

Rights Action
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info@rightsaction.org

Justice for Genocide in 2015?

2015 is a great year to work to ensure that (some) justice is done for the genocides in Guatemala.

- Below: Report on how the (re) trial of General Rios Montt has again been (not surprisingly) interrupted. As daunting as the possibility of justice for genocide is, it is an extraordinarily admirable and important struggle.

Guatemala remains a profoundly unjust and undemocratic country, characterized by vast inequality, impunity, racism, repression and violence. All efforts to seek justice for the crimes and human rights violations of the past and present must be supported; all efforts to fundamentally transform how Guatemala operates as a country in an unjust global order must be supported.

U.S. 2014 Appropriations Bill

On December 17, 2014, the U.S. government passed an appropriations bill that, amongst other things, conditions U.S. relations with the Guatemalan regime on the successful prosecution of military for human rights violations (including genocide) and on compliance with the Chixoy Dam Reparations Law.

Please share this information with your own Senators and Members of Congress. The U.S. government should be held accountable for its role in the Guatemalan genocides of the 1980s – at a bare minimum, the U.S. should ensure that justice is done in Guatemalan courts.

The struggles continue in 2015 for another world is necessary and possible ... stay tuned, stay with us.

From: Emi MacLean [emi.maclean@opensocietyfoundations.org]

Sent: Tuesday, January 6, 2015

Dear Colleagues: As you may know, the genocide trial against Rios Montt in Guatemala re-opened yesterday only to be suspended after a successful defense challenge to the presiding judge. Please see below, and share, our blog about the unfolding series of events over the course of a tumultuous day. Please also register on www.ijmonitor.org for regular updates on this and other trials.

Eighteen Months After Initial Conviction, Historic Guatemalan Genocide Trial Reopens but is Ultimately Suspended

<http://www.ijmonitor.org/2015/01/eighteen-months-after-initial-conviction-historic-guatemalan-genocide-trial-reopens-but-is-ultimately-suspended/>

by Emi MacLean & Sophie Beaudoin, January 6, 2015

On Monday, January 5, a small Guatemala City courtroom was packed to the brim for the anticipated retrial of former head of State Efraín Ríos Montt and his then head of military intelligence, Mauricio Rodríguez Sánchez. Both are charged with genocide and crimes against humanity for massacres committed in 1982 and 1983 when General Ríos Montt ruled with an iron fist.

Prosecutors allege that Ríos Montt was responsible for the killing of 1,771 indigenous Mayans, the displacement of 29,000, and the rape and torture of others during 15 massacres. Nearly half of all reported violations during the bloody 36-year war occurred in 1982, the year in which Ríos Montt came to power. In the Ixil region, between 70 and 90 percent of the communities were wiped out around this period.

Ríos Montt [was convicted](#) and Rodríguez Sánchez acquitted in a 2013 trial. However, in a divided ruling days after the verdict, the constitutional court [annulled the judgment](#) on a procedural technicality.

The defense lodged numerous challenges to any new trial, and yesterday morning, neither the case file nor Ríos Montt were present in the courtroom, foreshadowing the challenges to come. By the afternoon, Ríos Montt was present — brought in by ambulance on a gurney, by court order — but a defense challenge led to the recusal of one of the three presiding judges, suspending the process for an undefined period of time.

The Missing Judicial Case File

The tense political climate around the genocide trial in Guatemala and the outcome of the first trial generated significant skepticism that any new trial would take place at all. Yet victims came from far, many unable to enter the courtroom due to lack of space. Local and international media were present in large numbers.

As the court opened at 8:30 AM, Ríos Montt was notably absent. Ríos Montt's lawyer Jaime Hernández sat with his co-defendant Mauricio Rodríguez Sánchez and Rodríguez Sánchez's lawyers César Calderón and Francisco Palomo. In the early hours of the morning, Ríos Montt's defense attorneys asserted that Ríos Montt was too ill to attend the trial.

At the outset, the three judges presiding over this new trial from High Risk Court B — Irma Jeannette Valdez, Sara Yoc Yoc, and María Eugenia Castellanos — announced that they did not have the case file, a necessary prerequisite to the initiation of the trial, and delayed the trial until 11 AM to attain the case file. The Supreme Court's amparo chamber, which deals with constitutional challenges, had retained the original judicial file from a then-unresolved challenge brought by Ríos Montt's attorneys.

The civil parties also requested a larger courtroom but were told that none was available.

The Absent General

At 11 AM, reassembled and now with access to the case file, the tribunal turned to the absence of Ríos Montt. His attorneys presented a medical certificate from his personal doctor excusing him

for medical reasons, stating that he would suffer “irreversible paralysis in his legs” if he left his home. They asserted that forcing Rios Montt to attend the trial would violate his right to health.

A December 3 evaluation by the national forensic authority, INACIF, conducted after Rios Montt refused to attend a pre-trial hearing, found him fit to stand trial. The court thus did not accept Rios Montt’s medical excuse, temporarily suspended the hearing, and ordered the national police to ensure Rios Montt’s presence in the courtroom by 1 PM, with his personal doctor if necessary. The court threatened sanctions if he continued to refuse to attend, including the revocation of his house arrest and requiring his detention during the trial.

Within the hour, the 88-year-old former general arrived at the courtroom by ambulance on a gurney, his face covered and his daughter, former congresswoman Zury Rios, by his side. Some cried out that this was political theater, and the media swarmed the general.

The Judge’s Recusal

The court next turned to Rios Montt’s challenge of the tribunal president, Judge Valdez, with allegations of bias. On December 30, the last working day before the trial, defense attorneys [sought Judge Valdez’ recusal](#) on the ground that her 2004 academic thesis — Criteria to Improve the Application of the Crime of Genocide — constituted a pre-formed opinion on the case. According to the defense, in the thesis, Judge Valdez accepted that there had been a genocide in Guatemala and outlined concepts of command responsibility.

The public prosecutor and civil parties denied that her thesis constituted a reason for her to excuse herself and qualified the defense action as nothing more than an abusive delaying tactic, brought 14 months after the tribunal was constituted and the judges were known, on the eve of the trial’s start.

Rodriguez Sanchez’ lawyer did not contest Judge Valdez’ sitting on the tribunal, asserting that the former head of military intelligence merely wants to resolve this case but accepted as legitimate Rios Montt’s concerns.

Judge Valdez, who has served as a judge on numerous high-profile and complex cases over the past 22 years, asserted that she had no particular interest, or bias, in hearing the case and that her work was purely academic and did not concern whether the defendant was responsible for the crimes alleged. She also asserted that the timing of the challenge indicated the defendant’s desire to impede the progress of the trial.

After an extended deliberation, the court decided, in a majority decision, that Judge Valdez should excuse herself for reasons of partiality. Judges Yoc and Castellanos affirmed that Judge Valdez had already stated a position on an important question at issue in the trial and that Rios Montt had reason to doubt her impartiality. They thus suspended, again, the reopening of the trial, this time for an indefinite period.

What Comes Next?

In theory, an appellate court could designate a new judge to complete the three-judge panel in the coming days. However, it took months for this panel to be constituted because scores of

appellate court judges refused to intervene. Moreover, Rios Montt has challenged numerous judges already, and there are a limited number of judges in the high-risk courts tasked to decide complex cases.

The issue of Judge Valdez' recusal may also be decided by a higher court. An appellate court also still needs to decide whether or not a 1986 amnesty decree should prevent the prosecution of Rios Montt. On December 23, [the appellate court notified the parties](#) that it would resolve this issue within five days, but the defense challenge to one of the judges has postponed a final decision. In response to a different challenge, the amparo chamber yesterday confirmed the competence of the high risk court before the day's hearing ended.

The prospect of a new trial already seems poised to reignite some of the concerns surrounding the prior process. During the hearing, civil parties described the new process as unnecessary — a result of an improper ruling by the constitutional court, which they are challenging before the Inter-American Commission on Human Rights.

[President Otto Perez Molina](#), a former military leader himself, called for an end to “indirect pressure” related to the trial, specifically contesting the presence in the courtroom of foreign diplomats.

In December, the U.S. government pronounced that its continued support for Guatemala would be conditioned on the advancement of judicial processes related to the crimes committed during the country's armed conflict, and the country's ceasing to use military forces for citizen security.

The Foundation Against Terrorism, led by Ricardo Mendez Ruiz, son of Rios Montt's interior minister, yesterday published a full-page ad describing as “abusive” the U.S. government's support for a conclusion of the genocide trial.

During Monday's trial, the public prosecutor was represented by lawyers Orlando Lopez, Hilda Pineda, and Eric De Leon and was accompanied by the civil parties representing the victims — the Association for Justice and Reconciliation (AJR), represented by lawyers Edgar Perez and Santiago Choc, and the Center for Legal Action in Human Rights (CALDH), represented by its director, Juan Francisco Soto, and lawyers Hector Reyes and Francisco Villar.

After the final suspension of the day, the defendants left the courtroom quickly. The victims chanted “Justice for Genocide” as they slowly made their way out. Survivors outside the courtroom expressed a resignation; they rested on the previously issued verdict but committed to continue to be present.

The U.S. Is Co-Responsible For Genocides In Guatemala: Taking The Action Home

Interview with Grahame Russell outside Court House where General Efraim Rios Montt was on trial for Genocide: <https://www.youtube.com/watch?v=d-X3OMEZouU&feature=youtu.be>

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Educational Delegation: Form your own group or join one of our educational-solidarity
delegation seminars to Guatemala and Honduras to learn more about these issues and struggles

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