

**GUATEMALA – MEMORY, TRUTH & JUSTICE:  
War Crimes Trials At Risk**

June 8, 2010

"In many ways these cases represent "Nuremberg trials". They MUST continue if we are serious about ending the impunity in Guatemala." (Jennifer Harbury)

**BELOW:**

- Urgent Appeal from Jennifer Harbury (jharbury@yahoo.com) describing her on-going efforts to prosecute those responsible for the kidnapping, torture and murder of her husband, Efraim Bamaca
- A what to do list
- A how to support list

**RIGHTS ACTION Commentary:**

This is a nasty time in Guatemala. In April, we reported ([http://rightsaction.org/Alerts/Guatemala\\_war\\_crimes\\_possibility\\_042710.html](http://rightsaction.org/Alerts/Guatemala_war_crimes_possibility_042710.html)) that war crimes trials were finally moving ahead – however so slowly - in Guatemala.

Since that time, there has been a huge backlash (described below). The 'same old, same old' military/economic/political sectors, that planned, carried out and benefitted from the state repression and genocide of the 1970s, 80s, 90s, are now pushing back against any possible justice being done for the political crimes of the past.

Since 1995, Rights Action has funded and support countless community based efforts to seek justice for the crimes of the past. These groups – along with Jennifer Harbury – are again under attack.

- Please redistribute this information
- To get on/ off Rights Action's listserv: [www.rightsaction.org](http://www.rightsaction.org)

**FOR MORE INFO:** Annie Bird (202-680-3002, [annie@rightsaction.org](mailto:annie@rightsaction.org)) & Grahame Russell (860-352-2448, [info@rightsaction.org](mailto:info@rightsaction.org))

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**FROM JENNIFER HARBURY:**

**URGENT ACTION: BAMACA CASE IN GUATEMALA**

Dear Friends:

Looks like we have reached a crisis point in Guatemala. There is a fierce campaign going on to shut down the ten paradigmatic war crimes cases against the army leadership from the genocide era.

Conrado Reyes, the newly appointed prosecutor has ousted all of the pro human rights lawyers in his office as a first step. Castresana, head of CICIG, has resigned in protest, asserting that Reyes has close ties with the military.

In many ways these cases represent "Nuremberg trials". They MUST continue if we are serious about ending the impunity in Guatemala.

**WE URGENTLY NEED YOUR CALLS!**

**PLEASE CALL:** We need to show Mr. Reyes that the international community stands firmly in support of the ten paradigmatic cases, and firmly against retaliatory measures against any of us.

The basic message points and contact info are set out below. Please organize a small group of your friends to call as well. We need to make a very strong showing to prevent the situation from getting worse.

If you have congressional connections, please contact your Rep. or Senator at once and ask him or her to ALSO make a call to their Guatemalan contacts on our behalf.

**PLEASE CALL THE PROSECUTOR:** The new National Prosecutor, Lic. Conrado Reyes, can be reached at the following numbers and or addresses. Calls are the most effective:

Tel: 011-(502) 2411-8181. Also call: 011-(502) 2411-9191.  
E: [fiscalgeneral@mp.gob.gt](mailto:fiscalgeneral@mp.gob.gt), [macoubaud@gmail.com](mailto:macoubaud@gmail.com).

When the voice machine comes on, hit the 9 and wait a moment or two. It will give you several choices. Hit #1 for the Fiscal General.

**PLEASE ALSO CALL OR FAX PRESIDENT COLOM** if you can. He needs our support to do the right thing. Use the same talking points.

FAX/ Telephone for President's Office is: 011-(502) 2221-4423, or 2383-8390

**PLEASE SIGN OUR PETITION:**

[http://salsa.democracyinaction.org/o/2690/p/dia/action/public/?action\\_KEY=3726](http://salsa.democracyinaction.org/o/2690/p/dia/action/public/?action_KEY=3726)

**MESSAGE PONTS IN ENGLISH & SPANISH:**

We are very concerned about the continuing impunity for Guatemalan military officers who engaged in genocide, torture, forced disappearances and extrajudicial executions during the long civil war.

We applaud the government's earlier steps to seriously prosecute ten paradigmatic war crimes cases, including the case of Efraim Bamaca Velasquez, and we strongly urge you to continue to support the proper prosecution of these extraordinary cases in all ways possible.

We are very concerned about the safety of all involved parties, witnesses, and court personnel and urge that you take all possible steps to protect them.

We wish to protest the shocking efforts of certain military officials to improperly charge Ms. Harbury and the Fiscal, Manuel Vasquez, with criminal conduct based on their efforts to proceed with the Bamaca case. Such reprisals cannot be tolerated against her or any other human rights defender.

There can be no true democracy until the impunity for war crimes is brought to an end, and the rule of law is respected. The international community stands firmly in support of these war crimes trials.

**SPANISH:**

Estamos muy preocupados por la continua impunidad de ciertos oficiales del ejército guatemalteco, involucrado en genocidio, tortura, desapariciones forzadas y ejecuciones extrajudiciales durante el largo conflicto armado interno.

Aplaudimos los pasos preliminares del gobierno en procesar los diez casos paradigmáticos de crímenes de guerra, incluyendo el caso de Efraín Bámaca Velásquez. Insistimos fuertemente que continúe apoyando el proceso de éstos casos tan extraordinarios en todas las formas posibles.

Estamos muy preocupados por la seguridad de todas las personas involucradas, testigos así como el personal de los juzgados. Le SOLICITAMOS fuertemente que adopte las medidas adecuadas para su protección.

Deseamos protestar en contra de los esfuerzos escandalosos de ciertos oficiales del ejército para acusar incorrectamente a la Sra. Harbury y el fiscal por conducta criminal basados en sus esfuerzos a proseguir con el caso Bámaca. Tales represalias contra ella o cualquier defensor/a de derechos humanos no debería ser tolerado.

No puede haber una democracia real hasta que la impunidad de los crimines de guerra sean traídos a su fin, y cuando que el estado de derecho sea respetado.

De favor le pido que recuerde que todos en la comunidad internacional de derechos humanos nos encontramos en solidaridad con los casos de crimines de guerra.

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**IMPORTANT:**

I know that all of us receive constant requests for calls and letters and many different issues. But the ten paradigmatic cases are crucial to the peace and healing process in Guatemala. We cannot allow this to be shut down. If each of you could contact five friends and take responsibility for making sure that the calls or letters really go through, it will make a huge difference, not only in terms of the cases proceeding, but in terms of our safety as well.

Make sure you touch base with your team after a day or so and ask for feedback. We need to know what the response is so that we can gauge our next steps. As soon as you and your friends have made the calls, please contact the Guatemala Human Rights Commission and let Amanda or Kelsey know how it went. They will keep track of the number of calls and the reactions. A call campaign can be extremely effective, but only if we remain very tightly organized.

Thank you and abrazos to all of you. Jennifer

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**CHRONOLOGY: BAMACA CASE**

1. Efraín Bámaca Velásquez was born to an impoverished Mayan family in El Tablero, a finca located in the San Marcos area of Guatemala. He grew up working in the fields, and although he wanted an education, he was never able to attend school. In his teens he met with the first organizers of ORPA. The founder, Rodrigo Asturias (son of Nobel laureate Miguel Angel Asturias) taught him to read and write and gave him numerous books. When he turned 18 he left home for good and spent the next 17 years in ORPA combat fronts. He rose to the rank of Comandante at a very young age, and was known as Comandante Everardo.

2. I met Everardo for the first time in 1990, when I was permitted to briefly visit the Luis Ixmata frente of ORPA in order to interview some of the women combatants for my book "Bridge of Courage" (published by Common Courage Press in 1993). In 1991 he arrived in Mexico City to help with preparations in the peace negotiations. The next topic on the agenda was indigenous rights. We lived together for most of that year. We also visited Texas in September 1991, and were married there.

3. In January 1992 Everardo returned to his frente, Luis Ixmata. There were plans for the group to move out of the Volcan Tajumulco and into the surrounding area. This was a dangerous change, but Everardo knew every inch of the region. He insisted on returning at once.

4. On March 12, 1992 Everardo was with a small group of combatants when they suddenly encountered a military patrol. There was a brief gun battle. When it was over, Everardo had vanished, together with his boots, backpack and rifle. The other compas could find him nowhere. No one else had disappeared, although one compa, Amilcar, was wounded.

5. The skirmish took place at the Rio Ixcuacua near Canton Montufar, Nuevo San Carlos, not far from Retalhuleu.

6. The army announced the next day that the soldiers had found a body in an olive green (URN) uniform at the site of the combat, and had buried the person in Retalhuleu, in an "XX" or unidentified grave. Logically, this had to be Everardo, as no one else was missing. However, some discrepancies caused serious concerns amongst the ORPA leadership that the army might be carrying out a hoax and had in fact captured Everardo alive. We all knew that if this was the case, that he would suffer terrible torture. In thirty-five years of war the army had never returned a prisoner of war alive.

7. Given these concerns, the Comandancia communicated with Ramiro De Leon Carpio, who was then the Procurador de Derechos Humanos. They asked him to obtain forensic photographs of the body to confirm its identity. Mr. De Leon Carpio answered that the G-2 officers claimed they had no such photographs, a highly unlikely situation. However, they had given a written description of the body, which he included in the letter. It was highly detailed and gave a near photographic description of Everardo, including very feature in his face, his build, coloring and age. According to this report, he had shot himself through the mouth with his own rifle to avoid being taken alive.

8. We tried to carry out an exhumation of the grave in Retalhuleu, but the Procurador Nacional Asisclo Valladares arrived by military plane and cancelled the event, even though it had been legally organized by De Leon Carpio. More than 20 police officers armed with rifles also surrounded us. Asisclo promised to re-schedule the exhumation, but never did.

9. Meanwhile, the URNG Comandancia was making every effort to obtain further information. Local villagers reported that they had seen someone dragged from the combat site, covered in a tarpaulin. Whether the person was dead or alive they did not know. No one was able to gather any further details. As the months passed, we believed Everardo must be dead, whether killed in combat or captured and tortured. We had never known any one to return alive after so much time under torture.

10. At the end of 1992 a young combatant named Santiago Cabrera Lopez escaped from army captivity. He had been a member of the Luis Ixmata frente and of course knew his own Comandante, Everardo, very well. He and a combatant named "Karina" had been captured alive by the army in 1991 and we all believed them dead.

11. Santiago explained to us that the G-2 or intelligence division had a new program. Most prisoners were routinely tortured and killed. However, if the prisoner had intelligence value, the G-2 officers would subject them to long-term torture, taking care not to accidentally kill them. The goal was not to kill the prisoners, but rather to break them psychologically. Once broken, they were held as secret prisoners indefinitely. They were dressed in army uniforms so that no one would know they were prisoners. They were told that if they tried to escape their families would be killed.

12. Santiago himself suffered terrible tortures at their hands. For example, he was beaten with a block, battered on the feet, given electrical shocks to the genitals and placed in a small hole under an officer's desk. He was chained to a bed for months. Finally, he realized that to survive he must convince his captors that he was "broken". He then became very obedient, and gave information that could hurt no one else. For example, he would give away old radio codes and identify the dead in the morgues. The officers began to trust him and watch him less.

13. On March 12, 1992 Santiago was horrified to see his own Comandante Everardo dragged into the Santa Ana Berlin military base and chained to a bed. He heard the officers stating that the others thought he was dead. He saw Everardo held there for perhaps a month, but was never able to speak with him for more than a few moments. Then Everardo was taken away by helicopter to the capital. After awhile, one of the officers announced that he had tried to escape and had been killed. The prisoners were told they must never speak of him again "or else". They knew what that meant.

14. In late June/early July 1992 Santiago was sent to the Base 18 of San Marcos. To his amazement he saw Everardo there very much alive. He had been sent from the capital to Quetzaltenango and now San Marcos. Col. Alpirez and Major Sosa Orellana were also there, and were very upset about Everardo being seen. They sent him into the infirmary and held him there alone.

15. The next day Mayor Sosa Orellano sent to the local hospital for a cylinder of gas and sent that to the infirmary where Everardo was being held. Later, an officer ordered Santiago to go get the typewriter from that room. He obeyed, and when he entered he saw Everardo stripped and bound to a bed, his body enormously swollen. He was mumbling in a strange voice, and one arm and leg were bandaged. The gas cylinder was next to him. Colonel Julio Roberto Alpirez was bending over the bed taking notes. When he saw Santiago he became enraged and told him never to speak of the prisoner again, or he would suffer the consequences.

16. Santiago saw Everardo a few days later. He was dressed in a soldier's uniform so the arm and leg were not visible. He appeared normal, although very tired, and he spoke in a normal voice. After that Santiago was sent to a different location and he did not see Everardo again.

17. In December 1992 Santiago was able to escape to Mexico. The G-2 officials had begun to trust him. They also assumed he would stay with them in order to protect his family. However, Santiago's surviving relatives were all refugees in Mexico, so he could safely flee, unlike the other prisoners. (Karina's brother had burned to death in the Spanish Embassy, and she was highly protective of her surviving family members).

18. Upon connecting with the URNG Comandancia in Mexico, Santiago went immediately to Geneva to testify to the United Nations. When he returned, I met with him (January 1993) and we spoke at length. I then filed an exhibicion personal (habeas corpus) with the Guatemalan courts. I also filed a complaint with the Inter-American Commission on Human Rights of the OAS. I gave my testimony there in March 1993. The Guatemalan army responded that Santiago was lying, and that Everardo was indeed buried in the grave in Retalhuleu.

19. I then met with a number of Congresspersons in Washington D.C. and they immediately expressed concern. I also met with the new Ambassador, Marilyn McAfee, who assured me there was no information, but that she would do all in her power to help.

19. In the summer of 1993 I returned to Guatemala and traveled to Retalhuleu to open the grave. The Judge granted my petition and the exhumation was scheduled. Meanwhile, I reviewed the court files and found two startling documents.

20. The first document was the report of the Justice of the Peace, dated March 13, 1992. This document reports that he was brought to the combat site by the army to examine the body in olive green found there. The Judge gives an extraordinarily detailed report of the body itself, giving the same near photographic description of Everardo that we had received from Ramiro De Leon Carpio earlier. It stated that Everardo had shot himself through the head. Further, it lists all the contents of his backpack, the number of cans of sardines, the make and serial number of his rifle and the number of bullets. It describes his uniform, the color of his socks, and states that he was wearing white biking style underwear with horizontal blue lines. Yet on the key line, "cicatrices y lunares" it says "none". Everardo had been in combat for seventeen years, and had numerous heavy scars on his body. There was one faint one on his upper lip from a fall over a cliff; a heavy one on his left arm from barbed wire, a bright white round scar over his heart where a bit of flying metal struck, and many scars across his lower legs from bits of shrapnel. He also had many small white scars from buckshot across the backs of his shoulders. Clearly, the Justice of the Peace never saw Everardo's body at the combat site. He had been ordered to give Everardo's description. The photographs show him standing next to the body, taking notes, surrounded by soldiers.

21. The second document is the original autopsy report, also dated March 13, 1992. As soon as the cadaver was brought to Retalhuleu, the city forensic physician had performed the autopsy. This report describes a completely different person: far younger and smaller, with a mustache Everardo did not have, "ojos achinados" which Everardo did not have and a scar on the hand which Everardo did not have. None of Everardo's scars are listed. The young man moreover did not die in combat. Nor did he commit

suicide. He was bound, shot, stabbed, battered, strangled, fingerprinted, and his cranium was crushed, not by a bullet but by rifle butt blows.<sup>1</sup>

22. With this I knew that Santiago was telling the truth and that Everardo did not lie in the grave. The army had buried someone else there instead. However, I carried out the exhumation all the same. I also brought a forensic expert from the United States, Dr. Charney, as well as the Guatemalan anthropologic team. The forensic physician from Retalhuleu who had performed the original autopsy also attended. In the grave we found the young man described in the report. The Retalhuleu forensic doctor confirmed from the size and crushed cranium that this was the young man he had examined earlier. The other forensic experts examined the pelvis and determined through scientific methods that the person was between 18-20 years of age, with a margin of error of 5 years. Everardo was 35 when he vanished. I looked carefully at the skull. The jaws at least were intact. The young man had gold coronas, which Everardo did not have. He did not have the same extractions as Everardo, nor was the spacing of the teeth the same. The forensic specialists announced that this person could not be Everardo. The Judge accepted the forensic reports and the grave was closed once again.

23. I returned to Guatemala City and met with the U.S. Ambassador Marilyn McAfee again. We had met a number of times already. She repeated her standard response that the U.S. had no information. She was, however, visibly startled by the proof I had compiled. She did arrange for me to meet at once with the Minister of Defense, General Enriquez.

24. I discussed the evidence with General Enriquez and he was clearly disturbed. He said that the army had found a body and buried it in Retalhuleu, and that I myself stated that the body was not Everardo. Thus they never had him at all. I gave him a copy of the 1992 De Leon Carpio letter containing the army description and I read it to him and showed him Everardo's photograph. I asked why, if the army never had Everardo in the first place, the G-2 sent me a near photographic description of him instead of the very different young man really in the grave? Enriquez could not answer that. I also asked where, if they never had Everardo, they had obtained such an extraordinarily detailed description of him? Once again he could not answer.

25. I asked Enriquez to turn Everardo over to the courts of law for a fair trial, and promised that if they did so, I had no interest in prosecuting Alpirez and Sosa Orellana. I also told him I would not cause any more uproar. He cringed at the names but told me to go ahead and make whatever uproar I wanted to.

26. The next day I started a 7-day hunger strike on the front lawn of the Polytechnica.

27. As a result, I began to gain great support from the various Embassies, from the OAS, from the United Nations, and from a growing number of U.S. Congresspersons. The State Department officials continued to meet with me and to insist that they had no information about my husband and that they had "no independent confirmation" that any secret prisons in Guatemala existed. They also sent a form letter in response to all Congressional inquiries giving the same response.

28. As the international pressure grew, General Enriquez met with me on a number of occasions in early 1994. He also arranged for me to meet with General Otto Perez Molina (who had been the head of the G-2 when Everardo first disappeared), Col. Merida and Col. Rivas. The meetings were civil although the officers were clearly furious. The topic

was the evidence against the army, and what I was suggesting as a solution. The discussions abruptly ended in June 1994. No one returned my calls and no more meetings were permitted. Communications had come to a close.

29. Given this situation, it became clear that Everardo's time was ending as well. The war was drawing to a close. The army would never permit Everardo to survive to tell of his tortures. Nor would the army need his information after a cease fire. The international community had done all it could.

30. In October I went on a hunger strike to the death in front of the National Palace in Guatemala. I drank only water and one bottle of pedialyte each morning to keep my head clear. I had been out there for one month and was extremely weak, when 60 Minutes aired a program about my situation. In the broadcast Mike Wallace presented a CIA document that had been sent to the State Department, confirming that Everardo had indeed been captured alive by the army. This had never been shared with me or with the U.S. Congress.

31. In the ensuing uproar in the United States, Anthony Lake of the White House National Security Council invited me to return and discuss the case with him. On the 32d day of my hunger strike, I announced that I would return to Washington D.C. for this purpose.

32. On this same day, the U.S. Ambassador, Marilyn McAfee issued a formal demarche to the government of Guatemala, confirming that Everardo had been captured alive by the Guatemalan army.

33. Back in Washington I did meet with Anthony Lake, who apologized for the two year failure to present me with the information confirming Everardo's capture. He said he had "scraped the bottom of the barrel" and that there was no further information. I demanded the entire file on an emergency basis. He said he would see what he could do. I received nothing.

34. I also met with a number of officials at the Department of State. They were somewhat embarrassed but assured me there was no other information. They could confirm Everardo had been captured alive, but "had no evidence that he was still alive". I pressed them hard on this last point, asking if there was any evidence that he was dead. They said they had nothing. However, their manner clearly indicated that they were still withholding information. I re-pressed my FOIA claim on an urgent basis but still received nothing from any U.S. agency.

35. On March 12, 1995 I resumed my hunger strike, but this time in front of the White House in Washington D.C.

36. After nearly two weeks, U.S. Representative Robert Toricelli, a member of the House Intelligence Committee, disclosed that the CIA and State Department had official information that Everardo had been executed upon orders of Col. Julio Roberto Alpirez. Moreover Alpirez was a paid CIA informant or "asset".

37. In the ensuing scandal, a number of other disclosures were made, some through a very late response to my Freedom of Information Act request, some through the Intelligence Oversight Board, some through additional witnesses.



38. The declassified U.S. files completely confirmed that Everardo had been captured alive, severely tortured, and extrajudicially executed by the Guatemalan intelligence division. He had been drugged and battered repeatedly, and held in a full body cast to prevent his escape. Many of the names given by Santiago were specifically confirmed.

39. In the summer of 1995 a G-2 specialist named Angel Nery Urrizar ("Ojiva") defected from the army and presented himself to the MINUGUA offices in Guatemala City. He had fallen into a dispute with his fellow G-2 officers, and they had tried to have him killed. He reported to us that he too had seen Everardo on March 13, 1992 in the Santa Ana Berlin military base. Major Sosa Orellana had called him to bring a photograph of Everardo from the intelligence files so that they could identify the prisoner. (He brought an old cedula photograph). When Urrizar returned to his base in Mazatenango, a young soldier from his team named Chepe Perez was missing. The others told him that Sosa Orellana had sent two G-2 specialists to take him to the combat site, place him in a URNG uniform and kill him. Urrizar became very upset about this and spoke with Sosa Orellana, who told him to mind his own business, and explained only that they had needed someone to substitute for Everardo in the grave. Urrizar gave us the cedula of the young soldier. The description matched that of the Retalhuleu autopsy report of March 12, 1992. It is the body of Chepe Perez that lies in the grave there. Urrizar testified to the Inter-American Commission and also gave a statement to the Fiscal Especial, Dr. Arango in Guatemala.

40. Meanwhile, a former prisoner named Otoniel de La Roca Mendoza ("Bayardo") approached me in secret. He was a former FAR combatant and had been captured in 1988 and severely tortured. Like Santiago he was held by G-2 as a special long term prisoner. Most of his family, including his wife, had been killed by the army. His two small children were being forced to live near an army base together with his in laws. This is why he had never attempted to flee although he had a number of chances. His G-2 captors made it clear they would kill his children if he did.

41. Otoniel had become the prisoner of a special G-2 unit called "El Comando". This was the official death squad of army intelligence and was based near the Policia Militar Ambulate building in the capital. The Comando specialized in the surveillance, capture, torture and execution of not only suspected guerrilla members but civilian human rights leaders and dissidents as well. The Comando traveled throughout the country, sometimes even to Tapachula, Mexico to search for "suspects". As the years passed, they came to trust Otoniel and spoke openly about their activities, and used their real names. He has given us this list.

42. In early 1992 the army formed the special task force Quetzal, composed of units from all over the country, to respond to the new movements of the Luis Ixmata frente out of the volcano. The Comando participated, and "Don Rolando" or Alberto Gomes Guillermo, brought Otoniel with him.

43. Otoniel also saw Everardo in the Santa Ana Berlin base on March 12, 1992. Don Rolando and the others were ecstatic about his capture. Everardo was severely abused from the beginning, and was there for about a month, then taken away by helicopter to the capital. Members of the Comando were on that helicopter with him.

44. Otoniel also knew that Everardo had later been returned to San Marcos, as witnessed by Santiago.

45. After Everardo was taken away from San Marcos in late 1992, there are three versions of his death. One declassified document indicates that he was "probably" thrown from a helicopter into the sea, since this was routine. However, the reporter had no actual knowledge. Another report indicates he was taken to the tiny remote base of Las Cabanas, near the Mexican border, killed and buried there. Certainly this base is a well know and large clandestine cemetery. Locals say that people have been secretly buried there since the late 1970s, and estimate that there are between 500 and 2000 clandestine graves under and around the base. They also report that in 1986 when Vinicio Cerezo became President that the army feared exhumations, and opened and burned many of the graves. Dr. Julio Arango, named as Special Prosecutor, tried to exhume this graveyard for months in 1995, but came under so many death threats against himself and his family that he was forced to resign. Lic. Cintron represented the army.

46. The third version states that Everardo was returned to the Capital, tortured by the Comando members for another year, then killed, dismembered and buried in a sugar cane field in the Escuintla area. This is very possible. I first heard this version from a Col. Coronado, who defected and spoke with Minugua. I did not believe him at the time, but later reports indicate this part of his statement was truthful. Also, a key CIA document signed by Mr. Twetton indicates that Everardo was still alive in the spring of 1993, (together with 300 other secret prisoners.) This was long after he left San Marcos for the last time. Certain comments made to Otoniel by members of the Comando also confirm that Everardo was back in the Capital with the Comando in 1993.

46. Meanwhile Col. Alpirez, under enormous pressure, began to insist that he was not the one who killed Everardo. Rather, it was General Otto Perez Molina who bore full responsibility. Later, a group called PREGUA issued a lengthy statement and delivered it to the U.S. Embassy. According to this statement, as the international outcry mounted because of my activities and denunciations, General Enriquez met with a number of G-2 and other military leaders to discuss the situation. All wished to turn Everardo over to the courts alive. However, Otto Perez Molina strongly disagreed, saying that the army had already declared him dead and could not change its story now. Enriquez told Perez Molina to take care of it. Everardo was then killed. The timeline here squares with my own experience: the international pressure was enormous in 1994, and that was when I had my many meetings with Enriquez and the other military leaders. By June of 1994 there was suddenly silence.

47. The United States files show that CIA officers knew that Everardo had been captured alive by the Guatemalan army, that he was a very important prisoner, and that the G-2 officers were faking his death in order to better pressure him for his information. This information was relayed to the State Department in a memo dated March 18, 1992, some six days after he was taken prisoner. The CIA obviously knew where he was, since he was in the hands of their own paid assets or informants. Voluminous information was sent to the CIA and routinely circulated to the Embassy for the next several years, including the 1993 CIA memo reporting that Everardo was still alive and that the army had some 300 other secret prisoners as well. All this was disclosed in 1995. By then all the prisoners were dead. Had the truth been timely told, these lives could have been saved.

48. The case went to a full trial at the Inter-American Court on Human Rights in San Jose Costa Rica in 1998. A landmark unanimous decision in our favor was issued in 2000. The reparations hearing was held in 2001. The government was held responsible for Everardo's disappearance and torture, and my relationship with him was given full legal

recognition. The government was ordered to begin proper criminal investigations and proceedings. This they have never done.

49. In January 2009 the Inter-American Court held compliance hearings on several Guatemalan cases, including this one. This resulted in a very strongly worded order requiring the government to move forward with the criminal proceedings, and setting forth very strict time limits for doing so.

50. The Guatemalan government claims it has lost the entire "expediente", or the court files with some 17 years worth of evidence. The CIDH has ordered them to address this matter at once. It is not the first time the files have been lost. When I returned to Guatemala in 1993 for the exhumation, I was told that De Leon Capri's file had been lost. As I am an attorney I had copies of everything, just as I do now. Also, the CIA files report General Enriquez's repeated orders to destroy all information about this case.

51. After the U.S. disclosures of 1995, the Guatemalan army began to attack my marriage, and paid two Houston lawyers to try to have it rendered void by the Texas courts. They tried to do so, but the grounds were frivolous and the complaint was dismissed. Meanwhile in Guatemala, for the first time the authorities refused to recognize my marriage, even though it had been routinely accepted until then, and even though international law holds a marriage valid everywhere if valid in the place it was celebrated. Under enormous pressure (including armed officer sitting facing the judge in San Marcos) it was finally rejected by the Guatemalan courts. No rational basis was provided for this ruling, other than fear of the coming trial in Costa Rica. Apparently it was believed that if my marriage could be annulled the trial could not proceed. I was then severed from the prosecution, and given no notice of any proceedings. This blocked my efforts to press the case. As noted above, the CIDH has fully recognized my relationship with Everardo and my right to proceed with and participate in the case.

52. The army also brought the Retalhuleu judge to a military court to recant his finding that the body in the grave there was not Everardo's. I believe the "lista de defunctos" shows Everardo to be in the grave there.

53. We recently learned that between the 1998 trial and the 2000 sentencia, the army brought the case before a military judge, who closed it. We were never notified. Indeed, my testimony was not taken. The Ministerio Publico did not appeal. The implicated army officers will now doubtless seek to claim the protections of double jeopardy. However, international law prohibits the double jeopardy argument in human rights cases such as this one.

54. In December 2009 the Dutch Embassy initiated a special project to end the impunity in Guatemala. This project has a great deal of international backing from other governments as well. Everardo's case has been named as one of the 10 paradigmatic cases to be pressed for prosecution. I am delighted of course, but fearful of the consequences.

55. In December 2009 the Guatemalan Supreme Court issued a series of historical rulings, voiding the sobreseimientos (double jeopardy claims) and holding that Guatemala must follow international law.

56. This spring I was granted the querrellante adhesive status I requested, making me a de facto co-prosecutor.

57. I and all of my witnesses and attorneys have come under enormous pressure, threats and assaults since this case began. Santiago's family came under very serious threats early on. Four of Otoniel's cousins have been killed under highly suspicious circumstances since 2000 and his son has been attacked often, including a serious attempt on his life in the fall of 2008 which left him seriously injured. My sister in law was attacked by a group of men with machetes after she received her share of the damages award. In 1995 the FBI arrived at my home in Texas to tell me that the Guatemalan army had hired a hit man to kill me. In 1996 my lawyer in Washington D.C. had his car fire-bombed at 4 am, and the next day at 4 am someone also shot out a window of the religious community where I was living in D.C. A witness stated that a pick up truck with darkened windows parked in front of the building and a person within took careful aim at the window to the room where I sleep. Dr. Arango received ceaseless threats in Guatemala and was shot at, forcing him to resign in 1995. He was replaced by Silvia Jerez who was shot to death as we traveled to Costa Rica for the trial at the Inter- American Court. In February 2009, just as the Inter-American Court re-opened this case, Dr. Arango died in a tragic car crash. Angel Nery Urrizar, the witness who identified the body in the Retalhuleu grave, died in a hail of bullets this spring as well.

I am now being threatened with criminal charges.

\* \* \*

#### **BAMACA CASE: ACTS OF REPRESSION**

1. 1993: Shortly after my hunger strike in front of the Polytechnica, a bomb went off in the building where my attorneys' offices were located.
2. Throughout 1993 and 1994 I received numerous threats via telephone and in leaflet form.
3. Oct.-Nov. 1994: During my 32 day hunger strike in front of the National Palace, I received a number of death threats and a vehicle drove by during night, and someone opened the window and aimed a shot gun at me.
4. Spring of 1995: Just before my third hunger strike, my friends at the Guatemala Human Rights Commission in Washington, D.C. had their steel security door torn off the hinges and left in the street; only their answering machine was stolen. This was preceded by a number of telephone threats.
5. April 1995: After Congressman Torricelli disclosed that my husband had been killed upon the orders of Col. Alpirez, and that Alpirez was a paid CIA "asset", I was asked to testify before the Senate intelligence Committee. I did so. The FBI then made a hurried visit to my home in Texas late one night. They explained that that the Guatemalan army had hired someone to kill me, and that I should take steps to protect myself.
6. Throughout the rest of 1995, Sr. Arango, as the Special Prosecutor in the case, tried valiantly to open the graveyard at Las Cabañas, where Everardo may be buried. He tried for months to gain entry, and was shot at while he sat in his office, finally coming under so many death threats against himself and his children that he was forced to resign from office.

7. Dr. Arango was replaced by Silvia Jerez. She was shot to death (13 bullets) in 1998, shortly before Dr. Arango traveled to Costa Rica to testify to the Corte Inter-Americana.

8. Members of the Minugua team, throughout 1995 and 1996, brought me reports from credible sources of various army plans to assassinate me by staging muggings or assaults by local gangs.

9. In early 1996 my American lawyer's car was firebombed next to home in Washington D.C. at 4 am. The next day, also at 4 am a white pick up truck with darkened windows drove up to the church community where I was living in D.C., and a man took careful aim at my bedroom window and fired.

10. When I tried to assist Otoniel De La Roca Mendoza flee the country in late 1997; we were both pulled off the airplane. There were gunmen visible in our hotel parking lot. We arranged for his escape via Mexico. All of his family and friends came under immediate and serious death threats. We were able to move his closest relatives fairly quickly and Minugua was of great assistance as well. Others fled the country on their own.

11. After the 1998 trial at the Inter-American Court, Santiago Cabrera Lopez and his family came under very serious death threats.

12. Since the unanimous decision of the Inter-American Court in our favor in 2000, four of Otoniel's cousins have been murdered.

Not long after the Inter-American Court gave its ruling in my case, Otoniel received a telephone call from an unnamed man who shouted at him that they had found him at last, that they should have killed him the first time, and that they were now going to kill him and his family. He hung up, but the threats continued, and he was followed from work. As a result he and his family were forced to move once again, taking careful measures to conceal their whereabouts. Strange men approached the house in the middle of the night a year ago, firing guns in the air as they drove off.

Far worse however, has been the accelerating persecution of more distant family members still residing in Guatemala. Since Otoniel's escape, they had all been visited repeatedly and threatened by frantic military agents bent on locating him in the United States. In 2000, Otoniel's cousin, Jose Matilda Alvarez, was inexplicably murdered. Otoniel's former wife and teenage son (German Anibal De La Roca Melendez) were followed and threatened, eventually forcing them to move.

In 2002 a cousin, Jesus Mendoza, was found dead and mutilated. Galindo Mendoza, another cousin of Otoniel's and his relatives came under intense surveillance by men known to be military liaisons. He fled to the U.S. but was deported back to Guatemala in 2003. He was immediately followed and was planning to flee the country yet again. He was taking his young niece, Wendy, home from school on his motorcycle in broad daylight when they were stopped by armed men, one of them a known military liaison, which shot him to death. Wendy later received death threats as well and was forced to flee the country. In August 2004 Jesus Mendoza (Otoniel's cousin) was shot several times through the head and left in his vehicle. Nothing was stolen.

Three women relatives fled the country after serious threats and tried to re-settle in Mexico. The Guatemalan military agents tracked them down there, and they fled again,

towards the United States with a coyote. The youngest, a teenager, is diabetic and nearly perished on the journey.

Otoniel's son German Anibal has suffered a number of grave attacks as well. These range from frightening calls with funeral music, to police dragging him alone from a bus at a checkpoint and telling him they had orders to shoot to kill; to laying siege to his home one night and clambering onto his roof (the police station is nearby but no one responded to his calls). One year ago he was riding his motorcycle to work early in the morning hours on a mountainous road. A car with darkened windows followed him, and slowed down till all the other cars had passed. Then it turned off its lights and charged him. He did not go over the edge, but crashed. His shoulder was dislocated.

13. After the government decided to pay the reparations award, my sister in law Egidia Bamaca Velasquez, was attacked in her tiny home, in front of her children, by a group of men in ski masks wielding machetes. They were evidently looking for her bankbook, which she had left with her adult son, since she cannot read or write.

14. Dr. Arango died in a tragic car "accident" very similar to the one suffered by Otoniel's son, shortly after the Inter-American Court issued its February 2009 order that the Guatemalan government carry through the required criminal investigation and prosecution.

15. Shortly before the prosecutor in this case attempted to re-open the grave in Retalhuleu in May 2009, Angel Nery Urrizar was shot to death in Mazatenango (reportedly he received thirty five bullets). He was a key witness as to the identity of the person in fact buried in the grave there.

16. I am currently being threatened with criminal charges in Guatemala.

[1] Asisclo Valladares admitted that he had this autopsy report when he cancelled the exhumation in 1992. The Inter-American Court strongly chastised him for de facto collaboration with the army in this case.

\* \* \*

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**DELEGATION TO HONDURAS, JUNE 26-JULY 4:** First anniversary of June 28, 2009 oligarchic-military coup against the elected government (For information: [annie@rightsaction.org](mailto:annie@rightsaction.org))

**BOOK: "CODE Z59.5: There Is Only One People Here"**, by Grahame Russell. Code Z59.5 is a series of diary excerpts (comments, facts, quotes, etc.) from the 1990s and 2000s, related to the author's work in Central America, Mexico and North America, in defense of human rights. TO ORDER: [info@rightsaction.org](mailto:info@rightsaction.org)

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