

Genocide Case Basics

The Guatemalan genocide cases refer to several international and domestic legal proceedings for the crime of genocide committed by state forces against the civil population during the country's 36-year civil war. Key actors include:

ADIVIMA/Bufete Popular de Rabinal: Legal organizations based in Rabinal, Baja Verapaz.

Asociación para la Justicia y Reconciliación (Association for Justice and Reconciliation, AJR): A nationally organized group of war survivors, the majority of whom are indigenous, pursuing justice for crimes committed during Guatemala's 36-year civil war. Members are organized in approximately 23 communities in 5 regions of the country, including Rabinal, Ixcán, Ixil, Huehuetenango, and Chimaltenango.

Bufete de Abogados de Derechos Humanos de Guatemala (Guatemalan Law Firm of Human Rights Lawyers, BDH): Legal representation of the AJR and other social organizations, headed by lawyer Edgar Pérez.

Centro para la Acción Legal en Derechos Humanos (Center for Human Rights Legal Action, CALDH): Human rights organization working in areas of human rights law, youth and indigenous rights. They have provided long-term legal and political support to the AJR.

Oficina de Derechos Humanos del Arzobispado de Guatemala (Archdiocesan Office for Human Rights in Guatemala, ODHAG): An institution of the Archbishop of Guatemala that generates and strengthens legal processes related to the promotion and defense of human rights in Guatemala.

Inter-American Commission on Human Rights (IACHR): The IACHR is the preceding commission to the Inter-American Court of Human Rights, an international court under the auspices of the Organization of American States which rules on cases of human rights violations that arise from member states. The court tries states and not individuals.

La Asociación de Familiares de Detenidos-Desaparecidos de Guatemala (Guatemalan Association of the families of the detained and disappeared, FAMDEGUA): An organization of the families of those illegally detained and disappeared by Guatemalan state forces and paramilitary. FAMDEGUA helps families identify remains, denounce forced disappearances and accompanies legal cases relating to forced disappearances.

National Cases

1. Ixil Genocide Case against Ríos Montt and his Military High Command

In 2001 the AJR filed formal charges of genocide and crimes against humanity against former military dictator José Efraín Ríos Montt and his military high command, charging that genocide was committed under his rule from March 1982-August 1983, in the 5 regions of the country where the AJR is organized. The original accusation named José Efraín Ríos Montt as former de facto President, who came to power after a coup in March

1982, and high-ranking members of his military government: Héctor Mario López Fuentes, former Army Chief of Staff; Óscar Humberto Mejía Vítores, former Minister of Defense; Egberto Horacio Maldonado Schaad, former Minister of the Interior and co-leader of the 1982 coup; and Francisco Luís Gordillo Martínez, former Minister of Communications and another co-leader of the 1982 coup.

After over a decade of legal challenges and delays, the plaintiffs made a strategic decision to focus the case specifically on the Ixil region. In 2011 a series of arrest warrants were issued for López Fuentes, Mejía Vítores, José Mauricio Rodríguez Sánchez, the Director of Military Intelligence under Montt's regime, and Luis Enrique Mendoza García, Vice Minister of Defense in the same epoch. As a Congressional representative leaving office in January 2012, Ríos Montt would lose the argument of Congressional immunity and thus decided in December 2011 to present himself before the Public Prosecutor's office to inquire about potential charges against him.

In January 2012 Ríos Montt and Rodríguez Sánchez were formally arraigned for genocide and crimes against humanity. López Fuentes and Mejía Vítores were both deemed medically unfit for trial. Luis Enrique Mendoza García did not present himself in court and to this day remains a fugitive.

On March 19, 2013 the High Risk Crimes Court A (Tribunal A de Mayor Riesgo) initiated the trial, also known as public debate, phase of the case against Ríos Montt and Rodríguez Sánchez. After a month and a half of testimony, the three judge panel found Ríos Montt guilty of genocide and crimes against humanity, sentencing him to the maximum term of 80 years in prison. Rodríguez Sánchez was absolved of all charges. Ten days later Guatemala's Constitutional Court effectively annulled the verdict, citing a legal technicality and requiring the case to return to an early phase of trial. The court's 2 dissenting opinions on this ruling characterized the annulment as improper and illegal.

Although a new three-judge tribunal is scheduled to hear a new debate on January 5, 2015, the case remains in a state of legal limbo and none of the possible paths forward can be described as indisputably legal.

Plaintiffs:	Accused:
AJR, CALDH	José Efraín Ríos Montt*, former de facto President Egberto Horacio Maldonado Schaad, former Minister of the Interior Francisco Luís Gordillo Martínez*, former Minister of Communications Óscar Humberto Mejía Vítores, former Minister of Defense Héctor Mario López Fuentes, former Army Chief of Staff José Mauricio Rodríguez Sánchez, former Director of Military Intelligence Luis Enrique Mendoza García, former Vice Minister of Defense

**Indicates School of the Americas graduate*

2. Ixil Genocide Case against Lucas García and his Military High Command

In 2000 the AJR filed formal charges of genocide and crimes against humanity against former military dictator Fernando Romeo Lucas García and his military high command, charging that genocide was committed between 1978-1982 in the 5 regions of the country where the AJR is organized. The original accusation specifically named Fernando Romeo Lucas García (former military dictator from 1978-1982, now deceased), Manuel Benedicto Lucas García (Minister of Defense, brother of Fernando), and Luís René Mendoza Palomo (Minister of National Defense).

When the domestic genocide case against Ríos Montt began to gain traction in 2011 the AJR made a strategic decision to focus their resources on prosecuting Ríos Montt and his military high command, effectively placing the Lucas García on hold. In order to dedicate all of their available resources to the Ríos Montt case, CALDH transferred official responsibilities for the Lucas García case to the *Oficina de Derechos Humanos del Arzobispado de Guatemala* (Guatemalan Archbishop's Office of Human Rights, ODHAG).

Like the CALDH Ríos Montt case, the ODHAG Lucas García case focuses on the genocide committed specifically against the Ixil ethnic group. However, unlike the Ríos Montt case, the Lucas García case will potentially expand beyond the exact dates of Lucas García's administration and the geographical boundaries of the traditional Ixil area.

In early 2013 Guatemalan courts began to hear testimony as evidence for the case against the military high command of Fernando Romeo Lucas García. As of November 2013 the case remains in the investigative stage and no trial date has been scheduled.

Plaintiffs:	Accused:
AJR, ODHAG	Fernando Romeo Lucas García (deceased), former President Manuel Benedicto Lucas García*, former Army Chief of Staff Luís René Mendoza Palomo*, former Minister of National Defense

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3. Dos Erres Genocide Case against Ríos Montt

In May 2012 FAMDEGUA and the BDH charged Ríos Montt with the crime of assassination for his connection to the massacre of the community of Dos Erres in the northern Guatemalan department of Petén. In the arraignment hearing on May 21, 2012 presiding judge Patricia Flores changed the accusation from the crime of assassination, which requires the defendant to be imprisoned during the trial, to genocide, which allows the defendant to be placed under house arrest after paying bail. This decision was made independently and without the consent of any of the prosecuting parties.

Citing irregularities in the legal interpretations and decisions emitted by the judge, in July 2013 the BDH requested that Judge Flores recuse herself from presiding over the case. Judge Flores rejected this request and remains in charge of the pre-trial phase of the case. The case remains in the investigative phase and to date no trial date has been set.

Plaintiffs:	Accused:
BDH, FAMDEGUA	José Efraín Ríos Montt*, former de facto President

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4. Achí Genocide Case

In June 2013 a judge in Salamá, Baja Verapaz, officially initiated the investigative phase in a case charging Ríos Montt with genocide committed against the Maya-Achí population in the departments of Baja Verapaz, Alta Verapaz, and El Quiché. No trial date has been set.

Plaintiffs:	Accused:
ADIVIMA, Bufete Jurídico de Rabinal	José Efraín Ríos Montt*, former de facto President

**Indicates School of the Americas graduate*

International Cases

1. Inter-American Commission of Human Rights (IACHR)

On November 6, 2013 the AJR submitted a petition with the IACHR against the state of Guatemala for the continued impunity of grave human rights violations and the denial of the right to justice. The petition specifically cited the irregularities in the resolution emitted by the Constitutional Court on May 20, 2013, which cited a legal technicality to effectively nullify the sentencing of Ríos Montt for genocide and crimes against humanity. The plaintiffs expect the Inter-American system could take up to 10 years before emitting a recommendation on the case, however appeals filed to accelerate the process may prove successful.

Plaintiffs:	Accused:
AJR, CALDH, BDH	State of Guatemala

2. The Spanish Case

In 1999 Nobel laureate Rigoberta Menchú Tum filed a legal case in Spain against Guatemala's military high commands for the murder of Guatemalans and Spanish citizens, including her father, in the burning of the Spanish Embassy, as well as the murder of Spanish priests. In 2005 the Spanish Constitutional Court expanded the case to include charges of genocide, terrorism and torture, citing the principle of universal jurisdiction in ruling that certain egregious crimes, such as genocide, could be tried in Spain even if they did not directly involve Spanish citizens or take place on Spanish soil.

Confusion regarding Spain's jurisdiction in Guatemala continued over the course of the next decade. Guatemalan courts initially refused to recognize Spain's jurisdiction, thwarting the efforts of Spanish investigators to collect witness testimony in Guatemala and ignoring international arrest warrants issued for 3 former presidents (Fernando Romeo Lucas García, José Efraín Ríos Montt, and Óscar Humberto Mejía Víctores) and 5 government officials (former Minister of Defense Ángel Aníbal Guevara Rodríguez, former Minister of Interior Donaldo Álvarez Ruiz, former Director of the National Police Pedro García Arredondo, and former General Chief of Staff Benedicto Lucas García).

In order to circumvent obstruction of the investigation in Guatemala, in 2008 Spanish Judge Santiago Pedraz Gomez invited 4 separate delegations of Guatemalan witnesses to present

their testimony to a Spanish court, including various members of the AJR. Later in 2008 Guatemalan judge Eduardo Cojulún, citing the principal of legal reciprocity, received testimonial evidence in Guatemalan courts for use in the Spanish case, permitting survivors to present their testimony for the first time ever in front of a Guatemalan judge.

The investigation continued until 2009 when Spanish parliament voted to restrict the use of universal jurisdiction. At the time Spain was considering several other high profile international cases citing universal jurisdiction (including cases against the United States, China, and Israel), and international pressure to end the cases prevailed. Although the legal proceedings initiated prior to this ruling have not technically been closed, progress on the Spanish case has stalled in recent years.

In 2011 Judge Pedraz requested the extradition of ex-kaibil Jorge Vinicio Sosa Orantes for his alleged participation in the massacre of Dos Erres. Orantes is currently imprisoned in the United States, where he is awaiting sentencing after being found guilty of immigration fraud.

Unlike the domestic genocide cases, which collect evidence regarding the genocide committed against one specific ethnic group under the rule of one specific leader, the Spanish case considers evidence from a variety of ethnic groups under all of Guatemala's military dictators from 1978-1986.

Plaintiffs:	Accused:
AJR, CALDH, Center for Justice and Accountability	José Efraín Ríos Montt*, former de facto President Oscar Humberto Mejía Víctores, former President Fernando Romeo Lucas García (deceased), former President Ángel Aníbal Guevara Rodríguez, former Minister of Defense Donaldo Álvarez Ruiz, former Minister of Interior German Chupina Barahona (deceased), former National Police Director Pedro García Arredondo**, former National Police Director Benedicto Lucas García*, former Army Chief of Staff Jorge Vinicio Sosa Orantes***, Second Lieutenant

Indicates School of the Americas graduate, **Sentenced in 2013 to 70 years in prison for the crime of forced disappearance, *Currently imprisoned in the United States for immigration fraud*