



Canada Needs to Break its Silence in the Wake of Reversals in the Rios Montt Genocide Case

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We are writing to urge the Canadian government to take a stance on the ongoing case against Mr José Efraín Rios Montt, former military head of state of Guatemala from 1982-83, for war crimes and genocide committed during that country's civil war. As a coalition of Canadian civil society organizations engaged with development and social justice issues in the Americas, we are deeply concerned about the current status of this case following reversals in the landmark trial verdict against him. The need for international pressure has become urgent following an October 22 ruling by the Guatemalan Constitutional Court which opens the door for Mr. Rios Montt to be granted amnesty from the charges of genocide and war crimes he is facing¹.

The legal proceedings against Mr. Rios Montt began in January 2012, when he was charged as the intellectual author of the genocide of 1,771 Mayan Ixil people between 1982 and 1983. Dozens of requests for injunctions based on legal technicalities were submitted by Mr. Rios Montt's defense over the course of the case. According to Lawyers without Borders Canada (LWBC), "Respect for the constitutional rights of the defence and the right to a fair trial is fundamental. However, the defence's multiple alternative recourses and abuses of process in this case have raised doubts about its real intentions."²

Despite the numerous appeals and injunctions, Mr. Rios Montt eventually stood trial and was convicted of genocide and war crimes on May 10, 2013.³ This emblematic case was recognized internationally for its precedent-setting importance, as it was the first time a former head of state had been prosecuted for genocide by a domestic court in the Americas. Only ten days later the Constitutional Court annulled the verdict and ordered that the trial re-start from a point midway through the proceedings.⁴ The Constitutional Court's annulment of the verdict was denounced by human rights groups throughout the Americas.⁵ The court entrusted with the task of presiding over the retrial has now announced that it will not begin the new proceedings

¹ Byron Rolando Vásquez, "Ríos Montt se acerca a amnistía, según Corte de Constitucionalidad." Prensa Libre, October 23, 2013, http://www.prensalibre.com/noticias/justicia/rios_montt-amnistia-corte_de_constitucionalidad-juicio_genocidio-cc-masacre_0_1016298381.html

² LWBC, "Lawyers Without Borders Canada Perplexed by a Decision that Seems Contrary To the Interests of Justice." May 21, 2013, <http://asfcanada.ca/en/news/lawyers-without-borders-canada-perplexed-by-a-decision-that-seems-contrary-to-the-interests-of-justice-248>

³ BBC, "Guatemala's Rios Montt found guilty of genocide." May 10, 2013, <http://www.bbc.co.uk/news/world-latin-america-22490408>

⁴ Nic Wirtz, "Guatemalan Court Annuls Ríos Montt Verdict." Americas Quarterly. May 21, 2013, <http://www.americasquarterly.org/content/guatemalan-court-annuls-rios-montt-verdict>

⁵ Americas Quarterly Online, "Human Rights Groups Protest Annulment of Rios Montt's Conviction." May 24, 2013, <http://americasquarterly.org/taxonomy/term/2167>



until 2015.⁶ Victims' lawyers have since presented a petition at the Inter-American Commission on Human Rights for the violation to victims' rights to truth, justice and reparation which this unwarranted delay represents.⁷

The Constitutional Court's October 22 ruling, which opens the possibility of having the amnesty law applied and of getting the charges against Mr. Rios Montt thrown out, is a cause of concern for many civil society groups. As LWBC noted in a recent press release, amnesty laws seeking to shield officials from charges of genocide and war crimes are contrary to international law and cannot be used to nullify criminal charges.⁸ Moreover, this move represents a very real threat to the rights of the victims and to the possibility of a fair trial in this case and others like it.

A 2013 report by the International Crisis Group (ICG) on the Rios Montt trial highlights several structural problems within Guatemala's justice system, including the problem of a weak judiciary.⁹ In a 2011 interview, Javier Ciurlizza, ICG's Program Director for Latin America and the Caribbean, discussed the ongoing challenge of impunity in Guatemala, noting that "state institutions in this country are still very weak and, in many cases, infiltrated by CIACS [illegal security forces and clandestine security organizations]."¹⁰

As the Guatemalan justice system struggles to ensure accountability for the widespread crimes committed during Mr. Rios Montt's rule, it faces ongoing pressure from powerful economic and military forces within the country. Edgar Perez, a Guatemalan human rights lawyer who represents survivors in the Rios Montt case poignantly notes, "With the annulment of the verdict, there is now a risk that all that has been won in the past few years could be lost... It's very important that the international community and Canadians be aware and be vigilant of what will happen in Guatemala in the next year."¹¹

⁶ BBC, "Guatemala Rios Montt genocide trial to resume in 2015." November 6, 2013, http://www.washingtonpost.com/world/the_americas/guatemala-court-to-restart-ex-dictator-genocide-trial-in-2015-after-conviction-was-overturned/2013/11/05/e6e2d40c-467f-11e3-95a9-3f15b5618ba8_story.html

⁷ LWBC, "Impasse dans le procès pour génocide au Guatemala: ASFC participe au recours devant la Commission interaméricaine." November 18, 2013, <http://www.asfcanada.ca/en/news/impasse-dans-le-proces-pour-genocide-au-guatemala-asfc-participe-au-recours-devant-la-commission-interamericaine-310>

⁸ LWBC, "Abogados sin fronteras manifiesta preocupación ante la posible amnistía al ex jefe de Estado José Efraín Ríos Montt dentro del juicio por genocidio." October 25, 2013, <http://asfcanada.ca/documents/file/cdp-amnist%C3%ADa-jerm-2013-10-25.pdf>

⁹ ICG, "Latin American Report No. 50. Justice on Trial in Guatemala: The Ríos Montt Case." September 23, 2013, [http://www.crisisgroup.org/~media/Files/latin-america/Guatemala/050-justice-on-trial-in-guatemala-the-rios-montt-case.pdf](http://www.crisisgroup.org/~/media/Files/latin-america/Guatemala/050-justice-on-trial-in-guatemala-the-rios-montt-case.pdf)

¹⁰ ICG, *The Challenge of Impunity in Guatemala*, Podcast, 4:41, May 31, 2011, <http://www.crisisgroup.org/en/multimedia/podcasts/the-challenge-of-impunity-in-guatemala.aspx>

¹¹ Ally Foster, "Guatemala's courts need Canada's attention: Human rights lawyer." Embassy News. October 30, 2013, <http://www.embassynews.ca/news/2013/10/30/guatemala%E2%80%99s-courts-need-canada%E2%80%99s-attention-human-rights-lawyer/44723>



Canada's *Strategy for Engagement in the Americas*, which outlines the government's foreign policy priorities in the region, sees a role for Canada in "strengthen[ing] institutions that safeguard freedom, democracy, human rights and the rule of law."¹² Importantly, in 2011 the Canadian government announced a \$7.1 million contribution aimed at strengthening Guatemala's judicial and security sectors. This funding, in the words of then-Minister of State of Foreign Affairs (Americas and Consular Affairs) Diane Ablonczy, "reflects Canada's sustained commitment to Guatemala in its fight against crime and lack of security by supporting a range of Guatemalan institutions working to strengthen the delivery of security and justice."¹³

Indeed, Canada's support has contributed to a strengthening of Guatemala's justice system and an enhanced respect for human rights, reflected in a slight but important decrease in the country's impunity rate and the conviction of war crimes authors in several emblematic cases. The Attorney General of Guatemala, Claudia Paz y Paz, has played an important role in these gains. Ms. Paz y Paz was reportedly nominated for the 2013 Nobel Peace Prize for her prosecution of organized crime and massive human rights violations.

In a recent statement, Ms. Paz y Paz stressed Canada's role in helping Guatemala re-establish the rule of law, fight impunity and reduce crime. Pointing to Canada's support for the International Commission Against Impunity in Guatemala (CICIG) and for organizations such as LWBC, she concluded that "Canada's support has been critical." At the same time, she cautioned that "If we do not continue strengthening those efforts, there will be a setback. We will go back to what we had before."¹⁴

Despite the progress that has been made, Canadian support for justice in Guatemala has waned, what we hope is only a temporary trend. According to recent news, funding to some non-governmental organizations previously supported by the Canadian government in their work on the strengthening of Guatemala's judicial sector has thus far not been renewed. Moreover, Canada maintains its silence regarding the Rios Montt case despite recent developments that threaten to permanently undo what had been a landmark victory for human rights.

At this point in time, continued support for Guatemala's justice system and for the work of Ms. Paz y Paz is essential. Given its foreign policy goals, recent events in the Rios Montt case make it critical for the Government of Canada to dialogue with the Guatemalan State in order to ensure

¹² DFATD, "Goal 2: Strengthening Security and Institutions." Government of Canada. November 7, 2013, <http://www.international.gc.ca/americas-ameriques/security-securite.aspx?lang=eng>

¹³ DFATD, "Canada Committed to Peace, Justice and Security in Guatemala." Government of Canada. June 23, 2011, <http://www.international.gc.ca/media/state-etat/news-communiqués/2011/177.aspx>

¹⁴ Campbell Clark, "Attorney-General brings hope to Guatemala by taking a bite out of crime," The Globe and Mail. October 16, 2013, <http://www.theglobeandmail.com/news/politics/attorney-general-brings-hope-to-guatemala-by-taking-a-bite-out-of-crime/article14900071/>



that the case continues and does not remain mired in injunctions and delays. Furthermore, considering the increasing involvement of Canadian businesses in the country, particularly in the extractive sector, Canada has an increasing stake in supporting an effective justice system, respect for the rule of law, and an end to impunity in Guatemala.

Now is the time for the Canadian government to break its silence by issuing a statement in support of judiciary independence and a timely resolution of the Rios Montt trial in accordance with the fundamental principles of justice. In doing so, Canada will join many other important actors in the international community who are calling for perpetrators of the genocide to be held accountable.

Sincerely,

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The Americas Policy Group is a Canadian-based coalition comprised of approximately 40 international development and humanitarian NGOs, human rights groups, labour unions, research institutions, and church and solidarity groups.