

Spanish court investigates Guatemalan military dictators

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Following the recent Pinochet affair, legal action is currently being taken in Spain against other former South American military dictators. Since the end of March, the national Court of Justice (*Audiencia Nacional*), under the presidency of Judge Guillermo Ruiz Polanco, has been investigating eight senior generals and politicians from Guatemala. The action goes back to a request by Rigoberta Menchu, the Guatemalan native Indian activist and 1992 Nobel Peace Prize recipient.

The accused include Jose Efraim Rios Montt, the ex-dictator and presently parliamentary president, his predecessor Fernando Romeo Lucas Garcia, and his successor general Mejia Victores. In addition, two chiefs of police, two former ministers and an ex-chief of staff of the Guatemalan army are affected by the complaint. They are accused of responsibility for genocide committed against at least three Mayan tribes, torture, mass murder and the "disappearance" of tens of thousands of people.

One corrupt military dictatorship has replaced the next in Guatemala since 1954, when Colonel Casillo Armas and his mercenary troops—with the active support of the CIA and the United States Air Force—carried out a putsch against the social-reformist government of Jacobo Arbenz. They all served to defend the social interests of the native oligarchy and American companies such as the United Fruit Company, and did this with unparalleled brutality.

In a 36-year civil war against the guerrilla army of the URNG (National Revolutionary Unity of Guatemala), at least 150,000 people have lost their lives and 50,000 are still missing. The Indian rural population suffered most under the repression. As soon as the army believed there were guerrillas in a village, it was razed to the ground and the inhabitants massacred. According to the agricultural workers organisation CUC (*Comite de Unidad Campesina*), the bestiality—above all between 1981 and 1985—can only be compared with that meted out by the Conquistadors 460 years ago.

On January 14, 1986 a civilian government under the Christian Democrat Vinicio Cerezo came to power again in Guatemala. Developments in Guatemala followed a similar pattern to that of many other Latin American countries.

With the fall of the Soviet Union and the end of the Cold War, the necessity for the US to support direct military dictatorships in its backyard against the "danger of communism" also waned. In the age of globalisation it was also necessary to replace the too rigid and economically depressed regimes hated by the population with those that were "democratically legitimated". Usually this involved effecting a reconciliation between the former guerrillas and the military. Thus Nicaragua's Sandinista government united with the mercenary army of the Contra rebels, who had been supported by the US, and finally handed power over to the right-wing Chamorro regime. In El Salvador, the Farabundo Marti Liberation Front laid down their weapons and came to an agreement with the military-dominated regime.

In Guatemala, the civil war persisted for 10 years after the installation of a civilian government. It only ended in 1996 with the surrender of the

URNG guerrillas. The government of Vinicio Cerezo was regarded by both the army and international capital (essentially American companies) as an acceptable alternative to the discredited regime of Caudillos Garcia, Rios Montt and Mejias. It served as moral justification for the flow of development aid and international investment back into Guatemala once again.

In order to re-establish the confidence of the international investors and "democratic institutions" it was, however, neither necessary nor desirable to change anything about the repressive role of the army and the country's social structures. The complete militarisation of the country—e.g., by the marauding paramilitary federations (PAC)—also remained untouched, as did the unfair distribution of land, and the exploitation and suppression of the native Indians and the urban working class.

Armed with the moral authority of being one of the politically persecuted during the dictatorship, Cerezo signed the Esquipulas II agreement in summer 1987. This committed the Central American countries to seek a peaceful solution to the wars in the region. While Cerezo was praised as a man of dialogue, his army resumed their brutal war against the Indian population, particularly in the highlands and forests of northern Guatemala.

Although the country resembled a concentration camp, strikes and demonstrations increased. At the end of January 1989 over 50,000 agricultural workers went on the strike for better working conditions and higher wages. The "democratic" regime answered by letting the *Guardias Blancas* (anti-rebellion police units) club down the strikers, driving them apart and taking away their identification papers and tools. At this time the El Aguate massacre in the Chimaltenango district also took place, where 21 campesinos were killed, after being brutally tortured.

Starting in 1991, and fearing to lose control over the explosive social situation, the government conducted "peace discussions" with the URNG with the backing of the United Nations. They were concluded at the end of 1996 under the government of Alvaro Arzu. The guerrillas committed themselves to handing over their weapons and to recognising the army as the only legitimate armed force in the country. A substantial feature of the agreement was the total amnesty granted the military, which guaranteed their immunity from prosecution for crimes committed during the 36-year civil war.

A so-called Truth Commission, similar to those already established in Argentina and South Africa, was created in order to accompany the "transition to democracy." It was given the task of working over the past and examining the atrocities of the war. The commission established that at least 93 percent of 626 documented massacres were the responsibility of the military.

However the Truth Commission, whose 3,400-page report was presented one year ago, is completely toothless. In accordance with the peace treaty it may neither lay charges against any persons it finds responsible, nor publish their names. This regulation meets the wishes of prominent military and police representatives who want to protect

themselves against prosecution, on the one hand, and the expectations of former guerrilla leaders, who hope for a political career in parliament, on the other. It also satisfies the US, which does not want its own role during the bloody war being looked at too closely.

The complaint pending in the *Audiencia Nacional* against prominent representatives of the regime threatens to disturb the general consensus. The Guatemalan Republican Front (FRG), which presently forms the extremely right-wing Portillo government, correctly interprets the charge as an attack on their chairman, the present parliamentary president Rios Montt. The government immediately announced the breaking off of police cooperation with Spain.

Since 1977, the Spanish police have let their Guatemalan colleagues have the benefit of their own experiences in adapting the police apparatus of the dictatorship to the "democratic" conditions. During the *transicion* in Spain, i.e., during the worst period of Guatemalan state terrorism, at least 50 members of the *Guardia Civil* were sent to Guatemala in order to help the "democratisation" of the police apparatus; to promote and finance the establishment of a police academy. This cooperation is now over.

Guatemala's prosecutor general, Candido Bremer, has requested that Rigoberta Menchu lay charges under Guatemalan law. At the same time, he has accepted a charge against Menchu by attorney Julio Cintron Galvez, in which Menchu is accused of treason for collaborating with a foreign court. Galvez claims that Menchu's activities would undermine the sovereignty of Guatemala and return the country to Spanish colonialism. In the past, Bremer defended prominent military figures against the accusations of the victims of military rule.

Representatives of the former guerrillas also reject Menchu's initiative. Former guerrilla commander Ricardo Rosales Roman explained to Spanish daily *El Pais* that he did not consider it opportune to again dredge up the crimes of earlier years. He said he did not want to deny Menchu his rights to involve a Spanish court, but felt it more important to strengthen Guatemala's own national institutions. According to Rosales Roman, it is necessary to strive in parliament for a genuine democracy, in the spirit of peace and reconciliation, rather than pursue charges against the military, the police and the paramilitary.

Julio Eduardo Arango Escobar, the government's representative for human rights issues, gives a devastating critique of Guatemala's legal system. In an interview with *El Pais* on 30 March he said that it is in complete dissolution. "It is not only that it does not function in regard to less important things, but it fails completely when it comes to important issues that are of global interest."

Asked why this system has not been reformed, he replied, "that would be something for sincere people to do, it is a question of conscience and legal appointments. It will take a long time to achieve this." When *El Pais* pointed out that this probably shows that the military still has more power than the judiciary, Arango Escobar answered evasively that Guatemala has good laws and an excellent penal code, but did not, however, have the personnel to put them to work. The rule of law exists today in Guatemala only formally, not in reality.

Guatemalan law, as in every other country, only reflects the present social set-up, the existing balance of power. The peace treaty was particularly necessary for the business interests of the international companies active in Guatemala. It provided them, and the country's military and economic elite, the possibility of adapting to the changed global conditions. Their investments and property enjoy the protection of the law, while maintaining the repressive police apparatus.

The causes of the civil war, meanwhile, remain. The country's social structures display a tremendous degree of social inequality, the brutal exploitation of the working class and an unequal and unfair distribution of land. Eighty percent of the population live in terrible poverty, 81 percent of all children suffer malnutrition and about 50 percent of the working population is unemployed or underemployed. Average wages are three

dollars a day. Meanwhile, 65 percent of cultivatable land is controlled by just 2.5 percent of the landowners.

In Spain, Rigoberta Menchu's charges have frightened the political establishment, above all Felipe Gonzales, former Socialist Party prime minister from 1982 to 1996

On March 30, the Spanish public prosecutor's office raised objections against the investigations by Ruiz Polanco. They explained that the Spanish courts were not responsible for this affair and that Guatemala must have the liberty to work its way through the horrors of its past. Moreover, it considers that the crimes occurred at a time of civil war, and thus fall under martial law. This is a further reason the charges should not be accepted in Spain, according to the prosecutor's office. Rios Montt also agreed with this argumentation; that while genocide happened in Kosovo, in Guatemala an armed conflict took place.

Such legal niceties, however, cannot hide the fact that things other than justice and truth are at stake.

Felipe Gonzales had already opposed the Chilean dictator Pinochet being put on trial in Spain. In an interview with Chilean television, Gonzales said on 28 August 1999: "I carried through the *transicion* [the transition from Franco's fascist dictatorship to democracy] and I would not have liked it if someone had interfered during the process in which we decided things ourselves."

Gonzales is expressing the fears in ruling Spanish circles that their own past could be turned over again. Spain also witnessed a general amnesty for the fascist butchers in connection with the "peaceful transition to democracy". Most of them—including police chiefs and the *Guardia Civil*, as well as prominent bankers, politicians and industrialists—remained in office and enjoyed their dignity.

Gonzales is reacting in a similar way in relation to Guatemala. He is not in favour of placing Guatemalan generals on trial in Spain, saying it would be better to place them before an international court—sometime. This might seem all the more astonishing since Spain was directly involved in the events in Guatemala. On January 31, 1980, 28 Indians who had occupied the Spanish embassy in Guatemala City in order to draw international attention to their plight were annihilated by special troops on the instructions of President Lucas Garcia. A Spanish diplomat also died.

All these events show that it would be naive to expect the legal system in Spain or Guatemala to deal with this bloody past or sit in judgement of those responsible. The establishment on both sides of the Atlantic, up to its neck in the swamp of the past, hopes to be able to continue enjoying their careers as politicians, industrialists and lawyers.



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