

Guatemalan high court upholds overturning of Rios Montt conviction

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Guatemala's Constitutional Court Tuesday upheld its May 20 decision to throw out the conviction of the former US-backed dictator Efraín Ríos Montt on charges of genocide and crimes against humanity.

The order followed the concurrence of the country's appeals court in the extraordinary upending of the trial that the high court ordered 10 days after the conviction. It dismissed appeals filed by the prosecution and representatives of the surviving victims of Ríos Montt's bloody reign in 1982 and 1983.

In the May 10 verdict, the lower court convicted Ríos Montt for the massacre of 1,771 Ixil Indians in the country's northwest highlands during a scorched-earth counterinsurgency campaign. It sentenced him to 80 years in prison. His co-defendant, former military intelligence chief Rodrigo Sánchez, was acquitted.

The high court ordered that all of the trial's proceedings from April 19 through the verdict and sentencing on May 10 be annulled and repealed. The April date was when the trial was briefly suspended over a jurisdictional dispute initiated by another judge who had been recused from the case in November 2011. Ríos Montt's defense team seized upon the incident to denounce the trial as "illegal proceedings" and stage a walkout from the court. Ríos Montt refused to use a public defender and was therefore left briefly without representation.

This was the basis for the high court's ruling, which put forward the legally unprecedented and unfounded remedy of "rewinding" the trial to the date of the alleged judicial error.

Hector Reyes, lawyer for the Center for Legal Action on Human Rights, told the Guatemalan daily *La Prensa* that the overturning of the verdict took "an eminently illegal form, as the decision of the Constitutional Court lacks any foundation in law."

Similarly, Francisco Vivar, the legal representative for the Association for Justice and Reconciliation, called the high court ruling a legal fraud.

"We are facing a juridical crisis provoked by the Constitutional Court," he said. "No tribunal can hear a case

whose proceedings are half over. Nor can one say that a trial has been annulled and should be restarted, because there is not one sentence that indicates this."

The decision means that survivors of the mass killings must repeat their wrenching testimony, recalling the rape, dismemberment and slaughter of men, women and children by the Guatemalan military.

The most important practical effect of the ruling is that the three-judge panel that heard the case, led by Judge Jasmine Barrios, is itself being recused, and the appellate court must now put together a new panel to hear the portion of the trial that is to be repeated.

This is no easy task: scores of judges have already refused to take the case, putting forward various legal rationales, but in overwhelming measure because of well-founded fear that presiding over such a trial incurs the threat of violent retribution. The judges in the original panel received repeated death threats and were obliged to wear bulletproof vests.

A new judicial panel could well arrive at an entirely different verdict, quashing what had been greeted internationally as a landmark decision. It marked the first time that a Guatemalan court had held a former dictator and practitioner of horrific state terror responsible for some of the crimes carried out during more than three decades of military rule and civil war—in which at least 200,000 peasants, workers and students were killed.

The high court ruling provoked popular outrage in Guatemala and beyond. A demonstration of several thousand took place in Guatemala City on March 24, with members of indigenous communities, human rights groups, unions and others marching to the Constitutional Court building where they conducted a sit-in.

Demonstrations took place simultaneously in other Latin American capitals. Protesters carried signs and banners with slogans such as "Yes, there was genocide," "No to impunity" and "A national shame," together with the names of the three judges who voted to annul the Ríos Montt verdict.

Guatemala's big business association CACIF

(Coordinating Committee of Agricultural, Commercial, Industrial and Financial Associations) has been anything but subtle in its praise for the upending of the trial and its rejection of the charge of genocide.

In the most recent editorial, CACIF declares: “The business sector defends the importance of knowing how to leave the past behind in order to open a genuine channel to peace and reconciliation.” In other words, peace can only be guaranteed through impunity for Guatemala’s mass murderers.

Guatemala’s president, Otto Perez Molina, has echoed this position, having referred to the conviction of Rios Montt as a “delicate situation” and rejected the charge of genocide.

“When we are calling for people to come and invest in Guatemala, unfortunately, this is not good international news,” he said of the trial. The implication clearly is that foreign capital wants to be assured that the repressive forces can operate without restriction in suppressing struggles by the Guatemalan working class.

The role played in the bloody events of 1982-1983 by Perez Molina, also a former general, came out in testimony during the trial. A former army mechanic, Hugo Leonardo Reyes, testified that Perez Molina, who operated under the alias “Major Tito” during this period, presided over mass executions. Under his command, he said, soldiers carried out the burning and looting of Ixil villages and then massacred their inhabitants.

Those brought to be killed, he added, had been “beaten, tortured, their tongues cut off and fingernails ripped out.”

The US government had publicly indicated support for the trial of Rios Montt. In the wake of the Constitutional Court’s decision, however, it took a decidedly noncommittal position. A State Department spokesman referred to a “complex, unprecedented legal situation in Guatemala,” and Washington’s belief that “the fundamental imperative in this or any other legal proceedings should be to respect the rule of law and ensure equal justice for all.”

It is unlikely that the Obama administration would welcome “equal justice” being visited upon the many US accomplices in Rios Montt’s crimes. The ex-general was one of the favorite Latin American leaders under the administration of President Ronald Reagan, who made a point of paying a state visit to Guatemala at the height of the carnage—praising Rios Montt as “a man of great personal integrity and commitment,” who was determined “to improve the quality of life for all Guatemalans and to promote social justice.”

The US military and the CIA provided indispensable support for the genocidal counterinsurgency campaign, training and arming the Guatemalan military and developing much of the strategy for destroying villages and disposing of

their populations. When difficulties arose in directly supplying US arms to the regime, the Reagan administration enlisted the support of Israel, which became deeply involved in the Central American bloodbath.

Many of those most directly involved in this policy, including former State Department official Elliott Abrams, ex-Reagan national security advisor Robert McFarlane, and ex-CIA official Alfonso Sapia-Bosch, are still alive and could be indicted as Rios Montt’s co-conspirators.

Immediately after the high court’s move to abort the Rios Montt trial, Guatemala suddenly organized the extradition to the US of Alfonso Portillo, the country’s president from 2000 to 2004, to face money laundering charges involving up to \$70 million in Guatemalan public funds.

Lawyers for Portillo charged that the extradition was illegal, as there were still challenges pending in the Guatemalan courts. The ex-president himself said he had been “kidnapped.” It marked the first time ever that a former Latin American head of state has been extradited to the US to face charges.

Portillo appeared in a New York City courtroom on Tuesday and pleaded not guilty to the charges. He had been cleared of embezzlement charges in Guatemala.

The extradition was widely seen as an attempt by the Guatemalan government to divert international attention from the overturning of the Rios Montt verdict. The ex-dictator still has strong support within the country’s ruling oligarchy, as opposed to Portillo, who began his political career as a guerrilla sympathizer before becoming a political creature of the right and ultimately the standard bearer of Rios Montt’s own party.



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