

JUDGING A DICTATOR



The Trial of Guatemala's Ríos Montt

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Judging a Dictator: The Trial of Guatemala's Ríos Montt

I. INTRODUCTION

The genocide trial of José Efraín Ríos Montt in early 2013 demonstrated both how far Guatemala has come in efforts to challenge impunity, and how much remains to be done.

Ríos Montt was the de facto head of state in Guatemala for seventeen months in 1982 and 1983, coming to power as a result of a military coup and leaving by the same route. He was but one among a line of brutal military rulers, yet the period in which Ríos Montt ruled was the bloodiest period of Guatemala's 36-year civil war. A UN truth commission later specifically found that the state was responsible for acts of genocide in four designated regions of Guatemala between 1981 and 1983.¹ In the predominantly Ixil towns in Quiché, between 70 and 90 percent of the communities were wiped out during this period.²

In a development that would have been unimaginable only years earlier, on May 10, 2013 in a Guatemala City courtroom, Ríos Montt was convicted of genocide and crimes against humanity for his role in the massacres, forced displacement, rape and torture of Guatemala's Maya Ixil population under his rule. His then head of military intelligence, José Mauricio Rodríguez Sánchez, was tried alongside him but acquitted on the same day on the ground that he did not have command authority.³

There have been a growing number of cases challenging military leaders and heads of state for serious crimes, especially in Latin America.⁴ However, Guatemala's progress in coming to terms with atrocities committed during its internal armed conflict has been painfully slow.

Various general amnesty decrees were issued during the war.⁵ Laws established in 1996 and 1997 as part

1 See Commission for Historical Clarification, Guatemala Memory of Silence: Report of the Commission for Historical Clarification, Conclusions and Recommendations, available at http://shr.aaas.org/projects/human_rights/guatemala/ceh/mos_en.pdf.

2 According to a 1999 United Nations-mandated truth commission, more than 200,000 died or were forcibly disappeared during Guatemala's internal armed conflict, over 80% from Mayan indigenous populations with state security personnel and paramilitaries responsible for 93 percent of the violations. The commission identified over 600 massacres, and found that the state was responsible for systematic violence. The three-year period between 1981 and 1983 accounts for 81 percent of the violations reported by the truth commission related to the 36 year conflict—with nearly half (48%) of all reported violations occurring during 1982, the year in which Ríos Montt came to power. *Ibid.*

3 Elisabeth Malkin, *Guatemalan Court Overturns Genocide Conviction of Ex-Dictator*, N.Y. Times (May 20, 2013). (This does not speak to the reason for Sánchez's acquittal, but I could not find another source other than <http://www.riosmontt-trial.org/2013/05/rios-montt-convicted-of-genocide-and-crimes-against-humanity-the-sentence-and-its-aftermath/>).

4 See Kathryn Sikkink, *The Justice Cascade: Human Rights Prosecutions and Change in World Politics*, Working Paper, 5, available at https://bc.sas.upenn.edu/system/files/Sikkink_04.08.10.pdf (“[T]here is a dramatic new trend in world politics toward holding past state officials individually criminally accountable for past human rights violations.”). See generally Ellen L. Lutz & Caitlin Reiger, *Prosecuting Heads of State* (March 2009).

5 On January 10, 1986, General Oscar Humberto Mejía Victores, Ríos Montt's defense minister and successor as de facto head of state, issued a general amnesty to all those responsible for, or accused of, political and related common crimes committed between March 23, 1982, and January 14, 1986. Decree 8-86.

of the peace and transition process repealed all prior amnesty laws and established, in their place, a limited amnesty which explicitly excluded from its scope prosecution for genocide, torture, forced disappearance and other international crimes.⁶ Nonetheless, claims of international crimes filed with the Public Ministry remained there, effectively static, for years.

The Ríos Montt case arose out of a petition to the Guatemalan Public Ministry in 2001 filed by victims' representatives seeking an investigation and prosecution of the generals responsible for some of the worst abuses committed during Guatemala's 36-year internal armed conflict.⁷ Individuals introduced a separate but related case before the Spanish National Court in 1999.⁸ The Spanish National Court issued arrest warrants and extradition orders in 2006, in the end unheeded; and heard testimony of victims and experts in 2008 and 2009. That case remains pending.⁹ But Guatemalan prosecutors only began to pursue international crimes from Guatemala's civil war about five years prior to the Ríos Montt verdict.

In the past five years, important reforms, leadership changes, and innovative collaborations have resulted in notable progress in strengthening the rule of law and the independence of the judiciary in Guatemala. New leadership in the Public Ministry — with Attorney General Claudia Paz y Paz assuming her position in 2010 — created new opportunities for these cases to advance. Significant recent reforms include the creation of specialized "high-risk" courts and the designation of judges and prosecutorial units focused on complex cases. Reforms of the Public Ministry and the judiciary benefited from the 2007 establishment of the International Commission against Impunity in Guatemala (CICIG), an independent international body established by the United Nations and the government of Guatemala with the mandate to conduct investigations and present complaints for prosecution, as well as support reforms.

Long-stalled prosecutions picked up steam; some resulted in convictions. Still, before the trial of Ríos Montt, virtually all of the nearly 30 people convicted for crimes committed during the country's internal armed conflict were low-level soldiers, police, paramilitaries, or members of the civilian patrols established by the military.¹⁰

6 Decree 133-97, issued in December 1997, repealed all amnesty laws prior to 1996. The National Reconciliation Law, Decree 145-96 provides a general amnesty for political crimes committed during the armed conflict and related common crimes (Articles 2-7), but excludes from any amnesty international crimes including genocide, torture and forced disappearance (Article 8).

7 The Justice and Reconciliation Association (AJR) alongside the Center for Human Rights Legal Action (CALDH), introduced the case in Guatemala.

8 Relying on a Spanish law that provides for universal jurisdiction for certain international crimes, Mayan activist Rigoberta Menchú and others brought a case in Spain charging eight high-ranking Guatemalan officials with international crimes—torture, genocide, illegal detention and state-sponsored terrorism. The Spanish Organic Law of the Judicial Branch allows prosecution for certain listed crimes (including genocide, terrorism, and piracy) and "any other [criminal act] which, according to international covenants and treaties, should be prosecuted in Spain."

9 Spanish courts issued some arrest warrants, initially heeded by Guatemalan authorities but later overturned by the Constitutional Court. See generally Naomi Roht-Arriaza, *Making the State Do Justice*, Chicago Journal of International Law, 2008.

10 In Guatemala's first ever conviction for forced disappearance, a trial court convicted former military commissioner Felipe Cusanero in August 2009. Sarah Grainger, *Guatemala makes landmark civil war conviction*, Reuters, 31 August 2009. Six former kaibiles, members of an elite military unit, were convicted of murder and crimes against humanity in 2011 and 2012 for their involvement in the massacre at Dos Erres. See Amnesty International, *Guatemala: Fifth former soldier convicted over role in Dos Erres massacre*, 14 March 2012. Five civilian self-defense patrol members were convicted for murder and crimes against humanity in 2012. BBC News, *Ex-paramilitaries jailed for Guatemala massacre*, 21 March 2012. Two former National Police agents Héctor Roderico Ramírez Ríos and Abraham Lancerio Gómez were convicted of forced disappearance in 2010, and senior police officer Jorge Gomez in 2013. Former National Police Directors Pedro García Arredondo and Héctor Bol de la Cruz were convicted of forced disappearance and crimes against humanity in 2012 and 2013, respec-

The Ríos Montt trial thus forced the question of whether justice would end there.

While Ríos Montt was named in the initial complaint, he was only indicted in 2012 after he lost congressional immunity.¹¹ In early 2013, a trial date was set, more than a decade after victims' representatives brought the case to the Public Ministry.

Over nearly two months in a Guatemala courtroom, a three-judge panel demonstrated the possibilities for justice to be blind, and for a domestic court to judge the most powerful for the most heinous of crimes committed against the most vulnerable. Scores of witnesses testified to horrendous atrocities, and by their presence expressed their faith in the potential of an independent judiciary decades after the crimes. Military, forensic, statistics, sociology, psychology and history experts testified for the prosecution and, to a lesser degree, the defense. The court reviewed copious documentary evidence. The political context complicated the trial, but it did not stop it from concluding.

On May 17, 2013, the trial court issued a 718-page judgment elaborating the bases for the court's verdict. This publication presents an overview of the trial and the trial court's decision, as well as the translation of a portion of the judgment that laid the factual and legal foundation for the conviction.¹²

The trial and judgment represented a significant shift for Guatemala, and also for international justice. This was the first conviction in the world of a former head of state for genocide in a domestic, rather than international, court. Even absent the genocide conviction, it was a rare domestic conviction of a former ruler for the authorship of gross human rights violations.

The verdict was as historic and meticulous as it was short-lived. On May 20, 2013, only three days after the issuance of the judgment, the Guatemalan Constitutional Court annulled part of the proceeding and, in a contentious and divided ruling, set the trial back to an earlier stage of the process.¹³

The Ríos Montt trial presented a renewed opportunity for an independent judiciary to play its role in uncovering both truth and justice related to one of the bloodiest conflicts in modern history. The fact that the trial took place at all is a testament to the conviction and sustained pressure of victims and human rights defenders, as well as the significance of recent reforms. The testimony presented, and the judgment issued, is part of the historical record. However, the fact that its end is still uncertain, even after a verdict and an extensive judgment, is a sign that there are still grave challenges to an independent judiciary, and certainty to the rule of law, in Guatemala.

tively, the latter conviction taking place after the Constitutional Court effectively annulled the Ríos Montt verdict. Reuters, Guatemala jails former police chief for war crimes, 22 August 2012. Mike McDonald, Guatemala convicts ex-police chief for student leader's disappearance, Reuters, 20 September 2013.

11 Related charges have been brought against former generals Mejía Victores, Ríos Montt's successor as president and former defense minister, and Hector Mario Lopez Fuentes, Army Chief of Staff under Ríos Montt. Both were captured in 2011, but the charges against them have been suspended on account of their state of health.

12 Further translation of the judgment, as well as the translated Constitutional Court resolution and dissenting opinions, are available at www.riosmontt-trial.org.

13 Emi MacLean, Guatemala's Constitutional Court Overturns Ríos Montt Conviction and Sends Trial Back to April 19, 21 May 2013, at <http://www.riosmontt-trial.org/2013/05/constitutional-court-overturns-rios-montt-conviction-and-sends-trial-back-to-april-19/>. See Mike McDonald, Guatemala's top court annuls Ríos Montt genocide conviction, Reuters (May 21, 2013).

II. THE TRIAL

A. The Trial's Opening Day

The trial opened on March 19, 2013 in a standing-room only courtroom. In one of many surreal sights, the daughter of Ríos Montt and the son of his Interior Minister sat next to each other, just one seat away from Rigoberta Menchú, the Nobel Prize winning Guatemalan indigenous rights activist. Scores of Ixiles sat in the audience with headphones providing Ixil translations.

The prosecution presented the charges against Ríos Montt and Rodriguez Sanchez, alleging they were responsible for the deaths of 1,771 Mayan Ixiles, the displacement of 29,000 and their subjection to sub-human conditions, their torture, and cruel and inhuman treatment, and the rape and sexual abuse of women. Edgar Pérez, an attorney for the civil parties, asserted to the assembled court and public that "lies and silence both destroy the truth" and a judicial decision grounded in evidence could not be denied.

The trial's opening day was marked as much by the behavior of the defense team as by the reading of the charges. Sitting by Ríos Montt's side, Francisco García Gudiel announced that he would serve as the defendant's sole counsel, because, just hours before the start of the trial, Ríos Montt had fired his entire defense team and called him, for the first time, as his attorney. García Gudiel then proceeded to raise a host of legal challenges, including an effort to delay the start of the trial on account of his new appointment and a motion to recuse two of the three judges as a result of purported personal conflicts.

After numerous challenges, the judges eventually expelled the attorney from the courtroom. The court presented the defendant with the opportunity to re-introduce his prior counsel, appoint new counsel, or be represented by the attorney for his co-accused. With no new or former counsel introduced, the trial court ordered the attorney for Rodriguez Sanchez, the co-accused, to represent him for the remainder of the day. The judges then proceeded to read the charges against Ríos Montt and prosecution witnesses began to deliver testimony.

With the threat of representation by a public defender, Ríos Montt's prior defense team returned to represent him on the second day and later over the course of the trial's first week. The trial court did allow provisionally all proposed defense evidence and witnesses to be introduced, in response to a challenge by Ríos Montt and Rodriguez Sanchez that a pre-trial judge had excluded improperly some defense evidence.

B. Testimony of Ixil Survivors

The trial moved steadily and painstakingly for the first nine days of hearings, with horrific accounts by more than 90 survivors. Witness after witness described military incursions on their villages, indiscriminate massacres, rape, torture, and forced dislocation into the mountains where victims faced starvation and military bombing campaigns. Multiple witnesses described being treated "like animals."

Elena Caba limped to the witness stand to tell the court of the April 3, 1982 massacre in which soldiers killed 96 people. Caba, then eight or nine years old, nearly died: soldiers stripped her naked and threw her from a bridge into a river. When she landed in a pool in the river, and injured herself but did not die, the soldiers above threw rocks and shot at her, hitting her foot with a bullet. She saw many dead bodies in the river, but was able to swim to the riverbank and hide, and eventually flee. Her family was not so lucky; soldiers fatally shot her younger siblings, aged four, three, and one; hacked her father to death with a machete after shooting him; and killed her mother.

Cipriano Antonio Bernal, at the age of 13, barely escaped a massacre by the Guatemalan elite military unit, the kaibiles, who killed his whole family and many others on April 12, 1983. The kaibiles, an elite military unit, killed his grandmother, mother, five- and eight-year-old brothers, six-year-old niece, sister-in-law, and the three-day-old baby of his sister-in-law. He survived by running to hide, dodging bullets, and returning later to find his family dead and the village burned to the ground.

At least eight women testified to rape or sexual abuse of themselves or their relatives. EPS testified that, in May 1982 when she was 12 years old, soldiers forced her to watch the rape of her mother, and then raped her, in the Tzabal military installation. Her mother died as a result of her treatment at the military base. CVG wept loudly as she recounted that soldiers captured her and her daughter, raping her and killing her child.

Jacinto Lupamac Gomez described his own forced adoption and assimilation at the age of eight, and that of his two younger brothers, aged one and six, after soldiers killed his parents and two siblings. Twenty-two years passed before Lupamac and his brothers were reunited with aunts and uncles who survived the attacks on their community.

Men testified that they were required to participate in the civilian self-defense patrols (patrullas de autodefensa civil, or PACs). Nicolas Toma Matom was conscripted into a PAC following the killing by soldiers of his mother, father, 10-year-old brother, and approximately 30 others, and the disappearance of his young daughters, during an April 15, 1982 attack.

In testimony that stunned the courtroom and the nation, Hugo Ramiro Leonardo, a former soldier who served as a mechanic in an engineering brigade that worked in various military installations in the Ixil region during 1982 and 1983, testified via videoconference that Tito Arias, the *nom de guerre* of President Pérez Molina, who was at the time an official in charge of the military installation in a region of Nebaj, Quiché, ordered soldiers to burn and loot villages, and later to execute people as they fled to the mountains. In a public response, the president denied the accusations. Leonardo testified: "As far as I could tell, the order was: 'Indian seen, Indian dead' (Indio visto, indio muerto)."

C. Prosecution Expert Witnesses

Experts for the prosecution offered forensic evidence concerning mass graves uncovered, including of women and children; statistical evidence that demonstrated a wildly disproportionate rate of military killings of Ixiles as compared to non-Ixiles; military experts who testified of the chain of command which would ensure that the military head of state had both knowledge of the crimes that were being committed and legal authority to order or, alternatively, to prevent, stop, or remedy them; legal experts who testified to the international law concerning genocide and crimes against humanity; and anthropology, history, psychology, and sociology experts who testified about the impact of the military's actions on civilians and on the Maya Ixil culture, and the role of racism in the military's policies and practices.

Fredy Peccerelli, director of the Guatemalan Forensic Anthropology Foundation (FAFG), testified that between 1992 and 2009, FAFG exhumed the remains of 420 people from the Ixil area from the time period covered by the trial, a third of whom were younger than 18 when they died. According to Peccerelli, virtually all of these deaths were caused by the military and 83% had fatal injuries, a figure consistent with execution-style killings.¹⁴ One FAFG expert witness emphasized that the victims exhumed were often "vulnerable populations,"

¹⁴ According to Peccerelli, in combat, on average 20% of injuries are fatal.

meaning women and children.

A statistician who worked with the Guatemalan truth commission, Patrick Ball, concluded from a statistical analysis of the deaths in the Ixil region that the Guatemalan army killed indigenous people at a much higher rate than non-indigenous people. From April 1982 until July 1983 in the three towns sometimes referred to as the Ixil Triangle — Chajul, Cotzal and Nebaj — the army killed 5.5% of the indigenous population, a rate eight times that of the non-indigenous people, and higher than at any other time during the war. From 1979 to 1986, the army killed 18.3% of the indigenous population and 3.2% of the non-indigenous population. Ball identified this as comparable to acknowledged genocides like Rwanda and Srebrenica, which had murder rates of identifiable groups around 20%.

The prosecution's expert witnesses relied on operational plans and related military documents to elaborate Ríos Montt's wartime strategy of land and population control. University of Arizona professor Elizabeth Ann Oglesby testified that the displacement of the Ixil population through scorched earth operations was a principal objective of Plan Victoria in 1982: "the control of territory was a means to control the guerrillas." In 1983, a new military policy, recorded in the military plan Firmeza 83, aimed to resettle and reeducate the survivors. The military plan ordered the army to destroy crops and transfer the population to controlled areas where reeducation programs and psychological operations would create a "new indigenous subject" who would obey the army.

Héctor Rosada, a social scientist who served as a peace negotiator on behalf of the government and as the Secretary of Peace, described general instructions that ordered and facilitated the commission of genocide. He testified that the State's central objective was to control the civilian population where the guerrillas operated, and it did so by carrying out extensive massacres, razing villages, destroying crops and animals, and persecuting those who tried to flee the violence. Racism was a cause, according to Rosada, noting that the Ixil were undesirable in part because of their unwillingness to provide cheap labor to the large plantations.

The prosecution's military expert, retired Peruvian general Rodolfo Robles, testified to the strict command structure of the Guatemalan armed forces under Ríos Montt and the significance of the military operational plans. Robles testified that the High Command never investigated or sanctioned its officers, or tried to halt the actions in the Ixil areas or to hold military perpetrators of crimes against the local population to account, even though "with one order from [Ríos Montt], he could have changed the entire situation."

The prosecution also presented videos of 1982 interviews with the three members of the then- military junta: Efraín Ríos Montt, Luis Gordillo Martínez and Horacio Maldonado Schaad. The now elderly Ríos Montt, sitting in the courtroom, watched the younger Ríos Montt speaking at the height of his powers, insisting that his troops were not massacring campesinos in the highlands, declaring: "If I can't control the Army, then what I am doing here?"

Two legal experts made extensive presentations about international law concerning genocide and crimes against humanity, and its application to the Guatemalan civil war. Spanish lawyer Paloma Soria concluded that the attack on women was generalized and systematic, and was used to exterminate the Mayan community, sow terror and break the social and cultural fabric. Ramón Cadena, the Central America Director of the International Commission of Jurists, said that three basic international law principles were violated in Guatemala: the distinction between military targets and civilians, the requirement that any civilian casualties be proportionate to the military benefit of an attack, and the prohibition of unnecessary suffering.

Experts provided testimony about the military's targeting of vulnerable groups in their broad categorization of the enemy and their strategy of "removing the water from the fish" (*quitarle el agua al pez*). Marco Tulio Alvarez, former director of Guatemala's Peace Archives (*Archivos de la Paz*), which analyzed military records until its 2012 closure, testified that the military plans characterized the enemy as both armed guerrillas and their "support bases" (*bases de apoyo*), including "collaborators" and "sympathizers." Tulio described four reasons the army targeted children: to eliminate the seeds of future guerrillas, to obtain information, to attract parents to military centers so they could be captured, and to have a supply of children for adoption. Experts further testified concerning the psychological impacts of the war, and its impact on undermining Ixil culture.

D. The Defense Case

The defense strategy relied on preventing the trial from concluding, and undermining the tribunal in the media, more than presenting a vigorous defense. In response to "delaying tactics" of the defense, and vitriolic threats by Ríos Montt's attorney directed towards the judges during public hearings, Judge Yassmin Barrios, the presiding judge of the three-judge panel, on two occasions read aloud and referred to Guatemala's Professional Ethics Code for attorneys.

Defense attorneys vigorously contested a pre-trial judge's unwillingness to introduce certain witnesses and evidence, but when the trial court allowed the evidence to be introduced pending a decision by the Constitutional Court, the defense then insisted that the trial court did not have such authority, seeking to stop the trial. The defense asserted that it would present at least 18 witnesses, but only presented eight witnesses before delaying and obstructing as the trial moved towards its anticipated closure, eventually voluntarily withdrawing four witnesses and refusing to present the others over several days.

Two defense witnesses provided direct accounts of humanitarian work supported by the military in the Ixil area under Ríos Montt's rule. Harris Howell Whitbeck, a Guatemalan businessman and candidate for vice president on the Guatemalan Republican Front (FRG) ticket with Ríos Montt in 1990, was a key architect of the civic action programs Ríos Montt developed to counter the insurgency. Whitbeck recounted how he helped design and launch the government's "Beans and Bullets" (*Frijoles y Fusiles*) initiative, constructed settlements for desperate Ixiles escaping from guerrilla attacks, and created a "food for work" exchange. He recounted confrontations with armed insurgents, such as a December 1982 military helicopter evacuation of 2,000 civilians from Salquil Grande and surrounding communities, facing down machine gun fire from the guerrillas. Facing a vigorous cross-examination, Whitbeck consistently denied any knowledge of military involvement in massacres, rape, torture, bombings of refugees and destruction of crops: "never was there a single program or idea to damage anyone in the Ixil region." Alfred Kaltschmitt, executive director of a humanitarian foundation supporting Ixil communities (*Fundación de Ayuda para el Pueblo Ixil—FUNDAPI*), testified about his foundation's involvement in administering aid programs in the highlands. He emphasized the military's role in bringing medicine, and the gratitude of the Ixil people caught in the crossfire.

José Luís Quilo Ayuso, a retired military officer who was in Quiché in 1983 and 1984 and served under Ríos Montt's command starting in 1971, testified as a defense expert, yet his testimony was used to support the court's finding that Ríos Montt had command authority for genocide and crimes against humanity. Quilo Ayuso characterized the Commander in Chief (*Comandante en General*) as a position that by law did not have control over military campaigns but rather set national military policy. According to Quilo Ayuso, the chief of the General Staff (*Estado Mayor*) was the figure who issued key orders and the zone commanders implemented those orders and campaigns. However, under cross-examination, he explained that Ríos Montt occupied all

of the positions of the High Command—the Commander in Chief, the Minister of Defense and the chief of the General Staff—and that he ordered Plan Victoria 1982 while the Director of Intelligence, then Rodriguez Sanchez, produced the annex on intelligence.

Other witnesses were also contradictory or unhelpful for the defense. After Carlos Leonel Mendez Tejada, a retired military official, testified that the President's power was limited at the time that Ríos Montt was the head of state, and he was not involved in "tactics" or "operations" of the military, Mendez acknowledged, on cross-examination, that Ríos Montt was the maximum authority and the head of the military junta during his rule. Manuel Conde Orellana who previously served as a representative of the government during the peace negotiations and as president of the Peace Commission, said on cross-examination that reconciliation was "definitely not" synonymous with impunity.

Gustavo Porras Castejón was called by the defense to speak about the armed conflict during 1982-83, including the State's alleged policy of the destruction and displacement of the Ixil, and forced sterilization of Ixil women. Yet he told the court that he had no firsthand knowledge of those facts. Porras is a sociologist and political analyst who joined the revolutionary movement in the 1960s, in 1980 became a member of the main leftist guerilla group in the Ixil area, the Guerrilla Army of the Poor (Ejército Guerrillero de los Pobres, or EGP), and in the 1990s joined the government of Álvaro Arzú, serving as the president's private secretary, a member of the peace negotiations and coordinator of the Peace Commission (Comisión de Paz, or COPAZ). He asserted that there were "atrocities . . . committed in the Ixil area" but that he believed that the motives "were not ethnic but politico-military" because of the perceived support for the EGP by the Ixil. He was confronted, on cross-examination by the civil parties, with the words from his own book, *Las Huellas de Guatemala*, which presented an altogether different account—"What [the EGP's] strategies never predicted or analyzed was the reaction of the adversary, his capacity to exploit their weaknesses, even at the cost of a slaughter of genocidal proportions."

Several other witnesses called for the defense asserted that they did not have the appropriate knowledge or authority to testify to what they were called to testify about. For instance, Ronal Mauricio Illescas, a career army officer who was a lieutenant and military instructor under Ríos Montt's rule, had only limited access to the centers of power and seemed uncertain of how to answer or contradicted his own assertions. Illescas said the President would have known about Plan Victoria 82, "but not in great detail." Later, when a prosecutor asked whether Illescas had a responsibility to know what was in the plan, Illescas answered: "I did not have the rank for it. . . . The President had an entire team for that; he was the person this fell to."

Antonio Arenales Forno, Secretary of Peace and President of the Presidential Commission on Human Rights (COPREDEH) under President Perez Molina, was introduced as a fact witness, but with little direct relevant experience, he only spoke briefly about the difference between international criminal tribunals and the Guatemalan criminal system, asserting that there was no genocide, and that no one could be sanctioned for crimes against humanity in Guatemala because the crime is not contained in Guatemalan law.

Retired General Benjamín Godoy, who served 33 years in the military, stated that, from the start, the communists used the civilian population to gain power and, in 1981, had 60,000 "irregular" forces (known as FIL). However, he provided under cross-examination that he relied on guerrilla sources for these numbers, and they may have been inflated. Godoy insisted that the army's objective was to protect the civilian population. The lead prosecutor, Orlando López, asked Godoy to read from the military's *Manual of Counter-Subversive Warfare* which stated that soldiers usually have an aversion to repressive actions against women and children in civilian

populations but they can be indoctrinated. Godoy said he was not familiar with the statement.

The defense attempted to introduce several videos into evidence. The first video of crudely recorded interviews included an unidentified woman and elderly man recounting stories of guerrillas assassinating people in 1981 before the army came and made the people safer and more confident. “Through Ríos Montt we had more peace and security,” said the woman. “Thank God for General Ríos Montt; there was security everywhere,” said the elderly man. The prosecution successfully objected that the defense was introducing testimonials in a form that was not legal and with testimony outside of the scope of this case: the people were not identified; they referred to events in 1981, before Ríos Montt came to power; and they did not say where the events had occurred. The defense did introduce three other short videos depicting war scenes—guerrillas training and wounded soldiers screaming in agony.

E. A Tangled Web: Amparos, Delaying Tactics and Interruptions

Throughout the trial, the case was tangled in a web of amparos¹⁵ and other legal motions. The Inter-American Court of Human Rights has previously criticized the use of amparos as an “abusive” delaying tactic, including in Guatemala, where many unfounded amparos are left unresolved or not resolved quickly, “thus frustrating due judicial protection of human rights.”¹⁶ Limited penalties for frivolous amparos, weak oversight bodies for lawyers, and inadequate management by the courts only serve to encourage the use of legal challenges which confuse or delay.¹⁷ The Inter-American Court found in *The Case of “Las Dos Erres” Massacre*, that in Guatemala “the appeal for legal protection has been transformed into a means to delay and hinder the judicial process, and into a factor for impunity.”¹⁸ It is “used maliciously, but with the justice system as an accomplice.”¹⁹

Lawyers for the defense reportedly filed twenty legal challenges during the Ríos Montt trial, in addition to the reportedly more than 100 legal challenges reportedly filed in the year between the indictment and the trial.²⁰ Numerous judgments issued during the trial by the Constitutional Court, appellate courts, and even a judge of first-instance tasked to deal with preliminary matters, seemed only to spur more legal challenges, rather than resolve and clarify issues.

In a sign of the potential for interim legal challenges to delay, complicate or corrupt the legal process, the Constitutional Court issued at least twelve judgments related to the trial during the two months when it was in process,²¹ and twelve legal challenges were reportedly pending at the time the verdict was issued, including

15 An amparo is an action challenging a purported infringement of constitutional or legal rights. Under Guatemalan law, an amparo is regulated pursuant to Section 265 of the Guatemalan Constitution and the Law of Amparo, Decree 1-86.

16 *Case of Myrna Mack Chang v. Guatemala*, Inter-American Ct. H.R. Nov. 25, 2003, para. 210. *Case of Bulacio v. Argentina*, Inter-American Ct. H.R. Sep. 18, 2003, para. 115. *Case of the “Las Dos Erres” Massacre v. Guatemala*, Inter-American Ct. H.R. Nov. 24, 2009, paras. 120, 122. See also *Inter-American Commission of Human Rights, Justicia e Inclusión Social: Los desafíos de la democracia en Guatemala*, Dec. 29, 2003), 14, available at <http://www.cidh.oas.org/pdf%20files/GUATEMALA.2003.pdf>.

17 *Case of the “Las Dos Erres” Massacre v. Guatemala*, Inter-American Ct. H.R. Nov. 24, 2009, para. 120. The state of Guatemala, in the *Case of the “Las Dos Erres” Massacre*, even recognized the “constant and frivolous use of the appeal for legal protection.” *Ibid.*, para. 106.

18 *Ibid.*, para. 124.

19 *Ibid.*, para. 119, quoting Expert Opinion of Claudia Paz y Paz Bailey.

20 Communication with Public Ministry and Hector Perez, lawyer for CALDH.

21 The Constitutional Court issued judgments on April 3; April 22-23 (6 judgments issued); May 3 (4 judgments issued), and May 7. See *The Trial of Efraín Ríos Montt and Mauricio Rodríguez Sánchez: Timeline of Events*, available at <http://www.riosmontt-trial.org/trial-background/timeline-of-events/> (with links to judgments, in Spanish, and English-language summaries).

one resolved immediately following the verdict, undoing the verdict without even referencing it.²² Months after the verdict, some of these legal challenges remain outstanding.

The major issues that complicated the progression of the trial, and provoked an array of judgments during the trial, were challenges to the adequacy of Ríos Montt's representation on the first day of the trial; the rejected motion by Ríos Montt's newly-hired defense lawyer that two of the three trial court judges should be disqualified; determinations by a pre-trial judge, Miguel Angel Galvez, on the admissibility of defense evidence; and the decision by a different pre-trial judge, Carol Patricia Flores, that the entire trial should be annulled. But there were also repeated efforts to level civil penalties against the presiding trial court judge, and efforts to seek her recusal on account of this just-filed civil case, among other challenges.

In addition to the seemingly unending array of legal challenges during the course of the trial, the trial was beset by an array of defense antics, including the exodus from the courtroom of the entire six-person defense team on April 18, 2013, in protest and against the orders of the presiding judge. At the time, the trial appeared to be virtually on the eve of closing arguments. However, between then and the eventual May 10 verdict, the trial was suspended temporarily three times.

The trial was initially suspended from April 19-30, after a convergence of factors. The number of judges and courts implicated in this suspension illustrates the complicated legal maneuverings happening at every stage of the legal system during the trial's progression. After the defense attorneys walked out of the trial on April 18, they did not return on April 19. Also, on April 18, Judge Flores, a pre-trial judge only reinstated into the case after the start of the trial, held a separate hearing after the defense attorneys walked out of the trial court in protest. In that hearing Judge Flores ordered the entire trial annulled and the process set back 17 months as a remedy for her improper disqualification in November 2011.²³ (The Constitutional Court later rejected Judge Flores' annulment order and required her to issue a new order.) Further, on the same day, an appeals court ruled that due process issues related to the expulsion of García Gudiel, Ríos Montt's new attorney, on the trial's opening day be fully heard before the continuation of the trial.

When the trial court reconvened on April 30, the court reinstated García Gudiel in response to interim decisions by the appeals courts and the Constitutional Court finding due process violations with his expulsion. Testimony from the four witnesses heard the first day, subsequent to his expulsion, were excluded, and the indictment was read to Ríos Montt a second time. On May 8, in response to a May 6 appellate court decision, the trial court also heard again Garcia Gudiel's motion for recusal of two of the judges, rejecting the motion and allowing the trial's continuation.

²² See Raquel Aldana, Guatemala Awaits Constitutional Court's Rulings Following Rios Montt Guilty Verdict, 15 May 2013, at <http://www.riosmontt-trial.org/2013/05/guatemala-awaits-constitutional-courts-rulings-following-rios-montt-guilty-verdict/>.

²³ Judge Carol Patricia Flores presided over preliminary hearings at an earlier stage before defense lawyers compelled her recusal. On November 23, 2011, the civil party filed a motion objecting to the recusal. This motion was only resolved April 17, 2013, after the trial began, with an order for her reinstatement. In her first hearing after her reinstatement, Judge Flores asserted that the annulment of proceedings was required pursuant to the April 17, 2013 Supreme Court order reinstating her as the pre-trial judge; and an April 3, 2013 Constitutional Court judgment requiring the admissibility of some defense evidence previously ordered excluded, but nonetheless admitted by the trial court in an abundance of caution. The tribunal overseeing the trial rejected immediately Judge Flores' order as illegal, insisted that the tribunal and the judges were not subject to illegal orders, and suspended the proceedings temporarily. The Constitutional Court eventually, on April 25, ruled that Judge Flores must admit defense evidence and return the case file immediately to the trial court, which Judge Flores did allowing the trial to restart.

The trial was suspended a second time on May 3-7 to allow the incorporation of a new public defender when Rodriguez Sanchez' attorneys did not re-appear after the defense attorney protest, and the trial court's April 30 reconvening. Finally, on May 8, the court suspended the trial for a day when Ríos Montt's attorney did not appear in court due to a reported illness, an illness that the Court would later learn, via surveillance video presented in court, prevented him from attending hearings but not from visiting the Public Ministry on the same day.

F. Closing Arguments

After the suspensions, the trial court eventually reached closing arguments and heard statements from the defendants on May 8 and 9.

Prosecutor Orlando Lopez, in his closing arguments, asserted that Ríos Montt had control over the armed forces throughout his 17 months as de facto president and reiterated that the evidence had shown that the acts committed were planned, repetitive and indiscriminate. The Public Ministry asked the court to sentence Ríos Montt and Rodriguez Sanchez to 75 years in prison.

Key to the prosecution's case were the military counterinsurgency plans as well as the National Plan for Security and Development (Plan Nacional de Seguridad y Desarrollo), a political-military strategy document stressing the promotion of "indoctrination and education of the rural population" as a way to counter subversive activity in the country. The Public Ministry displayed a video of Ríos Montt urging a nationalism—"Guatemaldad"—to respond to the asserted failure of Guatemala to overcome its "amalgam[ation] of nations with their own languages and customs."

In his closing arguments, Ríos Montt's attorney, Garcia Gudiel, alternated between vitriolic ad hominem attacks on judges, prosecutors, and witnesses, as well as on the United Nations and foreigners; and critiques of the Public Ministry's efforts to tie Ríos Montt to genocidal acts. Garcia Gudiel was particularly critical of witnesses who provided scientific and forensic evidence, calling forensic evidence relying on witnesses inherently unreliable, and scientific evidence limited given its inability to identify the person responsible for any death. He also challenged the relevance or even existence of international law.

Garcia Gudiel rejected the prosecution's attempt to show that Ríos Montt had total control of the Guatemalan state and thus was implicated directly and indirectly in the crimes in question. He expressed sympathy for the victims, but asserted that the prosecution attempted to hold the wrong person accountable—the regional commanders, and not the head of state, had operational command. He concluded by asking for "total absolution from crimes of genocide and crimes against humanity."

Cesar Calderon, attorney for Rodriguez Sanchez, took particular exception to the inclusion of Rodriguez Sanchez in the military chain of command, retorting that attempts to do so throughout the trial constitute "partial, mutilated and selective truths." Similar to Garcia Gudiel's defense of Ríos Montt, Calderon sought to "individualize" responsibility for the atrocities committed in the Ixil area, rejecting a theory of command responsibility and arguing that "criminal responsibility is personal and individual—each person must answer for that which they have done themselves."

As the trial wound to a close, Ríos Montt, in an extended, spirited and unexpected declaration, asserted to the court and a hushed audience his innocence of all charges. He spoke of the dire economic, political and

military situation the country faced when he took power in a military coup in March 1982, underscoring the gradual realization that the country was in a more serious state of war than previously believed. "The country was dying," he stated. He spoke of the importance of having "the identity of being Guatemalan," rather than belonging to a particular ethnic group, as a way of bringing the country together.

Ríos Montt denied any direct involvement in the crimes at issue: "I never authorized, I never proposed, I never ordered acts against any ethnic or religious group." Ríos Montt exhorted the court to recognize that there is "no evidence of my participation," and that "there was never an intention or purpose of destroying any ethnic group." He fiercely contested the chain of command illustrated by the Public Ministry, insisting that, as head of state, he was "occupied by national and international matters," and the military dealt with military matters. Further, it was the regional commanders, he said, that "were each responsible for their own territory." Zone commanders operated with autonomy, and as president, he could not be connected with the crimes and abuses that happened within a particular region. ("If the police are caught robbing, they do not blame the Minister of Interior.") He concluded: "I will never accept responsibility for the charges. I was the head of state. What is the job of head of state and commander in chief? Command and control and administration of the Army. I was in charge of the national territory, not the local military zone. The local commanders had autonomy."

In his final statement, Rodriguez Sanchez asserted his innocence and contested the evidence introduced against him. He said that neither he nor the military operational plans presented as evidence against him ever stated that the Maya Ixil people were the internal enemy. Rodriguez Sanchez also said he was an advisor, and therefore not part of the chain of command and unable to emit orders. He concluded by saying: "I have demonstrated that there were no plans. Also, I was never in the Ixil area. Ever. I do not know why I am here. I am innocent... I ask for my freedom."

III. THE VERDICT AND JUDGMENT

On the afternoon of Friday, May 10, 2013, in a packed Guatemala City courtroom, the trial court handed down its verdict: Ríos Montt, former de facto head of state, was guilty of genocide and crimes against humanity, and sentenced to 80 years in prison. His house arrest was revoked and the judge ordered his immediate transfer to Matamoros Prison. His co-accused, Mauricio Rodriguez Sanchez, former head of military intelligence, was acquitted of both charges as the court found he did not have command responsibility, and that his responsibility for and involvement in the crimes had not been sufficiently established. The court issued its full 718-page judgment one week later, on May 17, 2013.

The verdict came 30 years after the crimes and 13 years after the complaint was brought by survivors to the Public Ministry. The court found that Ríos Montt commanded, and failed to prevent or punish, acts that amount to genocide and crimes against humanity, and had the requisite knowledge and intent to be held accountable for those acts.

The court ruled that the prosecution and civil parties had proved the concrete crimes identified in the indictment. They found that the nature of the violence deployed against the Maya Ixil included massacres; forced disappearances; torture and cruel, inhuman and degrading treatment; rape and sexual violence against women and girls; infanticide and the abduction of children; the destruction of crops to induce starvation; the razing of civilian non-combatant villages, burning of houses, and forcible displacement in subhuman conditions, or forcible relocation of surviving populations into militarized "model villages"; and aerial bombardments, and control

of populations, territory and natural resources.²⁴

The tribunal made reference to the military operational plans and reports, forensic evidence, and statistical evidence which enormous number of deaths, and the disproportionality of the indigenous dead as compared to the non-indigenous population.²⁵

The court found that Ríos Montt, as de facto head of state and commander of the armed forces, ordered these crimes. Under Ríos Montt's rule, the army launched a series of military operations, code-named Victoria 82, Firmeza 83, Sofia and Operation Ixil. The court held that Ríos Montt "authorized and institutionalized" the military and operational plans, and ordered the development of the National Plan for Security and Development (Plan Nacional de Seguridad y Desarrollo) and the Fundamental Statute of the State (Estatuto Fundamental de Gobierno), which provided the framework for the counterinsurgency efforts, resulting in the "elimination of non-combatant civilians belonging to the Maya Ixil ethnic group."²⁶ The 359-page Plan Sofía enhanced the operations of the Gumarcaj Task Force, operating in the Ixil region, in order "to exterminate the subversive elements in the area."²⁷

The court found convincing evidence that, under Ríos Montt's command, the Guatemalan armed forces elaborated and implemented a series of plans designed to eliminate the Maya Ixil population as a group, since they considered that "100 % of the members of the Maya Ixil ethnic group were internal enemies" who supported the guerrillas.²⁸

According to the court's analysis of the evidence, Ríos Montt had full knowledge of what was happening and did nothing to punish the perpetrators, or stop or prevent the atrocities—despite having the power and the capacity to do so.²⁹ He further "created a hazardous situation" after his repeal of existing legal protections, including the Magna Carta.³⁰

To support the finding that Ríos Montt had knowledge of the crimes, the tribunal noted that he authorized and implemented the military operational plans with regular reporting requirements, every fifteen days, up the chain of command to the president.³¹ Victoria 82 also established, as part of its annexed implementation plan, that Ríos Montt himself would deliver regular Sunday radio messages, in Spanish as well as Ixil and other Mayan indigenous languages, sometimes communicating about the war.³² The court further relied on the military expert witnesses—including the defense's military expert, General Quilo Ayuso—to find that Ríos Montt, as de facto head of state, knew or should have known about the actions identified in the indictment because

24 Judgment, pages 108, 111, 113-14, 130, 137, 138, 140, 141-43, 683-84, 688-89, 699.

25 Judgment, page 691.

26 Judgment, pages 104, 108, 699-703.

27 Judgment, page 108.

28 Judgment, page 108 (identifying the Manual of Counter-subversive Warfare as the source), 109 (identifying the Sofía Operational Plan as another source), 107 ("the Mayan population in general, [was classified] as the support base of the internal enemy, given that they had been receptive to the subversive groups' proclamations; and in particular, 100% of the members of the Maya Ixil ethnic group [were classified] as 'support base of the subversive groups' ... [with] 50% of the members" alleged to have "cooperated with the subversive groups through 'espionage activities,' mainly about military movements"), 706.

29 Judgment, pages 110, 699-70.

30 Judgment, page 111.

31 Judgment, pages 105-07, 110, 694-95.

32 Judgment, pages 695, 700.

of the chain of command in the Guatemalan military at the time.³³

One of the elements of genocide is “intent to destroy, in whole or in part, a national, ethnic, racial or religious group.”³⁴ The court found that the crimes were not spontaneous acts, but that Ríos Montt and the Guatemalan military intended to eliminate the Maya Ixil as an ethnic group,³⁵ in large part due to racism: the military operational plans presented into evidence outlined efforts to systematically attack the Maya Ixil who were perceived to be rebellious, difficult to control and the social base of the guerrilla.³⁶

The court found that the Army, under Ríos Montt, did not distinguish between unarmed civilians and people who were armed.³⁷ Plan Sofía provides that “‘the lives of women and children must be respected to the extent possible,’ which left open the possibility of killing these elements of the population.”³⁸ Reports connected to the plan reference the capture and abduction of children, and their transport to military installations.³⁹

The trial court found that, under Ríos Montt’s rule, women were a “military objective.”⁴⁰ Women and girls were not only raped as the “spoils of war,” but as part of the “systematic” and intentional plan to destroy the Ixil ethnic group by exercising violence on women’s bodies as a way to destroy the social fabric and thereby ensure the destruction of the Ixil population.⁴¹ The tribunal noted that sexual violence results in pain and suffering that is still experienced by many of the women, and that the violence has an inter-generational effect, as women reproduce life as well as culture.⁴² The court also noted the killing by soldiers of fetuses—“the seed that must be killed,” in the words of expert witness Jaime Romeo Valdez Estrada—as support for the finding of sufficient intent to commit genocide.⁴³

The court emphasized the efforts of the Guatemalan military, under Ríos Montt’s rule, to injure and destroy Ixil culture. The court highlighted the significance of Ríos Montt’s nationalist policies, defended by Ríos Montt in his statement at the end of the trial. According to the court, the nationalist policies produced “harm . . . which still persists,” undermining the Ixil culture.⁴⁴ As a result of Ríos Montt’s nationalist worldview, implemented through the military and operational plans, the “external cultural expressions such as the traditional costume and language became a real threat to life, liberty and survival of girls and boys, women and men who belonged

33 Judgment, pages 699-703.

34 United Nations Convention on the Prevention and Punishment of the Crime of Genocide, Article 2 (Dec. 11, 1946), (“any of the following acts committed with intent to destroy, in whole or in part, a national, ethnic, racial or religious group, as such: as such: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; [and] forcibly transferring children of the group to another group”).

35 Judgment, page 697.

36 Judgment, pages 107-09, 691.

37 Judgment, pages 693-94.

38 Judgment, page 696.

39 Judgment, page 697.

40 Judgment, page 691 (showing an “intent to make the Maya Ixil group disappear by seeking to destroy the female role, because she is a life-giver who transmits community values [and] teaches basic life skills”).

41 Judgment, pages 689 (relying on expert testimony and the Victoria 83 Military Plan to find that “both the rapes and mutilations caused a trauma of terror [and] physical and cultural destruction with the objective of eliminating the Maya Ixil ethnic group”), 131 (noting that “the military and operational plans . . . stipulated . . . that the troop members should have sexual access to women and means of entertainment; thus using the women of that ethnic group as spoils of war”), 132, 133-34, 141-42.

42 Judgment, pages 133-34, 689.

43 Judgment, pages 141-142.

44 Judgment, page 104.

to the Maya Ixil ethnic group.”⁴⁵

Ríos Montt’s counter-insurgency strategy relied on the creation of camps and model villages “where the population was concentrated in order to be re-educated, modifying their culture and incorporating them into the counter-subversive effort, criminalizing everyone that did not follow the guidelines of the doctrine implemented by the members of the Army in charge of those camps.”⁴⁶ In the words of the court: “Being Ixil was criminalized and the mere fact of belonging to this indigenous group became a capital offence.”⁴⁷

The court also described the forced participation of the population into PACs as a method of destroying modes of self-governance and undermining local indigenous authorities—who implemented and enforced the obligation that men join the civilian self-defense patrols. The military “force[d] the members of the patrols to act against the members of their own ethnic group, which contributed to the destruction of the communities’ social fabric, thereby modifying their social structure and consequently the culture of the Maya Ixil ethnic group.”⁴⁸

The court further identified that the destruction of “sacred food[s]”, such as corn, and the possessing of sacred sites, were intended “to break the will of the Ixil people.”⁴⁹

In ruling that Ríos Montt committed crimes against humanity, the court found that the actions proved included indiscriminate and systematic attacks against a civilian population.⁵⁰ “[M]en, women, elderly people and children were subjected to inhuman treatment . . . with extreme cruelty and brutal perversion.”⁵¹

In acquitting Rodríguez Sanchez, the court relied in part on the prosecution’s military expert, Robles Espinoza, who stated that the military intelligence unit (D2) was not involved in operations and could not authorize any actions. “[H]e has no direct influence in the field of operations, and he cannot be held liable for any action.”⁵² The court did recognize that Rodríguez Sanchez, in his role as director of military intelligence, elaborated the military operational plans.⁵³

In announcing the verdict, presiding Judge Barrios stated, “without justice, there will be no peace.”⁵⁴ The court

45 Judgment, page 112.

46 Judgment, pages 106, 683-84.

47 Judgment, page 684.

48 Judgment, pages 106, 693.

49 Judgment, pages 690-91.

50 Article 378 of the Guatemalan Criminal Code, Decree No. 17-73, prohibits “crimes against the duties of humanity” (“delitos contra los deberes de humanidad”). The article criminalizes the violation or infringement of “humanitarian duties, laws or agreements with respect to prisoners or prisoners of war, or those wounded during combat operations, or those who commit any act of inhumanity against civilians or against hospitals or places of care.” The provision of Guatemalan law has been interpreted to incorporate or take guidance from international legal instruments. The Rome Statute of the International Criminal Court defines a crime against humanity as “any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack,” including murder, forcible population transfers, torture, rape, “persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender,” and “other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.”

51 Judgment, page 703.

52 Judgment, pages 701, 703.

53 Judgment, page 701.

54 Jo-Marie Burt, Ríos Montt Convicted of Genocide and Crimes Against Humanity: The Sentence and Its Aftermath, 13 May 2013, at <http://www.riosmontt-trial.org/2013/05/rios-montt-convicted-of-genocide-and-crimes-against-humanity-the-sentence-and-its-aftermath/>.

affirmed that the implementation of justice helps with the recognition of the truth and the assurance that these types of crimes will not be repeated.⁵⁵ “[A]cknowledging the truth helps to heal the wounds of the past and the pursuit of justice is a right of the victims, which also contributes to the strengthening of the rule of law in our country.”⁵⁶ The judgment includes an order that the Public Ministry continue its investigations of others who may have responsibility for these crimes.⁵⁷

IV. THE PERIOD BETWEEN THE VERDICT AND ITS UNDOING

Within Guatemala, the aspect of the trial and the judgment that drew the greatest attention was the genocide charge. Guatemalans supporting the charges wanted not just justice in this case, but a recognition that the Guatemalan army had in fact committed genocide against indigenous Ixiles. The military and political elites, for their part, insisted that, while the Guatemalan military may have committed wartime abuses, even crimes against humanity, it had not committed genocide against its own people.⁵⁸

One of the most prolific contributors to the public debate about the trial was Ricardo Mendez Ruiz, the son of Ríos Montt’s former Minister of Interior, and his Foundation Against Terrorism. This group purchased multiple 20-page inserts entitled “The Farce of Genocide in Guatemala: The Marxist conspiracy from the Catholic Church,” and Mendez Ruiz published regular op-eds, in Guatemalan newspapers.⁵⁹

The days following the verdict, and preceding the Constitutional Court’s judgment, were increasingly polarized, with forceful messages from military and business interests in Guatemala explicitly intended to influence directly the Constitutional Court and the political powers in Guatemala.

CACIF, Guatemala’s powerful business association, launched a major public relations campaign following the verdict, asserting that the genocide conviction tarnishes all Guatemalans and called on the Constitutional Court to overturn the verdict.⁶⁰ Philip Chicola, in a CACIF blog, asserted: “Guatemala has joined the select club of genocidal states, together with Nazi Germany, the former Yugoslavia, Rwanda and Cambodia,” with major implications for international perceptions of Guatemala, the threat of further prosecutions, and likely obligations of significant future financial or land transfers to the Ixil population. In light of the outcome of the trial, Chicola described the planned 2014 elections of judges and the Attorney General as “the mother of all battles.”⁶¹

55 Judgment, pages 707-08.

56 Judgment, page 707.

57 Judgment, page 713.

58 Guatemalan President Otto Pérez Molina intervened on several occasions, initially and before the start of the trial, to express his belief that there was no genocide in Guatemala. Pérez Molina himself had been a commander in Nebaj, a region at the heart of the charges. In the week before the start of the trial, he asserted to assembled business elites that, “in Guatemala, there was no genocide,” and that he “personally never received a document to go to massacre or kill a population.” Later, he attested to the commission of “unjustifiable” acts “as in any war,” but insisted that there was never a genocide.

59 The April 14 insert highlighted on its front cover an injured soldier and asserted: “We are not laboratory rats for social experiments” in “twisted models of justice.” The April 21 insert called the genocide charges “good business”, and criticized various actors for advancing the genocide claims, including the Church, foreign governments, local and foreign organizations, and the Attorney General and her extended family.

60 Emi MacLean, Imminent Constitutional Court Judgments May Affect Guatemalan Genocide Conviction, 16 May 2013, at <http://www.riosmontt-trial.org/2013/05/imminent-constitutional-court-judgments-may-affect-guatemalan-genocide-conviction/>.

61 Philip Chocola, Lo que se nos ve, CACIF Blog – El Nuevo Federalista, 15 May 2013, at http://www.cacif.org.gt/index.php?option=com_content&view=article&id=1060&Itemid=464&lang=es.

In the week between the verdict and the Constitutional Court's judgment, Ríos Montt's attorney, García Gudiel, expressed repeatedly his frustration over the Constitutional Court's delay in resolving outstanding matters, and stated to the press that if the Court rules against his client, there were 45,000 supporters willing and ready to "paralyze" the country.⁶²

V. CONSTITUTIONAL COURT JUDGMENT: JUSTICE UNDONE?

On May 20, 2013, in a polarizing and divided 3-2 ruling, the Constitutional Court overturned the ten-day old verdict and annulled the final days of the trial—sending the trial back to where it was on April 19.⁶³ In its resolution, the Constitutional Court did not acknowledge that this would undo the verdict and send the trial into disarray; it did not even acknowledge that a verdict had in fact been issued.

The Constitutional Court's judgment was a procedural ruling—the court should have suspended hearings to allow for an interim legal challenge to proceed to completion. But it originated in the expulsion of Ríos Montt's newly-assigned defense attorney on the opening day of the trial. García Gudiel had never been on Ríos Montt's defense team before and asked to be substituted for his entire pre-existing defense team when the trial opened. Soon after, he announced that he had conflicts with two of the three judges on the tribunal which should force their disqualification. They rejected this, and expelled him instead, calling on the attorney for Ríos Montt's co-accused to represent Ríos Montt for the remainder of the trial's opening day.

Other interim rulings, of the appellate and Constitutional Court, had judged García Gudiel's expulsion a due process violation, and ordered it rectified. The trial court responded during the trial: it reinstated García Gudiel when it re-convened on April 30 after the first suspension, re-read the indictment for Ríos Montt, excluded evidence presented for the brief period in which Ríos Montt was represented by the counsel of his co-accused; and on May 8, following another appeals court ruling earlier the same week, re-heard (and rejected) García Gudiel's motion to excuse two of the three judges on the panel for personal conflicts.

The Constitutional Court, in a confusing opinion, ruled that the trial court should have suspended the hearing until the appellate courts fully resolved the issue of whether the trial court's remedies rectified satisfactorily the due process violation, and in particular allowing García Gudiel to seek the recusal of two of the three trial court judges.⁶⁴ The Constitutional Court judgment ruled that the trial should return to where it was on April 19, after the first appeals court judgment reviewed the expulsion and ordered a suspension (which the court executed, temporarily). The Constitutional Court judgment was thus not about the alleged due process violation, but rather a response to a procedural question—whether the trial should have been suspended further, pending additional consideration of these issues by higher courts.

62 Raquel Aldana, 718 page Rios Montt Judgment Released: All Eyes on Constitutional Court, 18 May 2013, at <http://www.riosmontt-trial.org/2013/05/718-page-rios-montt-judgement-released-all-eyes-on-constitutional-court/>.

63 On April 19, the tribunal had heard all prosecution witnesses, but still awaited the presentation of some of the defense witnesses, closing arguments and, the final verdict and sentence.

64 Judgment of Constitutional Court of Guatemala in State v. Ríos Montt and Rodriguez Sanchez, Case File 1904-2013, Decision of 20 May 2013, at 2085, Part V ("This improper continuation, of which this Court is aware by its own cognizance, entailed the continuation of the suspended public bench trial as well as the taking of subsequent procedural steps that also gave rise to new challenges, all of which is detrimental to the legal certainty of the criminal proceedings concerned, and does nothing to assist in complying with the provisions of article 203 of the Constitution: to deliver prompt and proper justice. Hence, the importance of effectively complying with provisional amparo decisions, not according to the whimsical criteria of whoever is legally bound to comply therewith, but rather in strict compliance therewith, by following the guidelines of the court that rendered it [sic].").

On the eve of the issuance of the trial court's verdict, the same appeals court that issued the April 18 order agreed that the trial court had, in fact, complied with its order and remedied the violation.⁶⁵ However, in its May 20 judgment, the Constitutional Court disagreed on process, saying nothing regarding the substance.

The Constitutional Court resolution thus says on its face that the tribunal that heard the case should go back a few days earlier and hear final witnesses and closing arguments. In reality, however, it raises greater complications. It implicitly forced the recusal of the trial court, as it had already issued a verdict.⁶⁶ Some have raised questions about whether the new trial court can legitimately restart the trial mid-way or would need to start a trial from the beginning.⁶⁷ In that case, victims who testified would be asked to testify again. Some question whether a new trial could even happen in the current context.⁶⁸

The decision raises serious concerns about Guatemala's willingness and capacity to prosecute grave crimes, judicial certainty in the country, and the protection of the rights of the defendants and the victims. The questions are serious as the Constitutional Court judgment—given the historical impunity, advanced age of the defendants and political complications in restarting a trial—may serve to prevent the further prosecution of perpetrators of grave crimes committed more than thirty years ago. Issued in the shadow of explicit threats, this unclear and irregular judgment further raises questions about judicial independence in Guatemala.

There were two strong dissenting views from the Constitutional Court's resolution, from Justices Mauro Chacon and Gloria Porras. Both dissenting judges affirmed that the appropriate mechanism to remedy any due process violation would be an appeal through normal channels (in Guatemala, the "special appeals" process, or *apelacion especial*, described in Articles 415-22 of the Guatemalan Criminal Procedural Code), and not an *amparo* before the Constitutional Court.⁶⁹

The dissenting judges found the Constitutional Court's intervention particularly improper and extraordinary in that it came subsequent to the issuance of the judgment, but before the initiation of any appeals process. Both contested the Constitutional Court's authority to issue a judgment on this matter. They criticized the majority judgment for issuing a disproportionate remedy that did not sufficiently take into account either the fact that

65 Judgment of Amparo Court of First Instance, 9 May 2013, Section III, cited in Judgment of Constitutional Court of Guatemala in Case of State v. Ríos Montt and Rodríguez Sánchez, Case File 1904-2013, Decision of 20 May 2013, Part II (concluding that the trial court "indeed complied with the orders . . . to give leave to proceed with the recusal and abstention motions filed by attorney Francisco García Gudiel and against the members of this Court, just as it was ordered to do in the aforesaid judgment....")

66 Judgment of Constitutional Court of Guatemala in Case of State v. Ríos Montt and Rodríguez Sánchez, Case File 1904-2013, Decision of 20 May 2013, Dissenting Opinion of Judge Gloria Porras, paras. B.1, B.4, C; Dissenting Opinion of Judge Mauro Chacon, para. B. See also Emi MacLean, *Uncertainty Hovers Over Next Stages in Historic Guatemala Genocide Case After Constitutional Court Overturns Conviction*, 28 May 2013, at <http://www.riosmontt-trial.org/2013/05/uncertainty-hovers-over-next-stages-in-historic-guatemala-genocide-case-after-constitutional-court-overturns-conviction/>.

67 Human rights lawyer Hector Reyes saw the court's decision as throwing out the entire case. See Mike McDonald, *Guatemala trial of Ríos Montt has likely collapsed*, Reuters (May 21, 2013), available at <http://www.trust.org/item/20130521234342-chpvt/> ("Without saying it, they threw out everything," plaintiff and human rights attorney Hector Reyes told Reuters. "There is no appeals process for their decision.")

68 Emi MacLean, *One Month After Guatemala's Constitutional Court Intervenes to Challenge Ríos Montt Genocide Conviction: Amnesty Back on the Table, New Trial Court Booked Till Mid-2013, and Ríos Montt Back Home*, 18 June 2013, at <http://www.riosmontt-trial.org/2013/06/one-month-after-guatemalas-constitutional-court-intervenes-to-challenge-rios-montt-genocide-conviction-amnesty-back-on-the-table-new-trial-court-booked-till-mid-2014-and-rios-montt-back-ho/>.

69 Judgment of Constitutional Court of Guatemala in Case of State v. Ríos Montt and Rodríguez Sánchez, Case File 1904-2013, Decision of 20 May 2013, Dissenting Opinion of Judge Gloria Porras, paras. B.1, B.4, C; Dissenting Opinion of Judge Mauro Chacon, paras. A-B, F.

the trial court had already entered a judgment on the rights of the victims.⁷⁰ Judge Chacon emphasized the disproportionality of a judgment when no harm was evident from the actions of the trial court, and when Ríos Montt did not even initially seek annulment as a remedy.⁷¹

Judge Porras went even further in her dissent to assert that the Constitutional Court had based its “senseless” and “unprecedented” judgment on an improper reading of the underlying facts, and of the challenge lodged by Ríos Montt.⁷² According to Judge Porras, the Constitutional Court’s resolution presumed a challenge never made by Ríos Montt’s lawyer; granted a remedy not requested by Ríos Montt; responded to events that never occurred in the courtroom; and did not acknowledge that the underlying due process violation had already been appropriately remedied by the trial court.⁷³ Thus the Constitutional Court “caus[ed] the unjustified annulment of procedural steps taken in legal proceedings after the redress of the grievances requested . . . had already been provided.”⁷⁴

Further, in Judge Porras’ view, the trial court faced a catch-22: if they had suspended the hearings any longer, they would have been in violation of the order of the Constitutional Court to remedy the identified due process violation.⁷⁵ She described the judgment as “devastating for the justice system, and even more, for the victims that have relied on this system.”⁷⁶ Judge Chacon noted that the Constitutional Court effectively rewarded a defense attorney’s intentionally disruptive behavior.⁷⁷

VI. CONCLUSION

The Constitutional Court’s May 20 decision produced many questions concerning the future and the viability of the trial, as well as the significance of the trial already concluded. Among them: What is the legal and historical significance of the more than 700-page decision produced by the trial court that found Ríos Montt guilty? And will the Constitutional Court judgment stand up to the scrutiny of international bodies and the test of time?

Ríos Montt has returned to house arrest, and Rodriguez Sanchez remains under house arrest himself despite having been acquitted by the trial court. At least some of the witnesses who testified before have expressed a willingness to testify again if a new trial started. The extensive judgment sits as evidence of their commitment, and the commitment of many others, to detail the crimes of the past and seek both truth and accountability. The Constitutional Court judgment, for its part, sits as evidence of the continued complications in efforts to challenge impunity in Guatemala.

70 Ibid., Dissenting Opinion of Judge Mauro Chacon, para. B.

71 Ibid., Dissenting Opinion of Judge Mauro Chacon, paras. D, E (“the original aim of the appellant (quejoso) was not the annulment of acts within the criminal proceedings”).

72 Ibid., Dissenting Opinion of Judge Gloria Porras, paras. B.4, B.6.

73 Ibid., Dissenting Opinion of Judge Gloria Porras, Parts A, B.2 (“The decision from which I dissent abandons all procedural logic, given that if the requested amparo sought a) reinstatement of the defense attorney, and b) leave to proceed with the recusal motion; [then] it makes no sense for the trial court to suspend the trial once these acts had been carried out and the claimed rights had been restored, given that this was not the main goal of the amparo.”), B. 6.

74 Ibid., Dissenting Opinion of Judge Gloria Porras, Part E.

75 Ibid., Dissenting Opinion of Judge Gloria Porras, para. A.4.

76 Ibid., Dissenting Opinion of Judge Gloria Porras, Part E. See also, *ibid.*, para. B.5.

77 Ibid., Dissenting Opinion of Judge Mauro Chacon, para. G (“the attorney’s participation [in the proceedings] until the opening of the first session of the public bench trial was clearly aimed at disrupting the normal conduct of the proceedings”).

Partial Judgment in the Trial of José Efraín Ríos Montt and José Mauricio Rodríguez Sánchez¹

JUDICIARY GUATEMALA, C.A.

C-01076-2011-00015 2nd Court Clerk. First Criminal Court of First Instance for Criminal Justice, Drug Trafficking and Environmental Crimes, Guatemala, 19 May 2013.

This Court enters judgment in the name of the People of the Republic of Guatemala, in the criminal proceedings that are being conducted against Jose Mauricio Rodriguez Sanchez and José Efraín Ríos Montt, for the crimes of: 1) genocide, and 2) crimes against humanity, as concurrent offenses with cumulative sentences (en concurso real).

The prosecution is led by the Office of the Government Attorney, with the presence on its behalf of Public Prosecutor Orlando Salvador López. Co-Plaintiff: Asocicación Para la Justicia y Reconciliacion (Justice and Reconciliation Association) through its Legal Representative Benjamin Manuel Jerónimo. Managing Attorneys: 1) Edgar Fernando Perez Archila y 2) Santiago Choc Cuc. Co-Plaintiff and Civil Party: Centro Para la Accion Legal en Derechos Humanos (Center for Human Rights Legal Action) through its Legal Coordinator and Legal Representative Juan Francisco Soto Forno. Managing Attorney: 1) Héctor Estuardo Reyes Chiquin and 2) Francisco Martin Vivar Castellanos. The defense of the accused Jose Mauricio Rodriguez Sanchez is entrusted to the Attorneys Moisés Eduardo Galindo Ruiz, César Saul Calderón de León y Francisco José Palomo Tejada [and] Otto Haroldo Ramírez Vasquez; the defense of the accused José Efraín Ríos Montt is entrusted to the Attorneys Francisco García Gudiel, Gonzalo Danilo Rodriguez Galvez, Marco Antonio Cornejo Marroquin; as Technical Consultant Juan Ernesto [2] Herrarte.

...

III. Precise and Detailed Determination of the Facts that the Court Regards as Having Been Proven²:

The Court regards the following facts to have been proven:

1. That the accused José Efraín Ríos Montt[t], in his capacity as President of the Military Government Council, President of the Republic of Guatemala, Minister of National Defense and Commander in Chief of the Army, offices that he held, consecutively or simultaneously, from the 23 of March, 1982 to the 8 of August, 1983, a period during which he continued and reinforced the counterinsurgency policy; within which the Mayan groups were targeted as an internal enemy, given that it was believed that they supported the guerrilla groups. Within the Mayan group, the Army of Guatemala identified 100% of the members of the Maya Ixil ethnic group as an internal enemy, even though they were a non-combatant civilian population.

2. In the aforesaid context, during the period in which you [sic] held the aforesaid offices, he carried out at least the following actions:

2.1. He approved the National Security and Development Plan (Plan Nacional de Seguridad y Desarrollo) and enacted the Fundamental Statute of the State (Estatuto Fundamental de Gobierno)

¹ This is a partial English translation of the full 718-page judgment. Further portions are available at www.rios-montt-trial.org. The full Spanish translation of the judgment is available at <https://drive.google.com/folderview?i d=0BxOjd8OI5wmhcUhNU3ZMQy1TeUU&usp=sharing>.

² Pages 103-45 of Judgment.

that established the legal framework serving as the basis for the organization, planning, and implementation of the operations for the counterinsurgency effort, contained in the military plans and operational plans that led to, among other things, the elimination of non-combatant civilians belonging to the Maya Ixil ethnic group.

2.2. He ordered the reorganization of the State's agencies for the counterinsurgency effort, which defined the levels of action and responsibility for each state agency, as well as the areas of operations of the security forces, including those that would operate in the Ixil region.

2.3. As a mechanism of the counterinsurgency effort, he promoted a nationalist policy that undermined the cultural base of the various peoples that make up Guatemalan society, for which purpose he approved, implemented, and carried out communication activities to support psychological operations that tore the social fabric and damaged cultural values, the harm of which still persists.

2.4. He established a policy of population and territorial control that included the creation of camps for refugees and amnestied and displaced persons, in which the cultural practices of the various peoples of Mayan descent, including the Maya Ixil ethnic group, were modified in order to eliminate or neutralize subversive groups, given that the former were regarded as the social support base of the guerrilla movement, even though they were a non-combatant civilian population.

2.5. In the Victoria 82 and Firmeza 83 Military Plans, he authorized and institutionalized the Sofia Operational Plan, the Civil Affairs Assessment (G-5) for the Ixil area, and the Ixil Operation – Civil Affairs Plan, the identification of the members of the Mayan groups, including the Maya Ixil ethnic group, as an internal enemy, even though they were a non-combatant civilian population.

2.6. He authorized counterinsurgency actions conducted by agents of the State of Guatemala, for which purpose he ordered the development, knew of the contents of, and supervised the implementation of the counterinsurgency actions, including that of the military and operational plans, which identified the Maya Ixil ethnic group as the internal enemy.

2.7. Beginning on March 23, 1982 he ordered the development and the implementation of the Victoria 82 and Firmeza 83 Military Plans, which established:

2.7.1. The elimination of subversive elements, classified as part of the internal enemy, which according to the military doctrine set forth in the Counterinsurgency War Manual, [were] regarded as internal enemies, including “[...] those individuals, groups or organizations that, without being communist, try to overthrow the existing social order[.]” [T]he members of the Maya Ixil ethnic group were included among them, even though they were a non-combatant civilian population.

2.7.2. The reorganization of the Army of Guatemala for the counterinsurgency effort, demarcating the responsibilities of the various areas of operations, including the Ixil region; for which purpose he reorganized and reinforced the Gumarcaj Task Force to that effect.

2.7.3. The development of the operational plans of all the military jurisdictional areas, including those specific to the Ixil Region, to be implemented by the Mariscal Gregorio Solares de Huehuetenango Military Zone, by the Gumarcaj Task Force, which later became Military Zone Number 20 of Santa Cruz del Quiché, and by the General Felipe Cruz del Puerto San José Military Paratrooper Base at Escuintla.

2.7.4. The organization of the operational plans and the allocation of the resources required for the implementation of the military operations that enabled the members of the Army of Guatemala,

the civil self-defense patrols (patrullas de autodefensa civil), and the military commissioners (comisionados militares) to conduct military actions against the Maya Ixil ethnic group, which was settled in the municipalities of Santa María Nebaj, San Gaspar Chajul, and San Juan Cotzal of the department of El Quiché.

2.75. The organization for the handling of refugees and displaced and amnestied persons in camps where the population was concentrated in order to be re-educated, modifying their culture and incorporating them into the countersubversive effort, criminalizing everyone that did not follow the guidelines of the doctrine implemented by the members of the Army in charge of the those camps. Three camps were set up in the Ixil region, located in Santa María Nebaj, San Gaspar Chajul and in San Juan Cotzal, which concentrated mostly members of the Maya Ixil ethnic group.

2.76. The organization of the civil self-defense patrols, providing for the subordination thereof to the Army of Guatemala, as well as their participation in countersubversive operations, even forcing the members of the patrols to act against the members of their own ethnic group, which contributed to the destruction of the communities' social fabric, thereby modifying their social structure and consequently the culture of the Maya Ixil ethnic group.

3. As President of the Republic and Commander in Chief of the Army, he implemented the Victoria 82 and Firmeza 83 Military Plans, by means of the following actions, among others:

3.1. Ordering the partial mobilization of the Army of Guatemala, determining the number of personnel for each of the country's regions; the recruitment mechanisms, and the operations to be carried out, including those relating to the Gumarcaj Task Force.

3.2. Disseminating, in accordance with the Psychological Operations Annex of the Victoria 82 Military Plan, the contents of the public Sunday messages as defined in the countersubversive military strategy, which was directed against the Maya Ixil ethnic group, among others.

4. He carried out the aforementioned actions in full knowledge of the context in which the internal armed conflict was unfolding.

5. The knowledge and experience in military and political activities that he performed, after the 23rd of March, 1982, as well as the information that he was provided with when he assumed the aforesaid offices, allowed him to make decisions in the countersubversive effort, in urban and rural areas, within which the non-combatant civilian population was identified as an internal enemy; the Mayan population in general, as the support base of the internal enemy, given that they had been receptive to the subversive groups' proclamations; and, in particular, 100% of the members of the Maya Ixil ethnic group as "support base of the subversive groups" and consequently, internal enemies, establishing that 50% of the members of the aforesaid ethnic group cooperated with the subversive groups through "espionage activities," mainly about military movements.

6. As a result of the foregoing, his government's counterinsurgency strategies, set forth in the National Security and Development Plan, dated April 1, 1982, [and] in the Victoria 82 Military Plan, dated June 16, 1982, formed the basis for the conduct of operations by the members of the Army, under his command, aimed at: deceiving, finding, attacking, annihilating, eliminating and neutralizing the non-combatant civilian population, [both] in urban and rural areas, a population which had been identified as an internal enemy in the Counterinsurgency War Manual, establishing, according to military information, that 100% of the members of the Maya Ixil ethnic group were internal enemies.

7. During the period in which he held the aforesaid offices, the military units, under his command,

continued operating in accordance with the countersubversive military strategy initiated by the government that had been deposed by the coup d'état of March 23, 1982, with particular emphasis on the country's western and northwestern high plateau.

8. Concerning the Ixil area, beginning on March 23, 1982, members of the Army, under his command, continued the razing of villages and other crimes against human life and freedom. In all those events the military units, under his command, increased the attacks through the use of high caliber firearms, explosives, as well as using aircraft to bomb the communities inhabited by non-combatant civilian population of the Maya Ixil ethnic group.

9. The Sofia Operational Plan was developed and implemented on the basis of the Victoria 82 Military Plan, with the aim of conducting offensive countersubversive and psychological actions in the zone of operations of the Gumarcaj Task Force, "in order to give further impetus to those operations and to exterminate the subversive elements in the area," which included the municipalities of Santa María Nebaj, San Juan Cotzal, and San Gaspar Chajul, a region which, according to military information, was mostly settled by the Maya Ixil ethnic group.

10. The Sofia Operational Plan defines 100% of the Ixil population as the support base of the guerrilla groups, and its implementation significantly affected the members of the non-combatant civilian population who belonged to this ethnic group. It is worth noting that according to the military reports themselves, a great number of young girls and boys, women, old women and adult men were affected.

11. The obligation to report to the Army high command military operations resulting from the military doctrine and plans, as well as: the statements, Sunday messages, interviews and actions carried out by the accused José Efraín Ríos Montt, within the framework of the plans that he approved, provide evidence that he had knowledge of the actions carried out by the members of the Army of Guatemala, the military commissioners, and the members of the civil self-defense patrols; in the course of which actions the Maya Ixil population was attacked, due to the fact that it was regarded as the support base for the guerrilla movement.

12. The approval of the Firmeza 83 plan confirms that the accused José Efraín Ríos Montt had full knowledge of the operations that were conducted against the civilian population in urban and rural areas, of the attacks on the Mayan population in general, and more particularly, against the members of the Maya Ixil ethnic group.

13. The military plans that were approved after [sic] the accused José Efraín Ríos Montt, including the Victoria 82 Military Plan and the National Security and Development Plan, which he approved; and he also carried out the actions envisaged in the aforesaid plans in order to contribute to the attacks against the civilian and Mayan population in general, [and] particularly targeting the members of the Maya Ixil ethnic group in the attacks.

14. That the accused José Efraín Ríos Montt participated in the design, setting of objectives, implementation, and supervision of the application of the policy, strategy, and military plans that included a non-combatant civilian population, which had been arbitrarily defined as an internal enemy, partly in light of their history of resistance to western values; more specifically, the members of the Maya Ixil ethnic group were targeted, which led to the design and implementation of a military strategy against that ethnic group.

15. That the accused José Efraín Ríos Montt had full knowledge, through the corresponding Periodic Reports, of the crimes committed by members of the Army of Guatemala, military commissioners and members of the civil self-defense patrols consisting of: killing group members, [forcibly] displacing Maya Ixil children and adults to other [ethnic] groups, displacement under inhumane conditions,

injuries caused by rapes, sexual violence, vandalism, theft and destruction of crops and houses, among others. However, he did not issue the pertinent orders in order to stop, prevent, or punish the aforementioned acts against the non-combatant civilian population.

16. That the accused José Efraín Ríos Montt used the apparatus of the State to define the Maya Ixil ethnic group as an internal enemy, even though it was a non-combatant civilian population; in this framework, the actions of the accused, which were inherent to his power of command over the Army, as well as the military operations conducted on his orders, and his duty of supervision and control were [all] aimed at the elimination of the Maya Ixil ethnic group. Such intent is shown not just by the contents of the military and operational plans then in force, but also because of the manner in which the members of the Army of Guatemala, military commissioners, and members of the civil self-defense patrols conducted the military operations commanded, supervised, and coordinated by the highest-ranking official of the de facto Government, which by law was vested the power to direct, control, and therefore to command, the Army of Guatemala as a mechanism of power.

17. That the accused José Efraín Ríos Montt created the conditions that enabled the conduct of military actions which, in their practical implementation, were crucial in leading to the death of members of the Maya Ixil ethnic group, women, children (both male and female), the elderly, and adult men; rapes; physical and mental injuries; forced disappearances; cruel, inhuman and degrading treatment; looting; persecution and forced displacement of adults and children (both male and female); the burning of crops [and] houses, and bombardments; population control, territorial control, and control of resources.

18. That the accused José Efraín Ríos Montt took direct action against the Maya Ixil ethnic group through the counterinsurgency policy and that he also failed to discharge the duty imposed on him by the law to guarantee to all the inhabitants of the Republic, without distinction of any kind, the peaceful enjoyment of their rights as set out in the Fundamental Statute of the State, and in fulfillment of the obligations assumed by the State when it incorporated conventional and customary international Human Rights and Humanitarian Law into domestic law.

19. The accused José Efraín Ríos Montt created a hazardous situation, thereby increasing the risk for the entire population, when, acting as President of the Military Government Council (Junta Militar), he repealed the Magna Carta then in force, a fact that greatly undermined the guarantees of protection of human rights, especially in respect of the most vulnerable populations such as the Maya Ixil ethnic group. For this reason, the Fundamental Statute of the State, later directed him, in his capacity as the highest-ranking Government official, to create “[...] the mechanisms that may be required for the effective and absolute respect and maintenance of human rights,” which he failed to comply with.

20. The accused José Efraín Ríos Montt created the conditions that resulted in the Maya Ixil ethnic group being culturally affected on the basis of a nationalist worldview implemented in the camps for refugees and displaced and amnestied persons, given that the objective of these camps was to reeducate and militarize them, aspects which had an inevitable impact on this ethnic group both at an individual and a collective level.

21. The accused José Efraín Ríos Montt institutionalized the Army’s racist and discriminatory worldview against the Mayan population, and especially against the members of the Maya Ixil ethnic group, which meant that external cultural expressions such as the traditional costume and the language became a real threat to life, integrity, and survival of girls and boys, women, and men who belonged to the Maya Ixil ethnic group, even though they were a non-combatant civilian population; given that the aforementioned military documents were used as the basis for the institutionalization of military operations against this ethnic group during the period in which he held the aforesaid offices.

22. The Gumarcaj Task Force, which later became Military Zone Number 20 of Santa Cruz del Quiché,

and the Guatemalan Air Force, as well as the military commissioners and members of the civil self-defense patrols, [all] under his command, carried out at least the following acts against the members of the Maya Ixil ethnic group, due to the fact that they were regarded as internal enemies in light of their cultural and historical ancestry:

- 22.1.** Selective executions in which members of the Maya Ixil ethnic group were killed, either individually or collectively.
 - 22.2.** Selective and indiscriminate massacres perpetrated against members of the Maya Ixil ethnic group.
 - 22.3.** Destruction and burning of the villages of the Maya Ixil ethnic group.
 - 22.4.** Bombardment of communities or areas where the members of the Maya Ixil ethnic group who had been forced to flee had sought refuge, including sacred places.
 - 22.5.** Raping, either individually or collectively, of women who belonged to the Maya Ixil ethnic group.
 - 22.6.** Questioning under torture of captured members of the Maya Ixil ethnic group.
 - 22.7.** Concentration of the members of the Maya Ixil ethnic group in assistance camps for refugees and displaced and amnestied persons, in order to subject them to a process of assimilation into the Spanish-speaking culture (*ladinización*) and to convert them to the dominant national culture (*modo nacional*), which meant forcing them to adopt the Spanish language, suppressing their distinctive traditional costume, or other external signs of group differentiation, making it possible that after redefining those [external] signs they would cease to think as such.
 - 22.8.** Looting of property, burning of houses and crops, killing and theft of animals, as well as of elements of the Maya Ixil material culture.
 - 22.9.** Persecution of members of the Maya Ixil ethnic group during their forced displacement.
 - 22.10.** Search and siege operations aimed at identifying refuge areas in order to capture and/or execute members of the Maya Ixil ethnic group.
 - 22.11.** Control and siege of displaced communities, preventing access to food and medicine that were essential for the survival of the members of the Maya Ixil ethnic group.
 - 22.12.** Subjection of children, women and men who belonged to the Maya Ixil ethnic group to servitude and forced labor.
 - 22.13.** Forced disappearances.
- 23.** Such acts were carried out within the framework of the “counterinsurgency war”; in which the accused José Efraín Ríos Montt institutionalized the plans that envisaged the annihilation of the guerrilla movement and parallel organizations, even if they were a non-combatant civilian population or belonged to cultural groups of Mayan descent, as is the case with the Ixils who were settled in the municipalities of Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul.
- 24.** The members of the Maya Ixil ethnic group were repeatedly attacked throughout the internal armed conflict by means of selective and massive acts of repression, as well as acts of control of the surviving population, the latter with the goal of capturing, handling, reeducating, and assimilating the members of the group into the dominant national culture (*modo nacional*) supported by the Army of Guatemala.
- 25.** That the action of the accused José Efraín Ríos Montt enabled the members of the Army of Guatemala, military commissioners, and members of the civil self-defense patrols, who were under his command, and over which he had command authority.
- 26.** It is estimated that during the internal armed conflict, members of the Army of Guatemala, mili-

tary commissioners, and members of the civil self-defense patrols killed people that belonged to the Maya Ixil ethnic group that lived in the municipalities of Santa María Nebaj, San Juan Cotzal, and San Gaspar Chajul.

27. During the period that the accused José Efraín Ríos Montt held office, it is estimated that as a result of the actions carried out by members of the Army of Guatemala, military commissioners, and members of the civil self-defense patrols, under his command, a great number of people were killed, including young girls and boys, women, the elderly, and adult men, and that the dead belonged to the Maya Ixil ethnic group and lived in the aforesaid municipalities.

28. Out of the total number of people that were killed during the period in which the accused José Efraín Ríos Montt held the aforesaid offices, only some of the dead that belonged to the non-combatant civilian population of the Maya Ixil ethnic group have been identified to date, [sic] events that were documented in the massacres of the municipalities of Santa María Nebaj, San Juan Cotzal, and San Gaspar Chajul; cases of violent deaths in the municipalities of Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul; as well as cases of people who died as a result of the conditions created by soldiers of the Army of Guatemala and self-defense patrols in the municipalities of Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul.

29. A great number of skeletal remains of the victims of the Maya Ixil ethnic group that they killed during the time when he held the aforesaid offices have been exhumed to date.

30. The dead that belonged to the Maya Ixil ethnic group, who were targeted by acts committed by members of the Army of Guatemala, military commissioners and members of the civil self-defense patrols, under his command, during the time when the accused José Efraín Ríos Montt held the aforesaid offices, correspond to various military operations, in the course of which high caliber firearms, bombardments, bladed weapons, [and] cutting blunt weapons were used, among others, including at least [the operations] in:

30.1. Canaquil. In the village of Canaquil, Santa María Nebaj, Quiché, on March 25, 1982, soldiers of the Army of Guatemala killed the people described in the indictment.

30.2. Chel. In the village of Chel, San Gaspar Chajul, Quiché, on April 3, 1982, soldiers of the Army of Guatemala, killed the people described in the indictment.

30.3. Villa Hortensia Antigua. In the village of Villa Hortensia Antigua, San Juan Cotzal, Quiché, on May 22, 1982, soldiers of the Army of Guatemala killed the people described in the indictment.

30.4. Pexla Grande. In the village of Pexla Grande, Santa María Nebaj, Quiché, on June 2, 1982, soldiers [of] the Army of Guatemala killed the people described in the indictment.

30.5. San Francisco Javier. In the village of San Francisco Javier, Santa María Nebaj, Quiché, on August 14, 1982, soldiers of the Army of Guatemala killed the people described in the indictment, by shooting and beating them to death.

30.6. Chuatuj. In the village of Chuatuj, Santa María Nebaj, Quiché, on August 28, 1982, soldiers of the Army of Guatemala and members of the self-defense patrol killed the people described in the indictment.

30.7. Sajsiban. In the village of Sajsiban, Santa María Nebaj; Quiché, on November 4, 1982, soldiers of the Army surrounded the house of the Chávez Brito family killing the people described in the indictment, by beating them, shooting them, and later burning them.

30.8. Xecol. In the hamlet (caserío) of Xecol, village of Amajchel, San Gaspar Chajul, Quiché, on November 20, 1982, soldiers of the Army of Guatemala killed the people described in the indictment.

30.9. Xesayí. In the hamlet of Xesayí, San Gaspar Chajul, Quiché, on April 12, 1983, soldiers of the Army of Guatemala killed the people described in the indictment.

- 30.10.** Sumal I. In the Sumal mountain (cerro), Santa María Nebaj, Quiché, on April 12, 1983, soldiers of the Army of Guatemala killed the people described in the indictment, by shooting, [and] blows to the head and thorax.
- 30.11.** Vijolóm III. In the village of Vijolóm III, Santa María Nebaj, Quiché, during the month of March, 1982, soldiers of the Army of Guatemala killed Pedro Rivera Cobo.
- 30.12.** Xachmoxan. In the village of Xachmoxan, San Gaspar Chajul, Quiché, on April 3, 1982, soldiers of the Army of Guatemala killed the people described in the indictment, by shooting them.
- 30.13.** Vatzpollí. In the place called Vatzpollí, of the village of Vipollí, San Gaspar Chajul, Quiché, on April 10, 1982, soldiers of the Army of Guatemala killed Pedro Bop Asicona and/or Pedro Bop Aiscona, burning and shooting him.
- 30.14.** Bí Chapyac. In the place called Bí Chapyac, Santa María Nebaj; Quiché, on April 15, 1982, soldiers of the Army of Guatemala killed María Cruz Sánchez.
- 30.15.** Villa Hortensia II. In the village of Villa Hortensia II, San Juan Cotzal, Quiché, on April 15, 1982, soldiers of the Army of Guatemala killed the people described in the indictment, by shooting them.
- 30.16.** Vajila. In the place called Vajila, of the village of Acul, Santa María Nebaj. Quiché, on April 20, 1982, soldiers of the Army of Guatemala killed Catarina Cedilla, who died as a result of an explosion.
- 30.17.** Tuqanal. In the place called Tuqanal, Santa María Nebaj, Quiché, during the month of May, 1982, soldiers of the Army of Guatemala killed Jacinto Pérez and Juana de León Santiago, by shooting them.
- 30.18.** Bicocol. In the place called Bicocol, village of Villa Hortensia I, San Juan Cotzal, Quiché, on May 10, 1982, soldiers of the Army of Guatemala and members of the self-defense patrols killed Marcos Castro Canto and/or Marco Castro, by strangling him.
- 30.19.** Tujolom. In the village of Tujolom, Santa María Nebaj, Quiché, during the month of June, 1982, soldiers of the Army of Guatemala killed Elena Sánchez.
- 30.20.** Tujolom. In the village of Tujolom, Santa María Nebaj, Quiché, during the month of June, 1982, soldiers of the Army of Guatemala killed Pedro Sánchez, by shooting him.
- 30.21.** Sumalito. In the village of Sumalito, Santa María Nebaj, Quiché, on June 5, 1982, soldiers of the Army of Guatemala killed Domingo Pérez and/or Domingo Pérez López, by shooting him.
- 30.22.** Tujolom. In the village of Tujolom, Santa María Nebaj, Quiché, on June 18, 1982, soldiers of the Army of Guatemala, killed Jacinto Raymundo, by shooting him.
- 30.23.** Vajila. In the place called Vajila, village of Acul, Santa María Nebaj Quiché, on June 20, 1982, soldiers of the Army of Guatemala, killed Sebastián de Paz Pérez, by shooting him.
- 30.24.** Tusibán. In the place called Tusibán, Village of Quejchip, Santa María Nebaj, Quiché, on June 22, 1982, soldiers of the Army of Guatemala, killed, at least Bernardo Chávez, José Ceto, Pedro Ceto López and Magdalena Ceto López.
- 30.25.** Tucalamá. En Tucalamá, of the village of Vijolóm I, Santa María Nebaj, Quiché, during the month of July, 1982, soldiers of the Army of Guatemala killed, at least, Juana Rivera Rivera, Jacinto Raymundo Raymundo, Diego Raymundo Rivera, and Magdalena Rivera Raymundo, by shooting and stabbing with bladed weapons.
- 30.26.** Kabtzé. In the place called Kabtzé, Village of Salquil Grande, Santa María Nebaj, Quiché, on July 15, 1982, soldiers of the Army of Guatemala, killed at least Pedro López, Domingo López, Magdalena López, Pedro Raymundo and María Pérez.
- 30.27.** Chuatuju. In the village of Chuatuju. Santa María Nebaj, Quiché, on July 17, 1982, soldiers of the Army of Guatemala killed Antonio, Pérez Gonzáles, by shooting him.

- 30.28.** Palop Chiquito. In the village of Palop Chiquito, Santa María Nebaj, Quiché, at the end of the month of July, 1982, soldiers of the Army of Guatemala killed Diego Velasco, whom they executed by shooting him.
- 30.29.** Vatzsuchil. In the village of Vatzsuchil, Santa María Nebaj. Quiché, at the beginning of September, 1982, soldiers of the Army of Guatemala, killed Juan Bernal, by shooting him.
- 30.30.** Tu Captze. In the place called Tu Captze, village of Parramos Grande, Santa María Nebaj, Quiché, on September 2, 1982, soldiers of the Army of Guatemala killed at least Jacinta Raymundo Ceto and her sons Tomás López Raymundo and Miguel López Raymundo, by shooting them.
- 30.31.** Achba'ltxo. In the place called Achba'ltxo, of the village of Vijolom III, Santa María Nebaj, Quiché, on September 9, 1982, soldiers of the Army of Guatemala killed José Brito Sánchez.
- 30.32.** Xolá. In the hamlet of Xolá, village of Sajsiban. Santa María Nebaj, Quiché, on September 10, 1982, soldiers of the Army of Guatemala killed Mateo Solís Cruz and Francisco Raymundo Cruz, by shooting them.
- 30.33.** Chipal. In the place called Chipal, of the village of Villa Hortensia II, San Juan Cotzal, Quiché, on September 10, 1982, the soldiers of the Army of Guatemala killed Nicolás Gómez.
- 30.34.** Jolopxam. In the canton of Jolopxam, Santa María Nebaj, Quiché, on September 13, 1982, soldiers of the Army of Guatemala killed at least, Antonio Matóm, Diego de León Cobo, Pedro Marcos de León and Fermín Gallego Gallego.
- 30.35.** Tu B'aj Mam. In the place called Tu B'aj Mam, village of Sajsiban, Santa María Nebaj. Quiché, on September 20, 1982, soldiers of the Army of Guatemala killed Magdalena Matóm Ramírez, by shooting.
- 30.36.** Vijolom III. In the village of Vijolom III, Santa María Nebaj, Quiché, on September 23, 1982, soldiers of the Army of Guatemala killed Sebastián Bernal and Cecilia Bernal, by shooting them.
- 30.37.** Visibacbitz. In the village of Visibacbitz, Santa María Nebaj, Quiché, on October 1, 1982, soldiers of the Army of Guatemala killed Gaspar Ramos Raymundo, by shooting him.
- 30.38.** Vatz Sumal II. In the village of Vatz Sumal II, Santa Marra Nebaj, Quiché, on October 10, 1982, soldiers of the Army of Guatemala killed Nicolás Rivera Pérez.
- 30.39.** Xemanzana. In Xemanzana of the village of Sajsiban, Santa María Nebaj, Quiché, on October 15, 1982, soldiers of the Army of Guatemala killed Pedro Santiago.
- 30.40.** Xeo. In the village of Xeo, Santa María Nebaj Quiché, on October 15, 1982, soldiers of the Army of Guatemala killed Diego Chel, by shooting him.
- 30.41.** Vitzal. In the canton of Vitzal, Santa María Nebaj, Quiché, on October 21, 1982, soldiers of the Army of Guatemala killed Jacinto Chel, by shooting him.
- 30.42.** Vajilá. In the place called Vajila, of the Village of Acul, Santa María Nebaj, Quiché, during the month of [sic] October 25, 1982, soldiers of the Army of Guatemala killed at least Manuela Brito Corio and Manuela Rosenda Brito Corio, by shooting them.
- 30.43.** Trapichitos. In the village of Trapichitos, Santa María Nebaj, Quiché, at the end of the month of October, 1982, soldiers of the Army of Guatemala killed Sebastián Cobo Rivera.
- 30.44.** Vibajila. In the place called Vibajila, village of Acul, Santa María Nebaj, Quiché, on November 5, 1982, soldiers of the Army of Guatemala killed Juana Herrera Raymundo and/or Juana Herrera, by shooting them.
- 30.45.** Tujolom. In the village of Tujolom, Santa María Nebaj, Quiché, December 15, 1982, soldiers of the Army of Guatemala killed Andrés Brito Brito.
- 30.46.** Batzchocola. In the village of Batzchocola, Santa María Nebaj, Quiché, on January 1, 1983, soldiers of the Army of Guatemala killed Jacinto Cabo and Francisco Raymundo.
- 30.47.** Parramos Grande. In the mountain of the village of Parramos Grande, Santa María Nebaj,

Quiché, on January 15, 1983, soldiers of the Army of Guatemala killed Domingo Pérez.

30.48. Xe Belubal. In the hamlet of Xe Belubal, San Gaspar Chajul, Quiché, on February 20, 1983, soldiers of the Army of Guatemala killed at least Diego Cobo, Miguel Ceto, Juan Cedillo, and Pedro Cabo, as well as other people.

30.49. Vipecbalam. In the village of Vipecbalam, Santa María Nebaj, Quiché, on February 26, 1983, soldiers of the Army of Guatemala killed Marta García and/or Marta García Chávez, by shooting them.

30.50. Vipecbalam. In the village of Vipecbalam, Santa María Nebaj, Quiché, on February 27, 1983, soldiers of the Army of Guatemala killed Juan Raymundo Gómez, by shooting him.

30.51. Tujolom. In the village of Tujolom, Santa María Nebaj, Quiché, during the month of April, 1983, soldiers of the Army of Guatemala killed Andrés Sánchez.

30.52. Chapyac. In the canton of Chapyac, Santa María Nebaj, Quiché, on April 8, 1983, soldiers of the Army of Guatemala killed Domingo Ceto Cruz.

30.53. Batzchocola. In the village of Batzchocola, Santa María Nebaj, Quiché, on April 19, 1983, soldiers of the Army of Guatemala killed at least Magdalena Raymundo and Nicolás Cabo Raymundo.

30.54. Viucalvitz. In the village of Viucalvitz, Santa María Nebaj, Quiché, on May 25, 1983, soldiers of the Army of Guatemala killed Baltazar Cuplay and/or Baltazar Cuplay Raymundo, by shooting them.

30.55. Santa Clara. In the village of Santa Clara, San Gaspar Chajul, Quiché, on June 14, 1983, soldiers of the Army of Guatemala killed Jacinto Itzep Utuy, by shooting him.

30.56. Chipal. In the village of Chipal, San Juan Cotzal, Quiché, on April 27, 1982, Cirilo Ramírez Sales and/or Cirilo Ramírez Salas, and/or Sirilo Ramírez Salas died due to the inhumane living conditions created by soldiers of the Army of Guatemala.

30.57. Tujolom. In the village of Tujolom, Santa María Nebaj, Quiché, during the month of June, 1982, Petrona Brito Raymundo, aged seven months, died of disease due to the inhumane living conditions created by soldiers of the Army.

30.58. Tujolom. In the village of Tujolom, Santa María Nebaj, Quiché, during the month of July, 1982, Francisco Rivera died of disease due to the inhumane living conditions created by soldiers of the Army of Guatemala.

30.59. Tu Uchuch. In the hamlet (paraje) of Tu Uchuch, of the village of Acul, Santa María Nebaj, Quiché, on July 22, 1982, Pedro Cuchil Sánchez died due to the inhumane living conditions created by soldiers of the Army of Guatemala.

30.60. Tu Uchuch. In the hamlet (paraje) of Tu Uchuch, Village of Acul, Santa María Nebaj, Quiché, on July 30, 1982, Juan Marcos Raymundo, a newborn baby, died due to the inhumane living conditions created by soldiers of the Army of Guatemala.

30.61. Vicalama. In the village of Vicalama, Santa María Nebaj, Quiché, August 28, 1982, Catarina de Paz died due to the inhumane living conditions created by soldiers of the Army of Guatemala.

30.62. Vatzsuchil. In the village of Vatzsuchil, Santa María Nebaj, Quiché, on September 25, 1982, Francisco Bernal died due to the living conditions created by elements of the Army of Guatemala.

30.63. Visibal. In Visibal, Santa María Nebaj, Quiché, during the month of October, 1982, Marcela Baten Pérez and/or Marcela Baten Pérez, Ancelmo Alejandro López Baten and/or Ancelo Alejandro López Baten, Antonia López Baten and/or Tona López, and Julia López Baten died due to the inhumane living conditions created by soldiers of the Army of Guatemala.

30.64. Tu Uchuch. In the hamlet (paraje) of Tu Uchuch, Village of Acul, Santa María Nebaj, Quiché, on October 30, 1962, Jacinta Velasco died due to the inhumane living conditions created by the

soldiers of the Army of Guatemala.

30.65. Sajsiban. In the village of Sajsiban, Santa María Nebaj, Quiché, at the end of the month of November, 1982, Diego Terraza Sánchez, Francisco Terraza Cruz, Rosa Terraza Cruz died due to the inhumane living conditions created by soldiers of the Army of Guatemala.

30.66. Xemanzana. In the canton of Xemanzana, village of Quejchip, Santa María Nebaj, Quiché, during the month of December, 1982, Teresa Cobo Matóm, aged 4 years, died due to the inhumane living conditions created by soldiers of the Army of Guatemala.

30.67. Vipecbalam. In the village of Vipecbalam, Santa María Nebaj, Quiché, during the month of March, 1983, Domingo Herrera Pérez died due to the inhumane conditions created by the Army of Guatemala.

30.68. Santa Clara. In the village of Santa Clara, San Gaspar Chajul, Quiché, during the month of March, 1983, Manuel Tiu Espinoza died due to the inhumane living conditions created by soldiers of the Army of Guatemala.

30.69. El Mirador. In the mountains of the village of El Mirador, San Gaspar Chajul, Quiché, on April 23, 1983, Antonia Carrillo and/or Antonia Carrillo Juan, aged six years, died due to the inhumane living conditions created by soldiers of the Army of Guatemala.

30.70. Santa Clara. In the village of Santa Clara, San Gaspar Chajul, Quiché, during the month of May, 1983, María Itzep Atabal and/or María Itzep Akabal, and/or Marra Itzep Acabal, aged 46 years, died due to the inhumane living conditions created by soldiers of the Army of Guatemala.

30.71. Santa Marta. In the village of Santa Marta, Santa María Nebaj, Quiché, during the month of July, 1983, Margarita Raimundo and/or Margarita Raymundo died due to the inhumane conditions created by soldiers of the Army of Guatemala.

30.72. Santa Clara. In the village of Santa Clara, San Gaspar Chajul, Quiché, on the July 27, 1983, Catarina Tojin Túm died due to the inhumane living conditions created by soldiers of the Army of Guatemala.

30.73. Finca San Joaquín Chel (also called Covadonga), municipality of San Gaspar Chajul, Quiché, in the month of April, 1982, soldiers of the Army of Guatemala attacked the civilian population of that place, killing the child Pedro Pablo Juan, as well as an additional 50 people.

30.74. Acul. In the village of Acul, Santa María Nebaj, Quiché, between April 22 and 24, 1982, soldiers of the Army of Guatemala, together with members of the civil self-defense patrols, killed Diego Raymundo de León, Nicolás Guzaro Cedilla, Diego Hernández Bacá, who were executed in the Catholic Church of the village, along with other men.

30.75. Tuchabuc. Tuchabuc, Xoloché, Santa María Nebaj, Quiché, on May 3, 1982 soldiers of the Army of Guatemala, transported by helicopter from Huehuetenango, killed the inhabitants of that village, including Jacinta Raymundo Gallego, aged two months, Pedro Raymundo Marcos, aged 24 years, Jacinto Raymundo marcos, aged 2 years, Margarita Raymundo Marcos, aged 16 years, and Magdalena de León, aged 21 years.

30.76. Xelocvitz. In the place called Xelocvitz of the village of Sacsiban, on April 15, 1982, soldiers of the Army of Guatemala killed Rafael Marcos Zet, aged 13 years, by hanging her.

30.77. Tu Uchuch. In the canton of Tu Uchuch, Santa María Nebaj, Quiché, in the month of June, 1982, the child Pedro García de León died due to the inhumane living conditions created by soldiers of the Army of Guatemala for the civilian population.

30.78. Batzcorral. In the canton of Batzcorral, of the municipality of Santa María Nebaj, Quiché, soldiers of the Army of Guatemala captured six people, among them Andrés Pedro, Juan Bernal de Paz, [and] Gaspar Bernal; they were taken to the military installation of Santa María Nebaj, Quiché.

30.79. Palop Chiquito. In the village known as Palop Chiquito, Santa María Nebaj, Quiché, soldiers of the Army of Guatemala attacked the civilian population of the said hamlet and killed Pedro

Chávez, Pedro Brito Bernal and Juana Brito on August 15, 1982.

30.80. Finca San Francisco. In Finca San Francisco, San Juan Cotzal, Quiché, soldiers of the Army of Guatemala attacked the civilian population, on August 15, 1982, a market day, and killed Juan Batzalom Vásquez, whom they shot and later threw into the river.

30.81. Sajsiban. Village of Sajsiban, Santa María Nebaj, Quiché, due to the inhumane living conditions created by soldiers of the Army of Guatemala for the civilian population of the village of Sajsiban, Santa María Nebaj, in the month of October, 1982, the young girl Jacinta González Marcos, aged approximately one year, died of hunger in Xelovitz, Sajsiban.

30.82. Tujolom. Village of Tujolom, Santa María Nebaj, Quiché, where [sic] in a context of persecution during the month of November, 1982, Francisco Rivera died of disease and hunger, due to the inhumane living conditions created by soldiers of the Army of Guatemala.

30.83. Sajsiban. Village of Sajsiban, Santa María Nebaj, Quiché, on November 15, 1982, where [sic] soldiers of the Army of Guatemala, killed Sebastián Terraza Marcos, among others, during an attack conducted against the civilian population of the aforesaid place.

30.84. Sajsiban. Village of Sajsiban, Santa María Nebaj, Quiché, where [sic] the village was attacked by soldiers of the Army of Guatemala and members of the civil self-defense patrol, in the month of December, 1982, killing Marta Cruz Cruz, aged 13 months.

30.85. Canton of Xelocwitz. In the Canton of Xelocwitz, of the village of Sajsiban, Santa María Nebaj, Quiché, on January 10, 1983, the young girl Engracia Cruz Raymundo, aged 2 years, died of malnutrition due to the inhumane living conditions created by soldiers of the Army of Guatemala for the civilian population; and later, Gaspar Santiago Bautista, aged 68 years, died on January 15 of the same year, and Mrs. Engracia Cruz, aged 58 years, died of hunger on May 15. Additionally, María Santiago Raymundo died of malnutrition in 1983.

30.86. Sumal II. In the place called Sumal II, of the village of Vicalama, Santa María Nebaj, Quiché, on February 22, 1983, soldiers of the Army of Guatemala carried out an attack on such [place], killing Miguel Terraza Raymundo.

30.87. Santa Clara. In the village of Santa Clara, San Gaspar Chajul, Quiché, during the month of March, 1983, where in a context of persecution, due to the inhumane living conditions created by members of the Army of Guatemala, Manuel Tiu Espinosa died.

30.88. Finca Estrella Polar. Finca Estrella Polar, San Gaspar Chajul, Quiché, the population fled to the mountains as a result of an attack perpetrated by soldiers of the Army of Guatemala against the civilian population in that place, and as a result, María Carrillo Pérez, aged two years, died of hunger on April 10, 1983.

30.89. Xesayí. In the hamlet of Xesayí of the village of Chel, San Gaspar Chajul, Quiché on April 12, 1983, soldiers of the Army of Guatemala and members of the civil self-defense patrols killed: Catarina Morales, Miguel Bernal Morales, Juan Bernal Morales, Argentina Cruz López, Juana Raymundo Raymundo, Catarina Gallego Bernal, Catarina Bernal Cruz, Domingo Bernal Cruz, Gaspar Bautista Raymundo, Pascual Bautista Raymundo, Magdalena Bautista Brito, Pascual Bautista Brito, Ana Caba Méndez, Pedro Bop Caba and Catarina Morales.

30.90. Santa Clara. In the village of Santa Clara San Gaspar Chajul, Quiché, on June 14, 1983, where, within a context of persecution, soldiers of the Army of Guatemala killed Jacinto Itzep Utuy.

30.91. Vijolom II. Vijolom II, Santa María Nebaj, Quiché, soldiers of the Army of Guatemala attacked the civilian population of the village on July 18, 1983, and killed Tomás Rayrundo Raymundo, by shooting him in the back and in the legs when he was coming out of his house.

30.92. Visumal. In the place called Visumal, in the mountains of the village of Vicalama, Santa María Nebaj, Quiché, in the month of August, 1983, in the mountains of the village of Vicalama, in the place called Visumal, Francisco de Paz Corio died due to the inhumane conditions created by soldiers of the Army of Guatemala against the civilian population.

30.93. Village of Parramos. Village of Parramos, Santa María Nebaj, Quiché, due to [sic] perpetrated by soldiers of the Army of Guatemala against the civilian population of the village of Parramos, Rosario Ceto Guzaro was captured and disappeared in the month of August, 1983.

31. The military operations, in addition to killing the members of the group, selectively and/or massively, during the time when the accused José Efraín Ríos Montt held the aforesaid offices, inflicted damages to the physical and mental integrity of the Maya Ixil ethnic group, individually and collectively, the effects of which are still visible.

32. The military units carried out, among other acts, sexual violence and torture, bombardments of the communities, destruction and looting of property, as well as persecution in places of refuge, occupation and destruction of sacred places of the Maya Ixil culture; as well as the selective execution of the community's social role models, engendering widespread fear in the population.

33. Physical injuries resulted from the operations carried out, in which the wounded did not receive medical treatment and were forced to move and to seek treatment in places of refuge; on the other hand, young girls, adult women and elderly women were subjected to various acts of sexual violence prior to killing them. The surviving women, for their part, given their cultural values, kept and still keep silent concerning the acts of sexual violence for fear of being rejected by the community and due to the shame that those acts cause them.

34. The people who were captured were subjected to tactical interrogations that included, among other things, [the infliction of] punishment [and] cruel, inhuman, and degrading treatment prior to being killed.

35. Those who survived the acts of torture were forced to perform tasks in the civil self-defense patrols, [and] while they were within these organizations they were forced to inform on others, to inflict punishment, and to kill members of the own ethnic group.

36. The military and operational plans developed and authorized during the period in which the accused José Efraín Ríos Montt held the aforesaid offices, in spite of being aware of the attacks on the civilian population that belonged to the Maya Ixil ethnic group, stipulated in the corresponding plans that the troop members should have sexual access to women and means of entertainment; thus using the women of that ethnic group as spoils of war. Similarly, it was established that the people captured should be subjected to "tactical interrogations."

37. It is evident that the accused José Efraín Ríos Montt institutionalized these practices through planning, supervision and coordination of the military operations, in which the limit for preventing the violation of the rights and liberties of the members of the Maya Ixil ethnic group were tolerated and even encouraged in the respective plans [sic].

38. The effects of the physical and mental injuries inflicted on the members of the Maya Ixil ethnic group by the military operations that were carried out, were at least the following:

38.1. At the collective psycho-social level, the social fabric was torn; it has been established within this framework that, among other consequences for the group, there was a breakdown of relationships of trust; the creation of communication voids in the Ixil group, for which oral transmission is of paramount importance; the silence and mistrust have in turn caused the social isolation of families and communities that returned from their displacement, due to stigmatization.

38.2. It has been established that the members of the group suffered psychological damage on an individual level, which still persist and manifests itself in post-traumatic stress, unresolved grief, and psychosomatic and physical disorders.

39. During the time when the accused José Efraín Ríos Montt held the aforesaid offices, members of the Army of Guatemala, members of the civil self-defense patrols, and military commissioners conducted massive gender-based operations and persecution against women, elderly women and young girls, forcing them, among other things, to have sexual intercourse with those who carried out the military operations. Such acts were systematically perpetrated.

40. Most women who suffered sexual violence were later executed and the survivors, due to their cultural values, did not always denounce the sexual abuse that they had suffered.

41. Acts of sexual violence against Ixil women captured during their displacement and in military detention centers have also been identified.

42. As an example of the acts of sexual violence committed against women that belonged to the Maya Ixil ethnic group, at a minimum, during the period in which you [sic] held the aforesaid offices, the victims of sexual violence who survived and testified on those acts [include] the following:

42.1. San Juan Cotzal. San Juan Cotzal, Quiché. In the month of May, 1982, Ana López, a woman that belonged to the Maya Ixil ethnic group, was abducted from her house by soldiers of the Army of Guatemala and was taken against her will to the village's military installation, where she was accused of being a member of the guerrilla movement. At the military installation, she was tortured, raped, and imprisoned for a period of approximately 10 days.

42.2. Xemamatze. Xemamatze, Santa María Nebaj, Quiché, in 1982, members of the Army of Guatemala and members of the civil self-defense patrols appeared at her home, burned it, and proceeded to sexually abuse Magdalena Bernal de Paz.

42.3. Chi'sis. Chi'sis, San Juan Cotzal, Quiché. Members of the Army of Guatemala and Members of the Civil Self-defense Patrols attacked the community of Chi'sis, San Juan Cotzal, Quiché, on April 19, 1982, [and] within this framework they raped Mrs. Juana Sánchez Toma, who was accused of being a member of the guerrilla movement.

43. As stated above, sexual violence caused damages at the collective and individual levels to women who were members of the Maya Ixil ethnic group. At the collective level, sexual violence affected not only the direct victims, but also caused greater damage to the group, which considers women to be a symbol of procreation and cultural transmission. Therefore, tarnishing their dignity meant seriously damaging the integrity of the Maya Ixil ethnic group.

44. At Finca San Joaquín Chel, municipality of San Gaspar Chajul, Quiché, members of the Army of Guatemala made an attempt on the lives of the property's workers, killed poultry, and burned down houses, etc. As a result of that attack the population fled to the mountains for two years. During that time, the Army tried to locate them several times, [and] burned their improvised shelters when they found them. Finally, the displaced group decided to surrender to the Army in the village of Ilom, and from there they were taken to Finca La Perla, where the military installation was located, and again they were moved to Ilom, where they stayed for approximately a year and a half.

45. At Villa Hortensia II San Juan Cotzal, Quiché, the survivors of the attack perpetrated by soldiers of the Army of Guatemala against the civilian population of the village of Villa Hortensia II, San Juan Cotzal, Quiché, on April 15, 1982, temporarily moved to the mountains and later surrendered to the soldiers in Cotzal, who forced them to join the civil self-defense patrol.

46. At Palop, Santa María Nebaj, Quiché. The attack perpetrated by soldiers of the Army of Guatemala on the Maya Ixil ethnic group of the civilian population of Palop, on August 15, 1982, included the

burning of houses; following that attack the survivors fled to the mountains and later they were found by soldiers and members of the patrols and were taken to the village of Akchumbal or La Pista, where they remained for one year.

47. At Chipal of the village of Villa Hortensia II, San Juan Cotzal, was attacked by soldiers of the Army of Guatemala, on September 10, 1982; that attack included the destruction of property by the forces that conducted it, [and] therefore the survivors fled to the hamlet of Kisis in the mountains, [and] lived in inhumane conditions. In the mountains, the Army captured people, raped the women, and the captured men were forced to join the civil self-defense patrol.

48. At Vijolom III, Santa María Nebaj, Quiché. The attack perpetrated by soldiers of the Army of Guatemala against the civilian population of the village of Vijolom III, on September 23, 1982, included the burning of houses [and] corn and the killing of animals; this led the surviving families to flee to the mountains, [where] they lived for a year in inhumane conditions. In the mountains they were bombarded and pursued by the Army, which sometimes destroyed everything they found. In this context, several people died of hunger and disease. They were later captured by the Army and taken to a place called La Pista, where they were kept under military surveillance and control.

49. At Sajsiban, Santa María Nebaj, Quiché. Within the context of the inhumane living conditions created by soldiers of the Army of Guatemala for the civilian population of the village of Sajsiban, in the month of October, 1982 [sic].

50. Xemanzana. Xemanzana of the village of Sajsiban, Santa María Nebaj, Quiché, was attacked by soldiers of the Army of Guatemala on October 15, 1982; during the aforesaid attack there was looting and destruction of property and the surviving families fled into the mountains, where they lived in inhumane conditions. In the mountains they were bombarded and pursued by the Army, which sometimes destroyed everything they found. One person was captured in the mountains and taken by the Army to Finca la Perla, where [this person] lived under the control of the Army and of the civil self-defense patrols.

51. In the village of Sacsibán. Santa María Nebaj, El Quiché. After the attack perpetrated on November 4, 1982 by the soldiers of the Army of Guatemala against the civilian population of the village of Sacsibán, around 60 people managed to flee into the mountains and never returned to the community. During the time in which they lived in the mountains of Sajsivan and Caba, they fed themselves out of the resources that could find, they lived in improvised sheds, and without access to medicines. During that time, the groups of people moved constantly due to the Army's persecution and many [of their] relatives died due to the inhumane conditions. After a while, they were captured in the mountains, and were taken to the canton of Xelocwitz, and from there to the military installation of Finca La Perla. There they spent approximately one year and after that they were taking to Sajsiban.

52. As a result of the characteristics of the military operations conducted during the period in which the accused José Efraín Ríos Montt held the aforesaid offices, the members of the Maya Ixil ethnic group, even though they were a non-combatant civilian population, were forced to relocate to refuge areas in order to save their lives.

52. [sic] The displacement resulted from the selective or indiscriminate massacres that were perpetrated, as well as from the bombardments carried out against the communities. At a later stage, as evidenced by the operations reports contained in the Sofia Operational Plan, it is stated that the units reported that when they arrived at the communities, the inhabitants had already abandoned them for fear of the actions conducted by the State's security forces.

53. Due to the continuous military incursions, the population was forced to abandon their villages,

so that most of them were deserted, which led to constant bombardments by the Army on the refuge areas. As a result of the bombardment of their refuge areas, the population was forced to flee again in small groups that enabled them to move quickly, but the constant bombardment increased the perils of moving and survival [sic].

54. As a result of the forced displacements in the mountains, most of the population of the Maya Ixil ethnic group was subjected to survival conditions that caused the destruction of group members through sieges, tracking, and military pursuits that made it impossible for them to access food, housing, medicine, minimal health services [and] education, among other things.

55. During the period from March 23, 1982 through August 8, 1983, there was a displacement of at least 29,000 people belonging to the Maya Ixil ethnic group, who were forced to move from their homes.

55. [sic] There was a displacement of a total of at least 54 displaced communities of the Maya Ixil ethnic group, which were forced to survive in subhuman conditions that could have caused the total or partial physical destruction of their members, as a result of the acts carried out by the Army of Guatemala, under his command, which conducted operations during the period in which the accused José Efraín Ríos Montt held the aforesaid offices.

56. The military control over the Ixil region consisted of the restriction of the supply of basic foodstuffs (salt, sugar, etc.), clothing and medicine.

57. The bombardments, persecution, arrests, destruction of means of subsistence, disappearances, individual and collective killings, among others, caused massive and long-term displacements within the Ixil territory. They were also forced to seek refuge in the most remote mountains and mountain ranges, where they regrouped precariously.

58. The members of the Maya Ixil ethnic group were forced to move, and during the pursuit into the mountains they were besieged by members of the Army under his command, suffered conditions such as hunger, malnutrition, disease, lack of clothing and shelter, [and were] subjected to adverse conditions capable of causing their destruction.

59. The military strategy was suited [for] and resulted in submission to living conditions that threatened the life and physical and psychological integrity of the members of the Maya Ixil ethnic group.

60. Pursuant to the military plans implemented through the actions of the accused José Efraín Ríos Montt, which included amnesty decrees, states of emergency and partial mobilization of troops, mainly in the Victoria 82 Military Plan, military operations were carried out to round up and capture the non-combatant civilian population belonging to the Maya Ixil ethnic group, including: women, young girls and boys, elderly women and men, and adult men, who were relocated to the camps for refugees and displaced and amnestied persons implemented by the Army of Guatemala, in accordance with the corresponding Plans, in the three municipalities of the Ixil region.

61. At the beginning, these camps were established in the municipality of Santa María Nebaj in the village of Xejalvinte, presently known as La Pista, in the canton of Xemamatze and in the village of Acul, places where military installations were also stationed. In the municipality of San Gaspar Chajul, they were located in the canton of Vipatsnaj, which was occupied by one of the military installations, and in the municipality of San Juan Cotzal in the canton of Xolosinay, where another military installation was located.

Many displaced members of the Maya Ixil ethnic group, who were captured or who due to the lack of shelter, food, medicine or health care could not stand the subhuman conditions to which they were

subjected, were taken to these camps; they were also forced to surrender to the Army due to the state of terror.

62. At the camps for refugees and displaced and amnestied persons, a great number of concentrated people were forced to join the civil self-defense patrols and, as a result, to attack the displaced members of their own culture, even those with whom they had lived together in places of refuge.

63. As part of the military strategy, members of the civil self-defense patrols were forced by members of the Army of Guatemala, under his command, to perform their tasks under threats of death [and] inhumane, cruel and degrading treatment consisting of: surveillance and protection rounds of the military installations, assisting them as field guides during military operations, destroying the property of the non-combatant civilian population, performing forced labor such as: feeding the military troops, building roads, encampments, houses, and even working without compensation on local properties. On many occasions, they were even forced to detain members of the civil population, to inflict punishment [and] cruel, inhuman and degrading treatment on them, even to the point of killing their own fellow members of the Maya Ixil ethnic group.

64. At the camps for refugees and displaced and amnestied persons, people received military training, reeducation speeches, the imposition of new forms of government, and ways of relating among themselves; in many cases the adoption of new cultural and religious practices foreign to their worldview was imposed.

65. As a result of actions such as those listed above, the Maya Ixil ethnic group was culturally destroyed in part, as it was fragmented and a confrontation was created between those who took refuge in the mountains and those who were concentrated [in the “model villages”].

66. Concerning the displacement of children, the implementation of the military operations led to the systematic capture of minors of the Maya Ixil ethnic group, who were later concentrated in the camps for refugees and displaced and amnestied persons. Some of those minors were transferred outside their cultural environment by soldiers of the Army of Guatemala.

67. During the period in which he held the aforesaid offices and as a result of the military actions under his command, at least the following events took place:

67.1. At Vijolón I, Santa Marra Nebaj, Quiché. During the month of July, 1982, following an attack perpetrated by soldiers of the Army of Guatemala against the civilian population of Tucalamá, village of Vijolón I, Santa María Nebaj, Quiché, three minors that belonged to the Maya Ixil ethnic group were captured by members of the Army and taken to the capital, where they were raised by Francisco Castellanos Góngora, Chief of the Sofía Operation.

67.2. Chel. Chel, San Gaspar de Chajul, Quiché. From the month of March, 1982, a minor who was a surviving witness of the massacre of Tuchabuc, Xoloché, Santa María Nebaj, Quiché, fled to the mountains together with the population that survived the aforesaid event, where he was captured together with other people and taken to the military installation located in the village of Chel, San Gaspar Chajul, Quiché; in that facility he met other minors who were separated from their parents; he noticed that they were evacuated by helicopter from the aforementioned military facility and he never saw them again.

68. The implementation of the military planning created conditions that impacted the reproduction of members of the group; such actions include acts of sexual violence.

69. The cases of massive, indiscriminate and public rapes, documented by the CEH, exceeded 1,465 cases and for the most part were perpetrated against the Maya Ixil ethnic group (88.7% of the cases

according to CEH), and a third of the cases involved minor girls and victims of a common practice after the settlement of military installations and the civil self-defense patrols. These events were also accompanied by the killing of pregnant women and the destruction of fetuses.

70. The rapes perpetrated by the Army of Guatemala were often suffered in front of their relatives or their communities. Some [women] who were minors at the time of the events were raped with their mothers and had great trouble to find husbands given the cultural context in which the events took place; other pregnant women lost their babies as a result of the violence [and] the repeated and prolonged sexual assaults inflicted by soldiers, [and] suffered physical and psychological disorders as a result of these events.

71. Some women who were impregnated by their rapists were stigmatized by their relatives and by the community, to the extent that they suffered violence from their husbands because they were regarded as soldier wives (*mujeres de soldado*). Many of them kept silent out of shame and fear of rejection.

72. In the Maya Ixil culture, women play a predominant role both in the maintenance of cultural values and in the social organization, given that they allow the consolidation of the ethnic group's future, providing the children with an education based on the indigenous Maya Ixil worldview, which is the basis of the culture's subsistence. The physical appropriation of women through acts of violence, whether or not they are killed, constitutes an act that demoralizes both men and women, and constitutes one of the aspects that contributed to undermining the foundations of their identity and of the physical reproduction of the members of the Maya Ixil ethnic group.

73. As a result of the military strategy against the non-combatant civilian population belonging to the Maya Ixil ethnic group, this group was seriously affected. During the internal armed conflict, members of the Army of Guatemala, military commissioners, and members of the civil self-defense patrols caused:

73.1. The death of thousands of people of the Maya Ixil ethnic group located within the municipalities of Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul.

73.2. The [forced] displacement of at least 29,000 people belonging to the Maya Ixil ethnic group within in the municipalities of Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul.

73.3. The rape of at least 41 young girls, women and elderly women who denounced such acts, and innumerable victims who suffered these acts before being executed or who have not been willing to testify given women's status in the culture of Maya Ixil ethnic group.

73.4. Children transferred to other cultures, although the number of children who were even offered or taken for adoption by members of the Army has not yet been established.

73.5. Attacks, persecution, sieges, and bombardments against the communities where the members of the Maya Ixil ethnic group lived or took refuge, as well as the occupation of sacred places, such as those located in the Sumal mountain.

74. The actions carried out by the accused José Efraín Ríos Montt during his term of office contributed to putting into practice acts that caused a significant destruction of the Maya Ixil ethnic group.

75. All the aforementioned military operations conducted against the Maya Ixil ethnic group could be undertaken because the accused José Efraín Ríos Montt created the conditions for the allocation of regular troops and special forces, as well as armament, food, Guatemalan Air Force aircraft, and other resources that were required for their implementation.

76. The implementation of the strategy authorized by the accused José Efraín Ríos Montt, as well as the approval, supervision of its implementation, and allocation of resources for the implementation of the strategic and operational plans, resulted in numerous violations of the rights of the non-combatant

civilian population, committed by members of the Army of Guatemala under his command.

77. It has been established that during the aforesaid operations, torture and cruel and inhuman treatments were inflicted, and looting, burning and destruction of houses, schools [and] churches took place. Additionally, the physical integrity of the non-combatant civilian population that belonged to the Maya Ixil group was threatened during those operations.

78. During such attacks, members of the Army of Guatemala, under his command, stole personal property, clothes, work tools, and livestock, and used sexual violence as a “weapon of war,” which is considered torture under International Law insofar as [such acts] were perpetrated repeatedly and for a long period of time, as the women were under the control of others, in this case the members of the Army of Guatemala. These actions, taken as a whole, were aimed at consolidating the result of the military operations within the framework of the counterinsurgency strategy.

79. That the accused José Mauricio Rodríguez Sánchez, in his capacity as Chief of the Second Division of the Army General Staff, later National Defense General Staff, held office during the period between March 23, 1982 and July 31, 1983, during the time that he held that office, contributed to designing, implementing and supervising military intelligence within his functional area.

...

V). Criminal Liability of the Accused and Specification of Charges³:

One of the ways to place ourselves in the historical context of the events that are being tried is to acknowledge that there was an armed conflict in Guatemala that lasted from 1962 to 1996 a period during which the National Security Doctrine was applied. The coup d'état led by General José Efraín Ríos Montt took place within this period, on the 23 of March, 1982. In the Ixil area, in the villages and hamlets (caseríos) of Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul, there were violent human deaths [and] rapes, and villages were razed, all of which caused the [forced] displacement of the Maya Ixil group, [who fled] in order to save their lives. Military installations and camps were set up, in which they were forced to join the civil self-defense patrols. The civilian population was given new forms of government. On the basis of this context of Guatemala's recent historical past, [as] compiled by the Historical Clarification Commission (Comisión de Esclarecimiento Histórico), and also by the Recovery of Historical Memory Report (Informe de Recuperación de la Memoria Histórica), we the Judges make the following analysis:

A. The Crime of Genocide

[In the] testimony and expert opinion of Doctor ELIZABETH ANN OGLESBY, she explained that after analyzing the Victoria 82 Military Plan, she determined that in 1982 the objective was to destroy the clandestine committees, not just the guerrilla movement, and that the civilian population had been annihilated because it was believed that the Ixil population was the guerrilla's support base, which is why the army came to regard the civilian population as an internal enemy, [and] contemplated the extermination of the population, which resulted in the indiscriminate massacres in the Ixil area, the raping of women, young and old, bombardments, the burning of houses and crops and the killing of livestock. According to the statements of the expert witness OGLESBY, there was destruction of the social and cultural environment of the Ixils, who were regarded as rebels, a difficult people that did not submit to the ladinos (the dominant Spanish-speaking group), [and therefore] they were stigmatized in order to annihilate them. In her ample expert opinion she pointed out that in the Firmeza 83 Military Plan, the army saw these populations as subversive and hostile. Therefore the army did not differentiate between the civilian population and armed contingents, and commenced a strategy of persecution. The

³ Pages 682-703 of Judgment.

objective of the Firmeza 83 Military Plan [was] physical and psychological control[;] it provide[d] for the destruction of settlements and their crops, [thus] depriving the population of their food sources. It has been determined that the Military High Command made Plans that resulted in the use of airplanes and helicopters in order to destroy them, which led to the pursuit of people into the mountains, thereby affecting the most vulnerable [population]. In the implementation of the Sofia Plan, hunger was used as a strategy of the army, [and] the Ixil cultures were criminalized, forcing the population to stop wearing their traditional costume, carrying out a militarized repopulation exemplified by the model villages, where patterns of militarization, submission and forced participation in the civil self-defense patrols were practiced. From the year 1983, [the Army] sought to create a new indigenous model. The expert witness OGLESBY clearly stated that in 1982 and 1983, there was an extermination of the Ixils, which she described as genocide. Being Ixil was criminalized, and the mere fact of belonging to this indigenous group became a capital offence.

The testimony and expert opinion given by Doctor HECTOR ROBERTO ROSADA GRANADOS explains how the National Security Doctrine and the polarization between communism and capitalism came to be, [which] in Guatemala was understood as a way of defending the dominant elites, identifying anyone opposed as an “internal enemy” of the State. Within the context in March 1982, he presented the study of the structure of power and military behavior, explaining the changes that resulted from the coup d'état of [19]82, [and also] explaining how the confrontation of the people against the people came about, and how the civilian population was eliminated because it was deemed to be the insurgency's base [of support]. His expert opinion allows us to understand how the Ixils were regarded as supporters of the guerrilla movement, [and how] starvation was used as a strategy, because they were identified as a population group that delivered food, support and information to the guerrilla movement. [This] was added to the problem of racism, with the process of human degradation that it engenders and which fractures the people's identity. According to the testimony and expert opinion given by Doctor ROSADA GRANADOS, in Guatemala, in the region of El Quiché, the crime of genocide was systematically committed during the years 1982 and 1983, because there was an elimination of an ethnic group, which resulted in the group's subjugation and their displacement, [and also] in massive repressive actions and indiscriminate massacres perpetrated against the Maya Ixil population, aiming at their annihilation, [thus] evidencing a pattern of genocidal aggression.

The anthropological and archaeological reports, which were ratified by the expert witnesses, allow us to establish the existence of clandestine cemeteries, which is proof of the existence of groups of people buried in individual or collective graves, [and] it has been determined that the majority of the skeletal remains that have been found have gunshot wounds in areas such as the head and thorax, which shows that they were first shot and then they were buried, thus confirming the statements of the witnesses, who declared how their relatives were massacred. These clandestine cemeteries are shown in the expert's report submitted by the expert witness MARLON ERICK GEOVANNI GARCIA ARREAGA, showing the graves found in the vicinity of the Chel or Chajul rivers, [and] in which we can see that the skeletons in the graves show signs of perimortem violence, including complete rib fractures, head, jaw and neck wounds; [as well as] age markers [and] objects associated with ethnic provenance, which corroborates the statements of the people who gave testimony concerning their relatives' deaths.

The testimony of the witnesses DIEGO CETO SANTIAGO, TOMAS CHAVEZ BRITO, PEDRO MELENDREZ RAYMUNDO, PEDRO BRITO BRITO, MARCOS POP SANCHEZ, PEDRO SOLIS CRUZ, SANTIAGO PEREZ LUX, JUAN PEREZ, JUAN LOPEZ MATON, PEDRO BRITO BRITO, MARCOS POP SANCHEZ, PEDRO SOLIS CRUZ, SANTIAGO PEREZ LUX, JUAN PEREZ, JUAN LOPEZ MATON, PEDRO CHAVEZ BRITO, JACINTA RIVERA BRITO, DOMINGO RIVERA COBO, CATARINA SANCHEZ SOLIS, JUANA BERNAL VELASCO, MIGUEL GUZARO SANCHEZ, JACINCO BRITO CORIO, SEBASTIAN CEDILLO RAYMUNDO, JUAN LOPEZ CORIO, FRANCISCO CHAVEZ RAYMUNDO, MIGUEL RAYMUNDO COBO, GASPAR VELASCO, DOMINGO RAYMUNDO COBO, FELICIANA

BACA, MIGUEL RAMIREZ MATON, CECILIA SANCHEZ SANCHEZ, GABRIEL DE PAZ PEREZ, FRANCISCO COBO RAYMUNDO, MAGDALENA DE PAZ CEDILLO, NICOLAS GUZARO CEDILLO, MAGDALENA BERNAL TERRAZA, JUAN RAYMUNDO MATON, PETRONA RAYMUNDO BRITO, PEDRO DEL BARRIO CABA, ANDRES LAINEZ CHAVEZ, JUAN SAJIC AGUILAR, JULIO LOPEZ CORIO RAYMUNDO, FRANCISCO OXLAJ GONZALEZ, ROSA CABA SANTIAGO, PEDRO BRITO, GASPAS COBO CARRILLO, PASCUAL BAUTISTA ESCOBAR, ELENA CABA IJON, MARIA BERNAL MORALES, ANTONIO CRUZ GALLEGO, JACINTO VELASCO CORIO, CLEMENTE VELASQUEZ MATEO, MAGDALENA MARCOS DE LEON, MARCELINO CASTRO, JULIAN VICENTE PASTOR, JUANA TIU TZOY, JUANA RAMIREZ DE LA CRUZ, MARIA CRUZ RAYMUNDO, DOMINGO RAYMUNDO RAYMUNDO, FRANCISCA CECILI BARRERA MENDEZ, DIEGO SANTIAGO CEDILLO, CIPRIANO ANTONIO BERNAL MORALES, NICOLAS BERNAL, ANA MATON RAMIREZ, JUAN CRUZ, TIBURCIO UTUY, JACINTO MARCOS RAYMUNDO, GASPAS GONZALEZ SANCHEZ, JUANA REYNOSO CHAVEZ, MARIA CEDILLO CEDILLO, MARGARITA RAYMUNDO MELENDREZ, FRANCISCO MATON, ANA DE LEON LOPEZ, TOMAS RAYMUNDO PEREZ, ALBERTO LOPEZ PASTOR, PEDRO PACHECO BOP, JACINTO LUPAMAC GOMEZ, FRANCISCO VELASCO MARROQUIN, MANUEL PEREZ DE LEON, JUAN LOPEZ LUX, ELENA BRITO, FELICIANA RAYMUNDO GONZALEZ, NICOLAS TOMA MATON, FRANCISCO GUZMAN RAMIREZ, CECILIA RAMIREZ RAYMUNDO, PEDRO CABA CASA, MARIA LOARCA RODRIGUEZ, confirm that there were violent deaths in the Ixil communities that were perpetrated by the army of Guatemala, and which led the survivors to flee to the mountains in order to protect their lives. It has also been established through this testimony that the inhabitants of those communities were indigenous people of the Ixil area, who were mostly milpa⁴ farmers.

The testimony of the witnesses proposed by the Office of the Government Attorney and the Co-Plaintiffs allow us, the Judges, to confirm that the violent incursions carried out by the Army followed the same patterns of behavior: violent killing of individuals with knives or firearms, burning of houses, even with people still inside; systematic and indiscriminate killing of children, adults and the elderly, which terrorized those who managed to flee and survive in the mountains.

Also, after listening to the witnesses proposed by the Office of the Government Attorney and by the organizations acting as Co-Plaintiffs, we could see the pain of the victims, who knew of the death of their loved ones and were powerless to do anything to prevent it, their only remaining option being to flee into the mountains, where they took refuge. It is absolutely necessary to raise awareness of the fact that the people who fled to the mountains in the various regions of the area of Santa María Nebaj, San Juan Cotzal, and San Gaspar Chajul, became refugees, who suffered hunger, and that some people died because they could not survive [due to] the lack of food and medicine.

The testimony given by the Ixil women MAGDALENA BERNAL DE PAZ, ELENA DE PAZ SANTIAGO, ANA LOPEZ, ANA PACHECO RAMIREZ, MAGDALENA MATON RAYMUNDO, JUANA SANCHEZ TOMA, CARMEN TERESA PEREZ LOPEZ, MARGARITA RIVERA CETO, MARIA CAVINAL RODRIGUEZ, CECILIA BACA GALLEGO, ANA MATON and JUANA HERNANDEZ shows that they were raped by army soldiers, and the pain that they still experience when remembering the events is evident, given that when they were sexually abused they were subjected to physical and psychological violence, and according to the statement made by one of them, she was even raped by approximately twenty soldiers during the time when she was in lock-up. These statements conclusively show that raping of women by members of the army of Guatemala did take place. This is also corroborated by the testimony of the witnesses JULIO

⁴ Translator's Note: the "milpa" is an integrated cultivation system in which several crops are grown on the same parcel of land, usually including maize, beans and squash, among other food crops. It also has social and religious connotations for the Mesoamerican indigenous peoples.

VELASCO RAYMUNDO, PEDRO HERRERA BERNAL and HUGO RAMIRO LEONARDO REYES, who stated that they had witnessed the rapes inflicted on women. And it is [further] confirmed by the expert opinion given by the expert witness PALOMA SORIA MONTAÑEZ, who clearly showed in her expert opinion that the attacks against women were systematic, as part of the strategy to destroy the Ixils. [This] attack included raping minors, pregnant women and elderly women. The expert opinion delivered confirms that rapes were committed on a continuous basis and contributed to the destruction of the social fabric; [the expert witness] explained that both the rapes and mutilations caused a trauma of terror [and] physical and cultural destruction with the objective of eliminating the Maya Ixil ethnic group, with particular emphasis on the violence and humiliation suffered by women. The expert witness described it as a serious sign of absolute dehumanization given that sexual violence was intentionally used, which is consistent with the Victoria 82 Military Plan. In her testimony and expert opinion she stressed the role of the Ixil woman, since women are responsible for physical human reproduction [as well as] for cultural reproduction. The foregoing leads us, the Judges, to understand that the decision to rape the women was not just meant to treat them as spoils of war, but also to destroy the social fabric and to achieve the elimination of the Ixil seed; therefore, the acts of sexual violence and methods used were means to destroy the group, thus proving the intent to destroy the entire group. The raping of women is therefore objective evidence of the intent to destroy the Ixil group.

This analysis is supplemented by the testimony and expert opinion given by Doctor JAIME ROMEO VALDEZ ESTRADA, who informs of the systematic armed attack carried out by members of the army, affecting the social fabric of the Ixil communities, which were forced to take refuge in the mountains. In his expert opinion, Doctor VALDEZ ESTRADA states that when the Ixils were captured and forced to join the civil self-defense patrols, this contributed to altering their identity, causing rebelliousness, as well as cultural changes in order to survive and cope with the situation. In his ample expert opinion he shows that the situation of violence caused the destruction of the Maya Ixil culture. He describes how forced displacement violated their cultural rights, including the ability to bury their dead. He objectively shows how the violent attack against the victims and the destruction of corn, which is a sacred food, is one of the practices [employed] to break the will of the Ixil people. The historian didactically explains how the Ixil people's everyday relationships of coexistence were destroyed because the army came to regard them as military objectives, which explains that the armed conflict involved an organization, because [this] does not happen spontaneously. This historical expert opinion also serves to establish the pain that the Ixils experienced when they were uprooted and forced to abandon their land, their world and their customs, thus breaking the contact with their ancestors, in an attempt to deprive them of their cultural assets. Establishing that women were a military objective is a very important point of his expert opinion, and he concludes that pregnant women had their bellies opened to remove the babies, because they were "a seed that must be killed," a fact that we the Judges take into account because it objectively shows the intent to make the Maya Ixil group disappear by seeking to destroy the female role, because she is a life-giver who transmits community values [and] teaches basic life skills. We the Judges find it admirable how the Ixils have defended their cultural identity, even in the face of adversity, because it is clear that they were even forbidden to speak their mother tongue, which they have preserved as an element of cultural resistance against the cultural and military imposition to which they were subject. The historical expert opinion shows that the Ixils lived in deplorable social and economic conditions, in poverty, in exclusion, and because they wanted to change their living conditions they were labeled as "enemies," which led the army to try to change their mentality through violence. The term Ixil was even considered synonymous with being a guerrilla, thus stigmatizing the population of Ixil descent because of their language, dress and customs.

It is important to include in our analysis the expert opinion given by Doctor PATRICK DONELL BALL, who statistically demonstrated that from April of 1982 to July of 1983, the army killed 5.5 percent of the indigenous people in the Ixil area, [figures that confirm] the victims' testimony.

In examining each witness, we can find the physical and emotional trauma that all these persons have

suffered, [and] which still persists, even after the passage of more than thirty years. We the Judges have [also] noticed their emotional scars, which are consistent with the psychological expert opinion given by the Expert Witness NIEVES GOMEZ DUPUIS, who explained in detail the traumas suffered by the victims of the massacres, the changes in the identity of the survivors as a result of the massacres, the torture, pain and terror that they were subjected to; [all of which are] circumstances that have affected their physical and emotional development. She also explained their unresolved grief at being prevented from burying their relatives and from performing their community's customary ceremonies. The expert witness explained in detail how the massacres that the Ixils had suffered engendered a culture of mistrust, family disintegration and lack of emotional security in the persons that survived the events. She explained the stigmatization [and] the physical and moral harm suffered by raped women. She highlighted the mental harm suffered by the people as a result of their displacement, given that they were uprooted and forced to leave their lives, their world, [and] their environment [behind]. They were violently forced to break their attachments. We the Judges believe that all of the foregoing were mechanisms used by the army in order to destroy the individuals, and the Ixil group as such. The expert opinion and testimony of the expert witness GOMEZ DUPUIS was useful in order to determine the existence of mental harm [sustained by] the victims, given that they were subjected to constant persecution, terror and extreme stress. They were forced to flee to the mountains and those who returned had to forcibly join the civil self-defense patrols, to live in military installations and model villages, where they were not allowed to express themselves freely. All the elements described by the expert witness allow the Court to establish that the people who survived the massacres suffered psychological injury, which have impaired their human development and the effects of which are still being felt and have even affected the victims' children, causing a generational damage, which explains the Ixil group's fight to rebuild their identity and the admirable need to create mechanisms of resistance, [thereby] preventing their ethnic group's cultural annihilation.

The testimony and report given by the expert witness MARTA CASAUS ARZU gives us elements to understand the conceptual difference between the terms discrimination and genocide, allowing us to understand the historical and sociological background of racism, from the 16th century to the 21st century. She explained the main stereotypes concerning indigenous people, showing why the indigenous people have been regarded as an inferior race. Her expert opinion also serves to confirm the raping of women during the war and to understand that the Ixils came to be seen as public enemies. The expert witness shows that there was intent to eliminate the group. The expert opinion is also useful in order to establish that racism was regarded as an extermination mechanism, given that racism is the basis for genocide. The expert opinion given by the expert witness CASAUS ARZU serves to establish that sexual violence is an expression of racism, dehumanization and objectification of the women who are raped, which is confirmed by the testimony of the Ixil women themselves, who broke their silence and described the manner in which they were raped.

According to the expert opinion given by Doctor RAMON CADENA RAMILA, the Principles of Humanitarian Law were violated in the armed conflict that took place in Guatemala, given that no distinction was made between military objectives and the civilian population, causing superfluous and unnecessary damage; the Ixil population was attacked because it was regarded as an internal enemy, which caused the displacement of thousands of inhabitants, [and] which has been described as massive persecution.

We the Judges believe that in any human activity, when conducting a planning process, there is a prior motive, an objective to be achieved; ideas emerge in the course of human thought, they are [then] justified, and the activities leading to the achievement of the objectives are developed, determining to whom they are addressed, the methodology, the techniques and even the evaluation of results. And this, which can be applied to any area of knowledge, was also used and implemented in the Army's operational plans, identified as the VICTORIA 82 MILITARY PLAN, FIRMEZA 83 MILITARY PLAN AND SOFIA PLAN, only it was done with the aim of destroying those that were regarded as ENEMIES, in

the context of the armed conflict that took place in our country.

Upon examination, the objectives can be clearly found; for this purpose, it is important to analyze them in the following manner: THE VICTORIA 82 MILITARY PLAN states as its objectives the classification of the population, the eradication of the subversives that could not [sic] lay down their weapons, [and] the annihilation of the local clandestine committees. It mandates the militarization of the people, as well as the use of psychological operations in order to change their way of thinking; networks of informants and daily indoctrination are [also] organized. It provides for the formation of patrols, checkpoints [and] population census. The commandos had to report the information [sic] every fifteen days. We find the distribution list among the Annexes, which provides for the distribution to the President of the Republic and the Commander in Chief of the Army, a relevant fact because it allows us to establish that the accused JOSE EFRAIN RIOS MONTT, was aware of [the existence of] the aforementioned Plan. Furthermore, Annex "C", III Implementation, first phase, provides for the Sunday messages of the honorable President of the Republic, which means that these messages were part of the preconceived Plan. Moreover, the participation of the Ministries and the activities assigned to each of them are established as part of the same plan. When Annex F of the Victoria 82 Operational Plan refers to the Enemy Forces' Situation, it acknowledges the existence of large masses of indigenous people in the nation's high plateau, the scarcity of land, the immense poverty, as well as the vandalism, rapes, thefts [and] destruction of crops committed by the army. The orders and rules of conduct shown in Annex H were issued by the Commander in Chief of the Army and incorporated by the Army General Staff into the Victoria 82 Military Plan. This is explained in detail in the expert opinion given by the expert witness QUILO AYUSO, where he summarizes the participation of General Efraín Ríos Montt, as President and Commander in Chief of the Army.

Likewise, the FIRMEZA 83 MILITARY PLAN provides guidelines for the purpose of preventing the potential emergence of subversive organizations. [It] includes among the military strategies the isolation of the subversive criminals, so that they can be eliminated by means of tactical operations. [It] includes among its objectives the statements of the Victoria 82 Military Plan, as well as the achievement of the physical and psychological control of the population, in addition to the enemy's neutralization and elimination by means of tactical operations. Within this plan it is stated that each military command will determine how it will operate within its area of responsibility, in accordance with their respective intelligence [reports] and situation. The commander is responsible for all tactical and logistical aspects. The FIRMEZA 83 MILITARY PLAN states that when the enemy is detected, it is to be pursued until its capture or destruction. [It] imposes a duty to send periodic reports on the operations every fifteen days. Among the military strategies, it provides for the organization of the population into civil self-defense patrols, the control of the territory and of the population. The air support, through the Joint Operations Center of the Army General Staff, having as an alternative the Communications Center of the Guatemalan Air Force [sic]. In addition, Appendix One of Intelligence observes that "in the mountains of the national high plateau, there are also nomadic refugee camps, which are controlled, mobilized and politicized," which confirms the statements of the expert witnesses ROSADA GRANADOS and OGLESBY, and of the witnesses who testified as to how they fled to the mountains.

The SOFIA Plan provides for the extermination of subversive elements as part of the mission. It gives instructions so that the paratroopers and helicopters arrive at Palob, Parramos and other settlements to conduct offensive operations. It is important to examine the coordination instructions, [which] state that "the lives of women and children must be respected, to the extent possible," which left open the possibility of killing these elements of the population, given that the instruction should have provided for a complete prohibition in order to defend and protect the civilian population, which did not happen in this case. The documents accompanying the Operation Sofia Plan [sic] included telegrams establishing that children were captured [and] were taken to the military installation. The telegrams also reported that control of the population ha[d] been obtained and that the mission ha[d] been accomplished.

Following a logical train of thought, we find that there appears to be a correlation between the aforementioned Plans, given that the Victoria 82 Military Plan and Firmeza 83 enumerate the guidelines, the methodology [and] the strategy to follow, while the Operation Sofia Plan puts them into practice.

We the Judges believe that it is important to stress that the Army perpetrated these massacres through its actions [while] following the same pattern of behavior, which can be verified by the actions carried out in each community; [and] this is a very important fact, given that it shows the existence of prior planning and the fulfillment of such plans. Why do we say so? This is important because, as we have seen, the acts of violence carried out against the Ixils were not spontaneous, but rather the implementation of plans that had been previously developed [and] which were part of the State's policy aimed at eliminating a particular ethnic group. Because it is obvious that the military groups that arrived at each of the communities followed the same pattern of behavior: violent killing, burning of houses [and] destruction of the community; which, if compared to the guidelines given by the Victoria 82 Military Plan, Firmeza 83 and the Operation Sofia Plan, constitutes the practical implementation of those plans.

In performing a legal analysis of the crime of genocide and comparing it to the evidence produced during the oral arguments, we found that the testimony of the Ixil women and men [allowed us to] establish that indeed they belong to the Ixil ethnic group and that their communities were located in the areas of Santa María Nebaj, San Juan Cotzal, and San Gaspar Chajul, in the department of El Quiché. [It] has been conclusively shown that they were civilian populations, dedicated to agriculture. The evidence produced during the oral arguments, the testimony of the victims and the aforementioned expert opinions have [all] confirmed the partial destruction of an ethnic group, in this case, 5.5 percent of the Maya Ixil population. Members of the group were killed, as confirmed by the testimony of the surviving victims, who clearly stated how their relatives were killed, as well as by the anthropological and archaeological expert opinions showing the existence of multiple clandestine cemeteries.

The damage to physical integrity was confirmed by the testimony of the victims, mainly the women who were raped, and mental harm [confirmed] by the expert opinion provided by the expert witness GOMEZ DUPUIS, who analytically described all the harm caused to the victims. In our analysis, we have shown that children were moved from group to group, given that, according to the statements of the witnesses JACINTO LUPAMAC GOMEZ, TIBURCIO UTUY and JULIO VELASCO RAYMUNDO, the surviving children were taken to the military installations and were later relocated to other places, including the city, where they had no acquaintances and could not even express themselves in their mother tongue, thereby being denied their ability and freedom of expression.

Throughout these oral arguments, it has been objectively verified that the civilian population of the Ixil group that lived in the villages and hamlets of Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul were victims of murders on a massive level, which constitute massacres, [as well as] torture, degradation, massive sexual violations, forced displacement [and] moving of children from one group to another, in light of which we the Judges are absolutely convinced of the intent to cause the physical destruction of the Ixil group.

[It] has been determined that the elements of the crime of GENOCIDE as set forth in article 376 of the Criminal Code are found in the case being tried, given that there were killings of members of the group; serious damage to the mental or physical integrity of the members of the group, intentional exposure of the group to living conditions leading to their physical destruction, either total or partial; measures aimed at preventing births in the group, as well as forced displacement of children from one group to another, [all of] which has been supported by the evidence analyzed above.

The testimony and military expert opinion given by the Expert Witness RODOLFO ROBLES ESPINOZA allows us to establish that the members of the high command of the army had control over the events, and that in their position they could have stopped the actual attacks against the civilian

population, the disappearance of the Maya Ixil group, and prevented impunity, as well as the violation of human rights. In his ample expert opinion, he shows that the State avowed the existence of an internal enemy, and [that there] were combat planning and control operations. [He] pointed out that, within an organization, the responsibility lies with the Chief of such military organization. In addition [he] explained that the implementation of the VICTORIA 82 MILITARY PLAN, which was applied in the Ixil area, followed the same patterns of behavior: violent deaths, razing of villages, burning of houses and crops, [all of] which forced people to move in order to save their lives, while others were forced to surrender to the army, due to hunger, and to join the civil self-defense patrols. The expert witness also showed that the FIRMEZA 83 MILITARY PLAN and the OPERATION SOFIA PLAN were put into practice, [and] provided for periodic reporting of the military activities that were carried out, of which the members of the General Staffs were aware. [It is] clear that the members of the High Command had control over military power [allowing them] to implement the strategy; which is why they could have stopped its actual effects, which their subordinates were causing, in order to prevent the violation of human rights. Therefore, the responsibility in the high command went all the way up to the De Facto Head of State and Commander in Chief of the Army, at the time JOSE EFRAIN RIOS MONTT, who had active leadership and knowledge of everything that was happening.

Furthermore, it is worth mentioning that the second phase of the Plan, the Sunday messages, appears in Annex H of the VICTORIA 82 MILITARY PLAN, as a specific activity to be carried out by the then President of the Republic, which corroborates that the activity was indeed previously planned and followed the specific objectives that had been developed. In light of the foregoing, we the Judges believe that the accused JOSE EFRAIN RIOS MONTT was aware of everything that was happening and didn't stop it, despite having the power to prevent its perpetration. [This was] in addition to being aware of the existence and implementation of the VICTORIA 82 [and] FIRMEZA 83 Plans and the OPERATION SOFIA PLAN, which he authorized. [The expert witness] clearly stated that no plans can be implemented without the authorization of the Commander in Chief of the Army.

Command responsibility also exists, given that the Commander in Chief of the Army is the highest authority and the command is vested in him. [The expert witness] stated that there was a duty to prepare periodic reports on the operations, which allows us to establish that the highest military authorities were aware of the progress of the plans. In his ample explanation, the Expert Witness ROBLES ESPINOZA pointed out that a D2 or Director of Military Intelligence has no actual command authority, and as a result he cannot give orders to a military base, he cannot order the delivery of a detainee, he has no direct influence in the field of operations, and he cannot be held liable for any action. [He] explained that the Director of Intelligence has no responsibility because he has no actual command authority in the field of operations. [He also] explained that El Quiché belonged to the Twentieth Zone (Zona Veinte), which was assigned to the Gumarcaj Task Force.

We the Judges, by applying logic, psychology and experience as principles of sound legal reasoning, believe that it is logical to assume that the accused JOSE EFRAIN RIOS MONTT, as De Facto Head of State and Commander in Chief of the army of Guatemala, was aware of everything that was happening in the villages located in El Quiché, [as well as] of all the massacres that were being committed, and did not stop them, despite having the power to prevent their perpetration. Why do we say that he was aware? Because logically, if he was in command of the State of Guatemala, in his capacity as De Facto Head of State, he was aware of the plans developed in order to control the "red areas" (zonas rojas), where the guerrilla movement was believed to be [operating], which led them to implement the Victoria 82 [and] Firmeza 83 Plans and the Operation Sofia Plan, which clearly stated that it was necessary to obtain control over the population and to eliminate the "internal enemy." Needless to say, in reality this was not restricted to planning statements, but rather, the plans were [actually] implemented because, as the testimony of the witnesses have allowed us to confirm, villages were razed, houses were burned and people were killed. It would be illogical to think that the then De Facto Head of State, JOSE EFRAIN RIOS MONTT, was not aware of what was happening in the villages of El Quiché, when

the witnesses themselves state that airplanes and helicopters came to bomb the population. Because, as the expert witness JOSE LUIS QUILO AYUSO affirmed, General JOSE EFRAIN RIOS MONTT was the Commander in Chief of the Army, [and the expert witness] confirmed that in effect Plans are authorized by the President of the Republic and Commander in Chief of the Army and were developed by the Director of Military Intelligence. The expert witness clearly stated that the Victoria 82 Military Plan, in Article 3.II, provides for the annihilation of the clandestine committees, which were community forces that attacked the population. One of the army's objectives [was] to recover the civilian population. In this expert opinion, [he] described the participation of General JOSE EFRAIN RIOS MONTT in the internal armed conflict, stating that it was he who gave the order to develop the National Security and Development Plan and ordered the development of the National Military Plan, which was called Victoria 82, thus showing that he not only ordered its development, but also that he was aware of it, and [that] of course he authorized its implementation, while also being aware of the massacres that took place, without having given [any] orders to stop them.

For all the reasons above, we the Judges believe that the behavior of the accused JOSE EFRAIN RIOS MONTT falls within the definition of the crime of GENOCIDE provided for in article 376 of the Criminal Code, as the main perpetrator, pursuant to article 36 paragraph 3 of the same statute, as a result of which he must be sentenced accordingly.

And concerning the accused JOSE MAURICIO RODRIGUEZ SANCHEZ, as Director of Intelligence of the Army, according to the statements of the expert witness ROBLES ESPINOZA, [who] stated that a D-DOS has no direct influence in the field of operations, and cannot be held liable for any action. [The expert witness] explained that the Director of Intelligence has no responsibility because he has no actual command authority in the field of operations, as well as the fact that each Military Command determines how it will operate in its area of responsibility, in accordance with their respective intelligence [reports] and situation. [Therefore,] we the Judges [decide] to acquit him of the crimes of which he is accused, pursuant to article 14 of the Constitution of the Republic of Guatemala and article 14 of the Criminal Procedure Code, which provide that when in doubt, the accused is to be acquitted.

B. CRIMES AGAINST HUMANITY:

We the Judges believe that the means of proof that we have analyzed prove that the inhabitants of Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul belonged to the Ixil ethnic group, [that] they were persons dedicated to agricultural activities, and [that they] belonged to a civilian population that was attacked without offering resistance. [It] has been amply demonstrated by the historical, social and military expert opinions, as well as by the testimony of eyewitnesses, that the men, women, elderly people and children were subjected to inhuman treatment, [given that] they were removed from their houses, subjected to torture, a great number of women were raped, and the survivors were forced to flee to the mountains in order to save their lives. [This] shows that they were treated with extreme cruelty and brutal perversion. [It] has been demonstrated that the aim was to cause the disappearance of the Ixil ethnic group.

We the Judges, in studying and laying out the actions of the accused JOSE EFRAIN RIOS MONTT, as proven by the evidence produced during the oral arguments, believe that the behavior of the accused JOSE EFRAIN RIOS MONTT falls within the definition of CRIMES AGAINST HUMANITY, as principal in the first degree, pursuant to articles 36 paragraph 3 and 378 of the Criminal Code, and that therefore he must be sentenced accordingly, given that as DE FACTO HEAD OF STATE, and COMMANDER IN CHIEF OF THE ARMY he had was aware [of the events], and [yet] allowed inhuman treatment to be inflicted upon the Ixil inhabitants of the villages and hamlets located in Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul,

Concerning the accused JOSE MAURICIO RODRIGUEZ SANCHEZ, given that his participation

in the facts that are attributed to him has not been proved, in particular in light of the testimony given by the expert witness ROBLES ESPINOZA, who stated that a D-DOS has no direct influence in the field of operations, and cannot be held liable for any action [sic]. [He also] explained that the Director of Intelligence has no responsibility because he has no actual command authority in the field of operations, as well as the fact that each Military Commando determines how it will operate in its area of responsibility, in accordance with their respective intelligence [reports] and situation, we the Judges [decide] to acquit him of the crimes of which he is accused, pursuant to article 14 of the Constitution of the Republic of Guatemala and article 14 of the Criminal Procedure Code, which provide that when in doubt, the accused is to be acquitted.

Sentence to be Imposed: We the Judges, pursuant to article 5 of the Criminal Code, proceed to perform the analysis of the sentence to be imposed in the following manner:

A.1 The Minimum and Maximum Term of Sentence for the Crime of Genocide: Article 376 of the Criminal Code defines the crime of GENOCIDE, and provides for a term of thirty to fifty years in prison; within this range, we the Judges have chosen to impose a sentence of 50 years' imprisonment, not commutable.

A.2 Minimum and Maximum Term of Sentence for Crimes Against Humanity: Article 378 of the Criminal Code provides for a term of twenty to thirty years in prison; within this range we have chosen to impose a sentence of 30 years' imprisonment, not commutable.

The Court is aware that no human being lives for the entire number of years of the sentence that we are imposing, but we have applied the corresponding sentence in accordance with the law, because we cannot fail to note that a significant number of people were murdered in the multiple massacres perpetrated in the Ixil area, for which reason we cannot ignore the victims, nor can we fail to discharge our duty.

B) Dangerousness of the Accused: The Court has no scientific evidence to determine the dangerousness of the accused.

C) Background of the Victims: The historical, social, military expert opinions, official records, and the witnesses' testimony have established that the inhabitants of Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul belonged to the Ixil ethnic group, that they were peaceful, that they were dedicated to agriculture, and [that they were a] non-belligerent civilian population.

D) Background of the Accused: According to the statements of the Expert Witness QUILO AYUSO and the documentary evidence that has been produced, the accused JOSE EFRAIN RIOS MONTT, during the period between the 23 of March, 1982 and the eighth of August, 1983, was the COMMANDER IN CHIEF OF THE ARMY OF GUATEMALA.

E) Motive of the Crime of Genocide and of the Crimes Against Humanity: Based on the historical, social, and military reports, as well as the testimony of the witnesses produced by the Office of the Government Attorney and the organizations acting as Co-Plaintiffs, we have determined that the motive of the crime consisted of the action [sic] of systematically eliminating the Ixil ethnic group, the intention for which is evidenced by the massive murders, [which] constitute massacres, [as well as by] the torture, degradation, massive raping, forced displacement [and] moving of children from one group to another, in light of which we the Judges are absolutely convinced of the intent to cause the physical destruction of the Ixil group, given that they were regarded as the [support] base of the guerrilla movement, and consequently as "internal enemies" that had to be annihilated.

F) Extent and Intensity of the Harm Caused by the Crime of Genocide and the Crimes Against

Humanity: The harm caused is irreparable [and] the human lives that were lost in the massacres are beyond human understanding. The attitude of the accused JOSE EFRAIN RIOS MONTT is unfathomable; [despite] having full knowledge [of the events] as DE FACTO HEAD OF STATE and COMMANDER IN CHIEF OF THE ARMY OF GUATEMALA, he allowed the Army to carry out all those massacres, massive sexual violations, harassment, torture and the establishment of military installations where personal freedom was restricted. We cannot understand how the accused, [who] had the knowledge, power and opportunity to give orders to the army, [which was] at his command, would allow the civilian population of the Ixil ethnic group, who for the most part were dedicated to agriculture, to be massacred. The scope [of the deed] exceeds the death of the innumerable individuals who died, because it put families into mourning. And the execution of its inhabitants [was] aimed at the elimination of the entire Ixil population, with the exception of the survivors who could flee to the mountains, where they lived under subhuman conditions, exposed to lack of food [and] medicine and to having to permanently remain in hiding in order to avoid capture.

Its intensity exceeds the limits, because, as proven through the psychosocial expert opinion given by the Expert Witness NIEVES GOMEZ DUPOIS, the relatives of the deceased are [still] affected by the events, [and] to date they [still] suffer posttraumatic stress. The Judges have noticed the witnesses' fear and pain when they appeared in court to give testimony, even though years have passed. In addition to the foregoing, we the Judges must state that acknowledging the Crime of GENOCIDE affects all Guatemalans, because in addition to causing damage to the victims in particular, and to their families, it has also damaged the social fabric of the Guatemalan people. We firmly believe that acknowledging the truth helps to heal the wounds of the past and [that] the pursuit of justice is a right of the victims, which also contributes to the strengthening of the rule of law in our country. [We] must raise awareness [so] that these kinds of events are never repeated, because the people of Guatemala want to live in peace, acknowledging our identity, our rich multicultural, multilingual [heritage] and the respect for the freedom of expression of our ideas.

G) Mitigating and Aggravating Factors: We the Judges do not find any mitigating factors, and the aggravating factors are already included within the definition of each of the offences.

The Motion Referring to the Non-Existence and Inapplicability of the Offence of Genocide: On the basis of its analysis of the crime of Genocide as defined in article 376 of the Criminal Code and of the participation of the accused as described above, the Court DISMISSES the Motion referring to THE NON-EXISTENCE AND INAPPLICABILITY OF OFFENCE OF GENOCIDE, brought by attorney FRANCISCO GARCIA GUDIEL, in light of the previous considerations.

Reparation for the Victims: Throughout the bench trials, we observed that when the witnesses tell what happened in their communities, and relate the manner in which their relatives died, they conclude with a cry for justice and a demand that these events are never repeated, which would perfectly fit with the Right to Truth, Justice and the Non-Recurrence of the Events, which are a Right of the Victims. [This is the] reason why the Court orders the provisions of moral reparation for the victims in the following manner:

Article 124 provides [as follows]:

Right to adequate reparation. The reparation to which the victim is entitled comprises the restoration of the right that has been affected by the criminal act, which starts with the recognition of the victim as a human being in all their aspects [and] as a rights-holder against whom a criminal act was committed, and all the available options for their social reintegration in order for to the victim to enjoy or make use of the affected right as soon as possible, to the extent that such reparation is humanly possible, and if applicable, compensation for damages resulting from the commission of the crime; the exercise of this right will be governed by the following rules:

1. The claim for reparation can be brought during the criminal proceedings, once the judgment of conviction has been entered. The judge or court that renders the judgment of conviction, if there is a specific victim, will summon the parties and the victim or aggrieved party to the reparation hearing, which will be held within three days.
2. At the reparation hearing, the amount of the compensation, the restitution, and if applicable, the damages, will need to be established in accordance with the evidentiary rules, and a decision will be immediately rendered during the hearing.
3. The written ruling will include the reparation decision, the aforesaid criminal liability and the sentence.
4. Notwithstanding the foregoing, the victim or aggrieved party can petition the competent judge or court at any stage of the criminal proceedings to adopt precautionary measures in order to secure enough assets to cover the amount of the reparation.
5. The ruling on civil liability will be enforceable once the judgment of conviction becomes final and non-appealable. If a claim for reparation is not filed in these proceedings, the victim or aggrieved party retains the right to bring the claim through a civil action.”

In this case, the Court, pursuant to the aforementioned provision, as well as article 119 of the Criminal Code, and taking into account the experts’ reports and evidence produced during the oral arguments, UPHOLDS the ADEQUATE REPARATION requested by the Co-Plaintiffs and Civil Parties ASOCIACION PARA LA JUSTICIA Y LA RECONCILIACION and CENTRO PARA LA ACCION LEGAL EN DERECHOS HUMANOS, as follows;

- a) Ordering that whoever holds the offices of president of the each of the branches of Government (Executive Branch, Legislative Branch and the Judiciary), Women’s State Secretariat, Minister of Governance and Minister of National Defense, in person and not through delegates, apologize to the women of the Maya Ixil People, for the acts of gender violence, including the acts of sexual violence committed against them as a result of the crimes of Genocide and Crimes against Humanity perpetrated against them during the internal armed conflict, in a ceremony to be held at: i) the National Palace; and, ii) at each of the seats of municipal government of Santa Maria Nebaj, San Juan Cotzal and San Gaspar Chajul.
- b) Ordering that whoever holds the offices of president of each of the branches of Government (Executive Branch, Legislative Branch and the Judiciary), Minister of Governance and Minister of National Defense, in person and not through delegates, apologize to the Maya Ixil People, for the acts of Genocide and Crimes against Humanity committed against them during the internal armed conflict, in a ceremony to be held at: i) the National Palace; and ii) at each of the seats of municipal government of Santa Maria Nebaj, San Juan Cotzal and San Gaspar Chajul.
- c) Ordering that the education authorities of the training centers for the military, police or any other state agency that performs prevention, intelligence and investigation activities offer permanent training on Human Rights and International Humanitarian Law. [Such courses] are to be addressed to all the personnel, so that in exercising their duties they “Never Again” commit acts against cultural diversity, the respect of human rights and International Humanitarian Law.
- d) Ordering that whoever holds the offices of President of the Republic and Minister of National Defense deposit with the municipal governments of Santa Maria Nebaj, San Juan Cotzal and San Gaspar Chajul a scroll bearing the apologies of the government and of the Army of Guatemala to the Maya Ixil People for the acts of Genocide and Crimes against Humanity committed against them.
- e) [Ordering] that the Executive Branch builds a National Monument, as well as one in each of the municipalities of Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul honoring the victims of Genocide and Crimes against Humanity during the internal armed conflict, that serves as a visual

reminder of the gender violence suffered by Ixil young girls and women, as well as that suffered by Ixil children.

f) Ordering that the Executive Branch, through the competent authorities, establish education centers for pre-school, primary school, secondary school, diversified secondary and university level at Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul.

g) That the Executive Branch, through the competent authorities, include in the National Reparations Program the category of Genocide and Crimes against Humanity, in order to give access to compensation.

h) That the Executive Branch builds in the Ixil region a Cultural Center for the rescue and promotion of cultural expressions, dedicated to the recovery of historical memory and the non-recurrence of acts against the freedom of thought and the cultural identity of the peoples.

i) That the Office of the Government Attorney, by means of a mural dedicated to the Maya Ixil People, reaffirm its commitment to contributing to a Justice System that is respectful of cultural diversity.

j) The Executive Branch must introduce a draft bill to the Congress of the Republic, so that an Act is passed ordering the commemoration of a National Day against Genocide on the 23 of March of each year.

k) That the Executive Branch develop a program for the dissemination of the contents of this Judgment through official and private media, aimed at the non-recurrence of the acts of genocide, the peaceful coexistence of the peoples and respect for cultural and linguistic identity.

l) That the Executive Branch, through the Ministry of Education and Culture, establish a Travelling Museum that promotes, both nationally and internationally, respect for the identity of peoples, peaceful coexistence and the non-recurrence of violations of the International Humanitarian Law and Human Rights. Concerning time limits, despite the fact that the Co-Plaintiffs have set deadlines for the performance of each of these activities, the Court believes that it is not possible to set a specific time limit for the achievement of each of the activities that have been envisaged and which the Court is approving by means of this decision, [given that it] requires taking several steps, both legal and logistical, and for budgetary reasons; therefore the Court does not establish a time limit for the performance of these activities; with the understanding that the interested parties, in this case the Co-Plaintiffs, will eventually ensure compliance therewith when the Judgment is enforced. We also expressly state that the State of Guatemala is not being condemned in any way, [and that] the reparation measures that have been accepted do not constitute a conviction of the State, but rather the use of the appropriate mechanisms to give effect to the victims' right to reparation.

Legal Situation of the Accused: Since the accused JOSE EFRAIN RIOS MONTT, is currently enjoying alternative measures, the measure decreed by the First Criminal Court of First Instance for Criminal Justice, Drug Trafficking and Environmental Crimes is revoked and his immediate detention is ordered, in order to guarantee the result of the proceedings, and in light of the nature of the crimes for which he has been convicted, his immediate imprisonment [is] ordered. Notices must be issued accordingly. Since the accused JOSE MAURICIO RODRIGUEZ SANCHEZ is currently imprisoned, and for health reasons confined in a Hospital, he is to remain in the same legal situation until the ruling becomes final and non-appealable.

Continuation of the Investigation by the Office of the Government Attorney: The Court instructs the Office of the Government Attorney to continue the investigation against any other individuals who may have participated in the events being tried.

Court Costs: The accused is exempted from paying court costs.

Ruling: The court, on the basis of the foregoing, the invoked statutes and [the following] articles: Article 3 of the Geneva Conventions; 1, 2, 3, 4, 5, 6, 7 [and] 8 of the Convention on the Prevention and Punishment of the Crime of Genocide; Human Rights Treaties and Conventions; 7, 8 [and] 9 of the American Convention on Human Rights; 12, 46, 203 and 204 of the Constitution of Guatemala (Constitución Política de Guatemala); 1, 2, 9, 10, 20, 36, 41, 50, 65, 132, 376 [and] 378 of the Criminal Code; 1, 2, 3, 4, 5, 7, 11, 11 bis, 14, 15, 16, 17, 19, 20, 21, 24, 37, 40, 43, 48, 70, 71, 72, 92, 107, 108, 150, 160, 161, 162, 166, 169, 177, 181, 182, 186, 201, 202, 207, 211, 219, 220, 225, 226, 249, 298, 332 bis, 342, 354, 355, 356, 358, 359, 360, 362, 364, 366, 368, 369, 370, 372, 375, 376, 377, 378, 380, 382, 383, 385, 386, 387, 388, 389, 390, 392, 395, 396, 397 [and] 511 of the Criminal Procedure Code; 141, 14 [and] 143 of the Judiciary Act (Ley del Organismo Judicial).

In deciding, [the Court] UNANIMOUSLY DECLARES:

I. The Motion referring to THE NON-EXISTENCE AND INAPPLICABILITY OF OFFENCE OF GENOCIDE, brought by the attorney FRANCISCO GARCIA GUDIEL, is DISMISSED in light of the foregoing.

II. That the accused JOSE EFRAIN RIOS MONTT is liable as principal in the first degree for the crime of GENOCIDE committed against the life and physical integrity of the civilian inhabitants of the villages and hamlets located in Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul.

III. For the aforesaid crime they [sic] must be sentenced to FIFTY YEARS' IMPRISONMENT, NOT COMMUTABLE.

IV. That the accused JOSE EFRAIN RIOS MONTT is liable as principal in the first degree for the CRIMES AGAINST HUMANITY committed against the life and physical integrity of the civilian inhabitants of the villages and hamlets located in Santa María Nebaj, San Juan Cotzal and San Gaspar Chajul.

V. For the aforesaid crime he must be sentenced to THIRTY YEARS' IMPRISONMENT, NOT COMMUTABLE.

VI. The imprisonment sentences that have been imposed will be served by the accused at the Prison that the competent Criminal Enforcement Judge determines, pursuant to article 69 of the Criminal Code.

VII. The accused JOSE MAURICIO RODRIGUEZ SANCHEZ is acquitted of the crimes of GENOCIDE AND CRIMES AGAINST HUMANITY, due to [the reasons] discussed above.

VIII. Since the accused JOSE EFRAIN RIOS MONTT is currently enjoying alternative measures, the measure decreed by the First Criminal Court of First Instance for Criminal Justice, Drug Trafficking and Environmental Crimes is revoked and his immediate detention is ordered, in order to guarantee the result of the proceedings, and in light of the nature of the crimes for which he has been convicted, his immediate imprisonment [is] ordered. Notices must be issued accordingly.

IX. Since the accused JOSE MAURICIO RODRIGUEZ SANCHEZ is currently imprisoned, and for health reasons confined in a Hospital, he is to remain in the same legal situation until the

ruling becomes final and non-appealable.

X. The exercise of political rights by the accused is suspended for the term of the sentence.

XI. The accused is exempted from paying court costs.

XII. UPHOLDS the ADEQUATE REPARATION requested by the Co-Plaintiffs and Civil Parties JUSTICE AND RECONCILIATION ASSOCIATION and CENTER FOR HUMAN RIGHTS LEGAL ACTION, as follows;

a) Ordering that whoever holds the offices of president of the each of the branches of Government (Executive Branch, Legislative Branch and the Judiciary), Women's State Secretariat, Minister of Governance and Minister of National Defense, in person and not through delegates, apologize to the women of the Maya Ixil People, for the acts of gender violence, including the acts of sexual violence committed against them as a result of the crimes of Genocide and Crimes against Humanity perpetrated against them during the internal armed conflict, in a ceremony to be held at: i) the National Palace; and, ii) at each of the seats of municipal government of Santa Maria Nebaj, San Juan Cotzal and San Gaspar Chajul.

b) Ordering that whoever holds the offices of president of each of the branches of Government (Executive Branch, Legislative Branch and the Judiciary), Minister of Governance and Minister of National Defense, in person and not through delegates, apologize to the Maya Ixil People, for the acts of Genocide and Crimes against Humanity committed against them during the internal armed conflict, in a ceremony to be held at: i) the National Palace; and, ii) at each of the seats of municipal government of Santa Maria Nebaj, San Juan Cotzal and San Gaspar Chajul.

c) Ordering that the education authorities of the training centers for the military, police or any other state agency that performs prevention, intelligence and investigation activities offer permanent training on Human Rights and International Humanitarian Law. [Such courses] are to be addressed to all the personnel, so that in exercising their duties they "Never Again" commit acts against cultural diversity, the respect of human rights and International Humanitarian Law.

d) Ordering that whoever holds the offices of President of the Republic and Minister of National Defense deposit with the municipal governments of Santa Maria Nebaj, San Juan Cotzal and San Gaspar Chajul a scroll bearing the apologies of the government and of the Army of Guatemala to the Maya Ixil People for the acts of Genocide and Crimes against Humanity committed against them.

e) [Ordering] that the Executive Branch builds a National Monument, as well as one in each of the municipalities of Santa Maria Nebaj, San Juan Cotzal and San Gaspar Chajul honoring the victims of Genocide and Crimes against Humanity during the internal armed conflict, that serves as a visual reminder of the gender violence suffered by Ixil young girls and women, as well as that suffered by Ixil children.

f) Ordering that the Executive Branch, through the competent authorities, establish education centers for pre-school, primary school, secondary school, diversified secondary and university level at Santa Maria Nebaj, San Juan Cotzal and San Gaspar Chajul. g) That the Executive Branch, through the competent authorities, include in the National Program also [sic] suffered by Ixil children.

f) Ordering that the Executive Branch, through the competent authorities, establish education centers for pre-school, primary school, secondary school, diversified secondary, and university level at Santa Maria Nebaj, San Juan Cotzal and San Gaspar Chajul.

g) That the Executive Branch, through the competent authorities, include in the National Reparations Program the category of Genocide and Crimes against Humanity, in order to give access to compensation.⁵

h) That the Executive Branch builds in the Ixil region a Cultural Center for the rescue and promotion of cultural expressions, dedicated to the recovery of historical memory and the non-recurrence of acts against the freedom of thought and the cultural identity of the peoples.

i) That the Office of the Government Attorney, by means of a mural dedicated to the Maya Ixil People, reaffirm its commitment to contributing to a Justice System that is respectful of cultural diversity.

j) The Executive Branch must introduce a draft bill to the Congress of the Republic, so that an Act is passed ordering the commemoration of a National Day against Genocide on the 23 of March of each year.

k) That the Executive Branch develop a program for the dissemination of the contents of this Judgment through official and private media, aimed at the non-recurrence of the acts of genocide, the peaceful coexistence of the peoples and respect for cultural and linguistic identity. l) That the Executive Branch, through the Ministry of Education and Culture, establish a Travelling Museum that promotes, both nationally and internationally, respect for the identity of peoples, peaceful coexistence and the non-recurrence of violations of the International Humanitarian Law and Human Rights. Concerning time limits, despite the fact that the Co-Plaintiffs have set deadlines for the performance of each of these activities, the Court believes that it is not possible to set a specific time limit for the achievement of each of the activities that have been envisaged and which the Court is approving by means of this decision, [given that it] requires taking several steps, both legal and logistical, and for budgetary reasons; therefore the Court does not establish a time limit for the performance of these activities.

XIII. The Office of the Government Attorney is ordered to continue the investigation against any other individuals that may have participated in the events.

XIV. When the judgment becomes final and non-appealable, it shall be referred to the Criminal Enforcement Judge so that the pertinent entries and registrations are made.

DOCTOR IRIS YASSMIN BARRIOS AGUILAR
PRESIDING JUDGE

ATTORNEY PATRICIA ISABEL BUSTAMANTE GARCIA
JUDGE

MAGISTER PABLO XITUMUL DE PAZ
JUDGE

SONIA ELIZABETH PANIAGUA OCAMPO
CLERK

⁵ Translator's note: text of f) and g) are repeated.

Cover photography: © Jorge Dan Lopez/Reuters

A protestor stands outside the Supreme Court of Justice in Guatemala City on January 28, 2013, before a pretrial hearing in the case against Efraín Ríos Montt and José Rodríguez Sánchez.

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Efraín Ríos Montt, the former military ruler of Guatemala, was convicted on May 10, 2013 of genocide and crimes against humanity. It was the first time a former head of state has been prosecuted in a national court for genocide, and followed a decade-long effort by legal groups representing the victims of atrocities carried out by the Guatemalan armed forces in the early 1980s. Three days later the conviction was overturned by the country's constitutional court on procedural grounds.

This book seeks to document this historic but troubled attempt to provide local justice for these mass crimes, by providing a summary of the six week trial, together with an English translation of key sections of the conviction.