



NISGUA
Working for Justice in Guatemala

One Year After the Historic Genocide Verdict: Retaliation against Advances for Justice

“ALTHOUGH THEY SAY THAT, POLITICALLY, THERE WAS NO GENOCIDE, THEY CANNOT DENY THE TRUTH. THE REMAINS OF OUR LOVED ONES, BONES AND ASHES, MAKE IT CLEAR.”

ANSELMO RÓLDAN, PRESIDENT OF THE AJR

OVER THE PAST YEAR, the struggle for justice in Guatemala has endured a series of alarming setbacks that call us to maintain and sustain our solidarity with those we have stood beside for over three decades. Ever since the verdict condemning Jose Efraín Ríos Montt to 80 years in prison for genocide and crimes against humanity was overturned on May 20, 2013, retaliation against key individuals and institutions has halted the progress of emblematic court cases, perpetuating impunity and threatening the advancement of justice in Guatemala as a whole.

On May 13, the Guatemalan Congress shocked the world when it passed a resolution denying genocide, stating it was “legally impossible” that genocide occurred in the country. The legislative resolution, approved by 87 of the 111 representatives present, encroaches on judicial independence by intentionally aiming to influence national court decisions.

This attempt to undermine the justice system is just one example of an institutional reprisal from the past year that has coincided with a backlash against individuals working to promote change. Notably, the current administration truncated the term of former Attorney General Claudia

Paz y Paz, widely recognized for her work against impunity through the prosecution of cases related to political corruption, organized crime and crimes of the past, forcing her from office four months early. President

Otto Pérez Molina quickly appointed her successor, Thelma Aldana, in a controversial selection process dogged by allegations of corruption and cronyism. Moreover, the Ethics Tribunal of the Guatemalan Bar Association publicly reprimanded Judge Yassmín Barrios, the presiding judge of the 2013 Ixil genocide trial, based on a contentious complaint filed by one of Ríos Montt’s lawyers that accused her of unethical behavior.

Prompted by these developments, which threaten to regress the important advances toward justice and impede future progress, NISGUA brings you perspectives from Guatemala on some of these key issues.



Performance outside of the Supreme Court during the Ixil Genocide Trial
Photo: NISGUA

We share reflection from our partners, the Center for Human Rights Legal Action (CALDH) and the Association for Justice and Reconciliation (AJR) as well as other leading Guatemalan analysts in order to better understand the worrisome trends of the past year and what lies ahead.

IMPUNITY ON THE REBOUND

There is a consensus among Guatemalan human rights defenders that the progress for justice threatens to be outpaced by the recent resurgence of impunity. Many describe a revival of impunity within state institutions and among powerful actors in Guatemala, sparking concerns that this trend could erase the progress seen during Claudia Paz y Paz' term as Attorney General.

I would say we are turning back what we have advanced. We are reversing what has been gained in the last three years. To what extent is unclear, but that is what will be revealed over the next 6-8 months.

One possibility is that we arrive at a state similar to 2007-2008 - when the files [for the genocide case] were just sitting there. No one dared to prosecute these cases. But, they didn't close them; they kept them alive. With what is happening now, we would be ahead of the game if we end up in a situation like in 2007-2008. I am also pessimistic. I feel that given the president's declarations and Congress' intentions, this [administration] will likely go further.

Edwin Canil, Lawyer, CALDH

While we fear that transitional justice processes are at risk, it would be very complicated for the Attorney General to reverse these cases. It is more likely the Attorney General would allow for a reversal to come from judicial actors.

Claudia Samayoa, Director, Human Rights Defenders Protection Unit (UDEFEGUA)

Having been appointed through a nomination process that was clearly in her favor and that emerged based on a pact to maintain impunity, I believe that she [Attorney General Thelma Aldana] will serve the interest of those sectors that propelled her [into the position].

Iduvina Hernández, Director, Security in Democracy (SEDEM)



Yazmín Barrios and Claudia Paz y Paz have both been targets of reprisals for advances in justice.
Photos: James Rodríguez, PlazaPública

UNDER THE INFLUENCE OF THE POWERFUL

Our partners further stressed their concerns that judicial independence has been encroached upon by outside interests. Particularly worrisome are the acts of Congress exerting influence on the Guatemalan judiciary and the institutional reprimands leveled against key individuals, including Paz y Paz and Barrios.

For the three branches of government and civil society, the message of the recently passed congressional resolution is very clear. While it sends a message to the judges, the Executive Branch and Congress are very interested in upholding the resolution. We've witnessed actions by the president and his Secretary of Peace [Antonio Arenales Forno], and we know they are very interested in assuring impunity in these cases.

I think it is an error to think about Claudia Paz y Paz' exit as just related to the genocide case. I believe [truncating her term] was the result of many high impact cases that dared to touch politicians, tax evaders,

people involved in narcotrafficking or structures that in some way are part of the dark economy of this country - or people that benefit from these structures in order to make illegal income. All of these people started to feel that their interests were threatened. They were being put at risk, and for economic reasons, they joined together. On top of it all, the genocide case was just one more reason that the military sector - the old military guard, also [joined in]... they are the classic people who have maintained power in the country. They used the state system in order to unite and form a block, so here they are, a ton of people united around kicking Claudia out.

Edwin Canil

THE IXIL GENOCIDE CASE

Although more than a year has passed since Guatemala's Constitutional Court effectively annulled the historic genocide sentence, numerous legal obstacles stand in the way of the retrial, scheduled for January 2015. Among the most critical of these issues is the defense's appeal for amnesty, which would clear Ríos Montt of all charges and prevent future cases for crimes of the past from being prosecuted. The fate of justice for these crimes, including the re-trial of the Ixil genocide case, rests in large part on the resolution of this key issue.

Performing a rigorous analysis, it is legally impossible to grant amnesty. Thus, the only way to do so is through the legislative path... by creating a new law or modifying one that already exists.

Congress' actions are the first step in feeling out what might happen, how people will respond, how the international community will react. I suspect they weren't sure if they should propose amnesty once and for all. In considering amnesty many Congresspeople wouldn't agree - instead, by starting with this resolution, once the issue of amnesty comes up, they will say, 'Remember, we already have a resolution in which we've committed ourselves to revising the Peace Accords'. It sets a different tone. So, I believe they issued the resolution, first, to see what the reaction would be and second, to see what possibilities exist to issue amnesty.

Edwin Canil

They're trying to ignore the past, but we, the victims and communities, keep our history alive. The remains of our loved ones are there. We will never say there wasn't genocide because they completely destroyed our communities.

Anselmo Roldán

In a forum on the implications of the congressional resolution, Congressman Amílcar Pop expressed concern about its judicial ramifications, “[The resolution is a] conspiracy to induce judges to emit illegal judgments based on this congressional resolution. They want judges to base their judgements on [it].” Legal experts have noted there is currently no juridical path to granting Ríos Montt amnesty, which provokes the concern the resolution could provide a legal justification.



Witnesses from the Ixil genocide case receive copies of the 718-page verdict.

Photo: NISGUA

WHAT LIES AHEAD

Despite the immediate uncertainty of the path toward justice in Guatemala, our partners remain committed to their work and optimistic that advances will be realized anew. Without a doubt, international solidarity will be key to this re-awakening, and many of our partners urged its strengthening.

What is certain is that the victims will continue to demand access to justice. I believe the genocide case showed us that it is possible to reach anyone. With a commitment to perseverance, even a former head of state can be convicted.

We need a 'true' solidarity, the kind that is people to people. This helped significantly during the armed conflict, in which groups in cities in other parts of the world were in direct solidarity with the victims.

Edwin Canil

We see hope, and this hope is to keep the memory alive so that no one, not even future generations, can come and say no, nothing happened here. They should recognize what we lived and that the past should never be repeated. What happened was an injury so that future generations looking back don't experience the same thing. When justice is not applied, peace cannot exist.

Anselmo Roldán

Widening solidarity networks is a fundamental challenge. Today, links with international organizations are essential to exchanging information and launching urgent actions of support and solidarity.

Iduvina Hernández

VIOLENT EVICTION AT LA PUYA

On Friday, May 23, the peaceful resistance at La Puya, located outside the US-owned El Tambor gold mine, was violently evicted. Hundreds of police officers fired tear gas and flash bombs at the women who led the peaceful blockade. The brutal attack cleared the way for machinery and equipment to enter the mine site.

The eviction of La Puya comes after more than two years of non-violent resistance and despite an ongoing, high-level dialogue between the communities and the government. The violence highlights the willingness of the Guatemalan government to prioritize the interests of transnational companies like Kappes, Cassiday and Associates, over the health, safety and well-being of local communities.

The conviction of three peaceful protesters from La Puya and the eviction of the encampment are the most recent examples of repression of communities

defending their territory. Claudia Samayoa of UDEFEGUA warns that these incidents at La Puya could indicate a worsening climate for social movements:

It's certain that criminalization will worsen against those defending the right to life, water, environment and community consultation. The case of La Puya demonstrates that the judicial decision to criminalize will increase in this next stage.



Police prepare to evict the encampment at La Puya and escort machinery into the mine site.

Photo: James Rodríguez

THE LONG ROAD TOWARDS JUSTICE: EPHEMERAL MOMENTS OF REPRESSION IN HISTORICAL CONTEXT

The events of the past year present a difficult context in which Guatemalan human rights defenders must undertake their work. The regression to a climate favorable to impunity has arisen in retaliation to the remarkable advances in justice in recent years.

We have stood alongside survivors as they successfully prosecuted ex-PAC members for the massacre of Plan de Sanchez; observed dozens of community referenda where mega-development projects were rejected in favor of community autonomy and the right to life and territory; brought you into the courtroom as the world witnessed Ríos Montt's conviction for genocide and crimes against humanity, the first sentence of its kind in history. The current return to impunity is reprisal for these advances as powerful entities in Guatemala perceive the growing momentum for social change. As our partners and Guatemalan social movements rise to meet this new challenge, we continue to walk with them on the long road toward justice.

During these difficult times, it is essential that we respond to our partners' calls for "true" solidarity, linking the people of Guatemala and their struggles with our engaged network across the US. As Guatemalans continue to demand justice, protect their rights and defend their territory, together we honor our collective history through strengthening and deepening our commitments to solidarity and justice.

About NISGUA

The US-based Network in Solidarity with the People of Guatemala (NISGUA) employs strategic, creative and coordinated grassroots activism and advocacy to pursue justice for war crimes, to change harmful US policies and to promote sustainable communities in Guatemala. NISGUA provides human rights accompaniment to Guatemalans whose work puts them at risk of threats and attacks.

June 2014

Guatemalan communities say no to Tahoe Resources — US investors should too!

Tahoe Resources is a joint US and Canadian-listed mining company operating in Guatemala without social license since 2010. NISGUA, together with partners in Canada, have launched a campaign urging people from both North American countries to take action against investment that foments violence and conflict in Guatemalan communities!

Sign and mail this form to urge major U.S. financial institution and Tahoe shareholder TIAA-CREF to divest. Your signature will join the names of hundreds more in a letter to TIAA-CREF president Robert Ferguson. Read the full letter on our website, www.nisgua.org/TIAACREFF.pdf

Tahoe Resources is a dangerous investment. Here's why:

- Deadly violence, repression and criminalization** against community leaders in opposition to the project continues.
- Tahoe lacks transparency.** The company sued the Guatemalan government for failing to protect its operations from social protest while at the same time downplaying the breadth of opposition to its North American investors.
- Tens of thousands of people have voted against the mine** in 14 community consultations to date.

Please print and sign below, and collect two or more signatures from your friends and family!

1. _____
2. _____
3. _____
4. _____

Not invested in TIAA-CREF? You can still take action! Want to do more? Contact organizer@nisgua.org to receive an information packet on how to contact other Tahoe investors.

Take a Chance for Justice Enter to Win in NISGUA's 2014 Drawing

Support NISGUA and win great prizes!

Our annual drawing is one of the easiest and most exciting ways to support our work for a more just world. Thanks to the generosity of supporting organizations and individuals, we have dozens of exciting prizes to offer.

As always, our grand prize will be:
One round trip ticket to Guatemala!



With each \$25 ticket you also have the chance to win cash, handmade Guatemalan textiles, original artwork and more.

To keep your chances high, only the first 300 tickets sold will enter the drawing - so get your tickets early!

How to enter:

- 1. Online:** Visit www.nisgua.org to purchase tickets online.
- 2. By Mail:** Print and fill out the online order form at www.nisgua.org and mail it to the listed address.
- 3. Fundraise from the Grassroots:** Email our board president Melinda Van Slyke (Melinda@nisgua.org) with the number of tickets that you pledge to sell for NISGUA, and we will mail you a packet of hard-copy tickets!