attorney Almudena](#) file the complaint as a private prosecutor. Ms. Bernabeu joined the complaint with Spanish co-

PROCEDURAL HISTORY

After the case was initiated, the Public Prosecutor filed a motion to dismiss the action claiming that the plaintiffs had not adequately exhausted their legal remedies in Guatemala. The plaintiffs argued that Guatemala was effectively denied because victims and lawyers were threatened and could not entertain or pursue suits.

In a temporary setback for the case, an en banc criminal chamber of the Spanish National Court ruled on December 13, 2000 in favor of the Public Prosecutor. The various plaintiffs then appealed the decision in March 2001.

On February 25, 2003 the Spanish Supreme Court, in an 8-7 decision, partially overturned the National Court's decision. The Supreme Court found that the only cases that could proceed were the ones that had a close tie to Spain. The ruling thus allowed investigations for the torture and killing of Spaniards in Guatemala but threw out the claims of the Mayan plaintiffs.

In March 2003, the plaintiffs appealed this decision to the highest appellate court in Spain, the Constitutional Court.

In a groundbreaking decision, on September 26, 2005 the Constitutional Court reversed the Supreme Court's decision, saying that it was the legislators' intention to make Spain a country that observes "universal jurisdiction" for certain egregious crimes. The decision stated that Spanish Courts have jurisdiction over crimes of international importance -- crimes prosecutable in any jurisdiction as prescribed by international treaties including the Geneva Conventions -- regardless of the nationality of the victims or the location of the crimes. Crimes include torture, crimes against humanity and genocide.

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TWO OF THE COMPLAINANTS

JESUS TECU OSORIO

Jesus Tecu Osorio was an eye-witness to the March 13, 1982, Rio Negro massacre in the Mayan region of Guatemala. He was ten years old when members of the Guatemalan army, accompanied by paramilitary groups known as "civil patrols," entered the community of Rio Negro in the Peten region of Guatemala. Over several hours, the soldiers raped, decapitated, burned and killed 173 people, including men, women and children. Jesus Tecu witnessed his family being massacred. He saw his brother killed with a machete, after which his body was thrown into a common grave. Jesus was forced to work for the assassin responsible for his brother's death. He was forced to slave 11 children, and kept in captivity for over 10 years by members of the Guatemalan civil patrols. Jesus joined the CJA case on March 13, 2007.

JUAN MANUEL JERONIMO

Juan Manuel Jeronimo was born in Plan de Sanchez (Rabinal, Baja Verapaz) on December 18, 1968. He is a survivor of the massacre of Plan de Sanchez that took place on July 18, 1982. Juan Manuel was in his house with his wife when someone told him that a military patrol was coming. Both his wife and he hid in a cave about 60 feet away, where he saw the soldiers gathering most of the people in town and bringing them to his house. Juan Manuel witnessed the military throw several grenades into the house which killed everybody inside. Afterward, Juan Manuel witnessed the soldiers rounding up all the young people in the area, and then beating them to death. Juan Manuel lost 18 relatives during the massacre, including his wife and all of his children. At least 200 people were massacred that day in Plan de Sanchez, including men, women and children. Juan Manuel Jeronimo currently resides in Plan de Sanchez through agricultural work. Juan Manuel joined the CJA case on March 13, 2007.

Based in Guatemala, Rights Action (with tax-deductible legal status in Canada and USA community-based development, environment and human rights organizations in Guatemala Salvador and southern Mexico (Oaxaca, Chiapas); and educates about and is involved global development, environmental and human rights struggles.

To make TAX-DEDUCTIBLE DONATIONS for indigenous and community-based organizations to implement their own development, human rights and environment projects, make checks to "Rights Action" and mail to: UNITED STATES: Box 50887, Washington DC, 20091-0887; CANADA: 427 Dundas Street West, Toronto, Ontario, M5G 1L7. Credit-card donations: www.rightsaction.org.

JOIN: Rights Action's listserv and newsletter lists.

CREATE YOUR OWN E-MAIL LIST: and re-distribute this and other information.

LISTEN: to the www.democracynow.org news program every day.

READ: Eduardo Galeano's "Open Veins of Latin America"; Naomi Klein's "The Shock Doctrine: The Rise of Disaster Capitalism and the New World Order"; Naomi Klein's "Pedagogy of the Oppressed".

SMILE: And live to make another world is possible, everyday.

EDUCATIONAL SPEAKING TOUR

In March-April 2008, Rights Action is organizing an educational speaking tour in Canada (USA) on the global mining industry, the interests of North American investors, and human environmental and development harms caused by the mining industry – and Goldcorp in Mexico, Guatemala and Honduras.

EDUCATIONAL DELEGATIONS

In April (April 26-May 3) and early July, Rights Action is planning an educational delegation to learn more about community based resistance to the harms of Canadian/ US mining companies.

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