

Guatemalan war criminals flee justice; Government not complying with 14 guilty sentences related to genocide, disappearances and massacres

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- **Below:** Articles by Jo-Marie Burt about on-going war crimes trials in Guatemala and the endemic corruption and impunity

The Guatemalan government and society continue to be dominated by war criminals and elite sectors involved in organized crime, including drug trafficking. Because of this endemic corruption and impunity, Guatemala remains a very profitable environment for global mining companies and other businesses and investors.



Mayan Achi genocide survivors gather on March 13, 2017, at the spot where – 35 years before – they found the remains of women and girls from the village of Rio Negro who had been raped before being brutally killed and tossed into this deep mountain crevice. A Mayan priest presides over an all-night ceremony as a friend plays soft notes, repeatedly, on an old violin.

Human Rights Groups to Inter-American Court: Impunity is Alive and Well in Guatemala

by Jo-Marie Burt and Paulo Estrada, March 28, 2017

<https://www.ijmonitor.org/2017/03/human-rights-groups-to-inter-american-court-impunity-is-alive-and-well-in-guatemala/>

President Jimmy Morales invited the Inter-American Court of Human Rights to conduct its 57th session in Guatemala City, perhaps hoping to repair the country's tattered relationship with the international organization. However, in extending this invitation, he may not have expected the court to be reviewing Guatemala's own record on accountability for grave crimes.

During its visit, which took place from March 20 to 25, 2017, the court held a private, closed-door session to review the implementation of 14 sentences it handed down between 1998 and 2012 against the state of Guatemala in grave human rights cases related to the internal armed conflict. The session was a follow-up to a similar hearing held in Costa Rica in 2014, when human rights organizations provided ample evidence of the persistence of impunity in Guatemala.

Two years later, despite some forward movement, little has changed.

The private session came on the heels of a series of public hearings involving Brazil, Honduras, Nicaragua, and Colombia.

The court held a second private session to review the status of reparations mandated by the court in the Las Dos Erres massacre case and conducted an in situ visit to Rabinal, Baja Verapaz to review the status of symbolic reparations it mandated for the victims of the Rio Negro and the Plan de Sánchez massacres.

The eight human rights and victims' organizations that requested the private session highlighted the continued failure of the state to carry out its obligation to investigate, prosecute, and punish those responsible in the majority of the 14 cases, as well as its failure to ensure victims' access to justice. They pointed out that there have been convictions in just four of the 14 cases under review. They also noted that only soldiers, civil patrollers, and mid-level military officials have been convicted; no intellectual authors in any of the 14 cases have been convicted.

The organizations also noted that when cases do make it to trial, the judiciary often allows malicious litigation and has in some instances issued illegal rulings that contribute to the situation of impunity.

Finally, they said, the state of Guatemala has failed to fully implement the reparations ordered by the Inter-American Court in the 14 cases.

The human rights organizations denounced a series of threats and intimidation they claim seek to stigmatize them and to criminalize their demands for justice. Such actions have been especially evident in the Molina Theissen case. During the hearings, the lawyers and family members of the defendants engaged in constant insults and attacks against the victims and their lawyers. They have also attacked, verbally and in at least one case physically, the media and observers attending the proceedings.

Examples of impunity in postwar Guatemala

In many of these cases, the alleged perpetrators continue to wield a great deal of power in present-day Guatemala. One of the alleged perpetrators in the Panel Blanca case (a series of cases of illegal detention, torture, and extrajudicial execution between 1987 and 1988), is Baudilio Hichos, who was third in command of the Guardia de Hacienda.

Hichos was elected to Congress in 1991 and became a leading figure in Efraín Ríos Montt's Guatemalan Republican Front (FRG). Years later, he joined Leader, the now defunct party of Manuel Baldizón, alleged to have close ties to organized crime. Hichos was a legislator until January 2016 when, according to Nómada, he skipped his inauguration ceremony because he was being investigated by the Attorney General's Office for corruption in the Social Security Institute (IGSS) case. He remains at large.

There is also the case of former guerrilla commander Efraín Bámaca Velásquez, who was captured by the army in 1992 and forcibly disappeared. In 2012, amidst international outcry, Judge Carol Patricia Flores dismissed the case.

Former President Otto Pérez Molina — a retired army general who was a commander in the Ixil region during the Ríos Montt government — was among those implicated in Bámaca's disappearance. The former president is currently on trial on charges of corruption in the La Línea case. Pérez Molina's Minister of Defense, Ulises Noé Anzueto Girón, who is currently on trial for the Cooperacha corruption case, was also implicated in the Bámaca case.

Two of the defendants in the Molina Theissen case are also extremely powerful figures in postwar Guatemala. As former head of the army, Benedicto Lucas García has significant support from retired and senior officers inside the armed institution. He is believed to be the architect of the counterinsurgency plan implemented during the government of his brother, Romeo Lucas García (1978-82) and continued during the Ríos Montt government. The Commission for Historical Clarification documented over 200 massacres during his period as head of the army.

His co-defendant in the Molina Theissen case, Manuel Callejas y Callejas, was the former head of military intelligence. Callejas is believed to be the head of "La Cofradía," a group of retired military officials that transformed into an organized crime syndicate. He is also reportedly involved in the Moreno Network, the predecessor of the La Línea crime syndicate. One analysis

identifies Callejas as the godfather of parallel structures in postwar Guatemala, yet he has never faced criminal charges until now.

One step forward, two steps back

It is important to note that domestic judicial proceedings are underway in some of the 14 cases reviewed by the Inter-American Court. Currently, eight high-ranking military officers (out of 14 arrested in January 2016) are awaiting trial for the Plan de Sánchez massacre and several other cases of enforced disappearance in the CREOMPAZ case.

Among these are former head of the high command of the Guatemalan army, Benedicto Lucas García. Five members of the military high command are also awaiting trial in the Molina Theissen case.

No trial date has yet been set in either case, however, and there have been significant delays in both proceedings. Moreover, arrest warrants are still outstanding for nine additional retired military officials who were not apprehended in the CREOMPAZ case.

Some of the officials are still powerful figures in Guatemala. Two of them, retired generals Luis René Mendoza Palomo and Angel Aníbal Guevara Rodríguez, are former defense ministers. A third is Edgar Justino Ovalle, who was elected to Congress in 2015 for the ruling National Convergence Front (FCN) and is a close advisor to President Morales. Shortly before Ovalle was impeached in relation to the CREOMPAZ case, he disappeared.

The private session of the court was requested by victims' associations, including the Association of Guatemalan Families of the Disappeared (FAMDEGUA), the Association of Victims of Violence in the Verapaces Maya Achi (ADIVIMA), Truth and Justice Association (AVEJA), and the Molina Theissen Family, as well as human rights organizations, including the Center for Human Rights Legal Action (CALDH), the Human Rights Law Firm, the Myrna Mack Foundation, and the Center for Justice and International Law (CEJIL).

The 14 sentences under review are:

Blake (1998),
Panel Blanca (Paniagua Morales et al.) (1998),
Street Children (Villagrán Morales et al.) (1999),
Bámaca Velásquez (2000),
Myrna Mack (2003),
Martiza Urrutia (2003),
Molina Theissen (2004),
Plan de Sánchez massacre (2004),
Carpio Nicolle (2004),
Tiu Tojín (2008),
Las Dos Erres massacre (2009),
Chitay Nech (2010),

Military Diary (Gudiel Alvarez et al.) (2012),
and the Río Negro massacre (2012).

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Fears that Congressman Ovalle, Impeached in Relation to CREOMPAZ Case, May Have Fled

by Jo-Marie Burt, March 17, 2017

<https://www.ijmonitor.org/2017/03/fears-that-congressman-ovalle-impeached-in-relation-to-creompaz-case-may-have-fled/>

There are suspicions that a member of Guatemala's Congress, whose immunity has just been lifted in relation to a case of enforced disappearances, may have fled the country.

This Wednesday, March 15, the Supreme Court of Justice ruled to impeach Congressman Edgar Justino Ovalle. This came a day after Judge Benicia Contreras Calderon, charged with investigating the Attorney General's charges against him, issued her opinion in favor of impeachment and a year after the Attorney General's Office first filed its request with the Supreme Court.

With this decision, the Attorney General's Office can formally initiate judicial proceedings against Ovalle in the CREOMPAZ case, which Attorney General Thelma Aldana has described as one of the largest cases of enforced disappearance in Latin America.

However, Ovalle, who is the head of the ruling National Convergence Front (FCN) and the deputy chief of its congressional bloc, has not been seen publicly since February 20, giving rise to suspicions that he has fled the country in anticipation of the outcome of the impeachment proceedings.*

CREOMPAZ is a training site for UN peacekeeping operations located in Cobán, Alta Verapaz. During Guatemala's internal armed conflict, the site was a military base, Military Zone No. 21 (MZ21).

Since 2012, investigators have exhumed 565 bodies from MZ21, 142 of which have been identified using DNA as victims of the internal armed conflict.

The Attorney General's Office seeks to charge Ovalle in relation to several crimes that occurred in 1983, when Ovalle was an intelligence and operations official at MZ21, including the enforced disappearance of six individuals exhumed from MZ21 who have been positively identified using DNA.

Judge Claudette Domínguez, who is presiding over pre-trial matters in the CREOMPAZ case, imposed a travel ban on Ovalle in December, but revoked it again in January after Ovalle filed an appeal. A letter dated March 13, 2017, signed by Ovalle and addressed to the president of the Congress, requested leave with pay between March 13 and 31, 2017.

Now the organizations that represent the victims in the CREOMPAZ case, including the Human Rights Law Firm (Bufete Jurídico de Derechos Humanos) and the Mutual Support Group, have expressed concern through a series of tweets that Ovalle may have been tipped off about the impending Supreme Court decision and fled the country.

In response to Wednesday's Supreme Court decision, the Human Rights Prosecutor's Office successfully petitioned the court to impose a new travel ban on Congressman Ovalle.

The Center for Independent Media (CMI) has raised questions about Judge Domínguez's impartiality in the case, noting that her sister is a major in the army reserve. In addition, while Judge Domínguez ruled in June 2016 that there was sufficient evidence to send eight of 11 defendants to trial, she also excluded facts related to 80 percent of the victims listed in the original CREOMPAZ indictment. The plaintiffs challenged her decision, saying she failed to provide any explanation for the exclusion of these facts. On December 14, 2016, the Constitutional Court granted a provisional protective measure (amparo) to the plaintiffs. If the measure is upheld, the excluded evidence would be reincorporated into the indictment.

On March 16, Ovalle's lawyer, Mario Antonio Guerra León, filed a protective measure before the Constitutional Court, alleging that the impeachment proceedings were illegal, because Ovalle was not properly advised about the ruling of the judge investigating the charges against him.

Who is Edgar Justino Ovalle?

Edgar Justino Ovalle is a retired military official who is considered to be part of the "old guard" of military officers connected to the counterinsurgency operations of the 1970s and 1980s. During this period, according to the Guatemalan Commission for Historical Clarification, 200,000 people were killed, 93 percent at the hands of the military.

Ovalle, who graduated with the class of 1971 from the Polytechnic School and studied at the School of the Americas, is a founding member of the Guatemalan Association of Military Veterans (AVEMILGUA), an organization that denies military involvement in human rights violations. The group has also actively rejected efforts to hold military officials accountable for such abuses.

In September of last year, Ovalle was elected to Congress with the FCN, of which he is co-founder. Ovalle also served as the general secretary of FCN until this past Tuesday, when he was removed from that position during an emergency meeting.

FCN is also the party that brought president Jimmy Morales to power in elections last year. Ovalle is reported to be one of the president's closest advisors. He is the person who reportedly invited Morales, a TV comedian with no previous political experience, to stand for president as the FCN candidate in 2015.

*At the time of publishing this article, we learned that the Attorney General issued an arrest warrant for Ovalle in connection with the CREOMPAZ case.

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