

GUATEMALA

From April 30-May 4, 2001, EAAF member Luis Fondebrider and Argentinean forensic pathologist Luis Bosio conducted a workshop for 52 judges and staff from the Guatemalan Public Ministry, presenting new developments in the forensic sciences and their potential application to the cases coming before the Guatemalan courts in the post-Peace Accords era. In addition, this year the Guatemalan government paid reparations to survivors and families of victims of the Dos Erres massacre, a case EAAF helped to investigate in 1994-95. Finally, in 2001 eleven Guatemalan anthropologists involved in forensic investigations have received death threats.



La Verbena cemetery, Guatemala City, May 2001. An EAAF member and staff from the Guatemalan Public Ministry during a field training session. Photo courtesy of Dr. Luis Bosio.

HISTORICAL BACKGROUND

The Post-Peace Accords Era

According to two major inquiries, conducted by the Guatemalan Catholic Church's Recuperation of Historical Memory Project (REHMI) and the United Nations Committee for Historical Clarification (CEH) during the more than three decade-long conflict between the military and armed opposition in Guatemala (1962-1996), an estimated 200,000 people disappeared or were extrajudicially executed. Among them were social justice activists, labor organizers, and Mayan peasants, many of whom were forced from their villages or were the victims of large-scale rural massacres that eliminated an estimated 600 villages. Another million of Guatemala's ten million inhabitants were internally displaced or in exile outside of the country.



UN-brokered Peace Accords meant to re-establish the rule of law and address the underlying causes of conflict were signed by the Guatemalan government and the URNG (Revolutionary Union for a New Guatemala) guerrilla front on December 28, 1996, during the administration of President Alvaro Arzú. On December 19, 1996, shortly before the peace agreement was signed, the Guatemalan National Assembly passed an amnesty law limiting the legal actions that can be taken against perpetrators of war crimes.

Both the CEH and REHMI reports have attributed the overwhelming majority of abuses to the Guatemalan military and their civilian counterparts – including military commissioners and civil patrols – during the late 1970s and early 1980s¹. Recognizing that the armed forces systematically targeted indigenous communities throughout Guatemala, the 1999 CEH report concluded that the Guatemalan military had carried out genocide in four specific geographic areas of Guatemala. By declaring that these massacres constituted genocide, a crime not covered by the amnesty law, the CEH opened an essential space for the prosecution of Guatemalan war criminals.

One of the fundamental differences between Guatemala and other Latin American countries, points out Esteban Beltrán, Amnesty International director in Spain, is that many of those responsible for human rights violations are still in power, including former military dictator Efraín Ríos Montt, who is currently president of the Guatemalan Congress and wields substantial political power. Furthermore, there has been a resurgence of human rights violations in the past years, particularly since May 2000. Generalized violent crime, extrajudicial killing, lynchings, and a general lack of faith in the rule of law have become quite severe. Human rights workers, judges ruling on human rights cases, journalists, activists, social scientists and others have been repeatedly harassed and singled out by security forces.²

In this climate, relatives of victims continue to demand that incidents of human rights violations be investigated, the mass graves be exhumed, and that the remains of the dead be restored to their families and communities for reburial. In

this quest, they are buttressed by the declarations of the CEH report, which concluded that the clandestine cemeteries and the anxiety which many Guatemalans suffer because they don't know what happened to their loved ones is another manifestation of an open wound in the country. Healing these wounds, the report insists, implies exhuming secret graves, and identifying the disappeared. In this sense, exhumations are "an act of justice and reparation in and of themselves and a fundamental step in following the road of reconciliation." They constitute an act of justice because they are a part of "the right to know the truth."

CONFRONTING THE RECENT PAST

The year 2001 saw the conclusion of one landmark trial, the successful prosecution of those responsible for the murder of Bishop Juan Gerardi, who was bludgeoned to death in 1998 two days after publicly releasing the Catholic Church's report on human rights abuses during the civil war. The

Since February 2002, eleven Guatemalan Anthropologists involved in forensic investigations have received death threats. These threats may jeopardize future Human Rights investigations in Guatemala.

report was partly based on the exhumation performed by the Archbishop's forensic team. In June, a three-judge tribunal found retired Col. Byron Lima Estrada and his son, army Capt. Byron Lima Oliva, guilty of murder. Both were sentenced to thirty years in prison. Also convicted and sentenced in the case were a former presidential bodyguard and a Roman Catholic priest, Mario Orantes. The decision was immediately repealed and new threats were reported against the presiding judge, who was eventually forced into exile.

If human rights prosecutions can proceed in Guatemala, forensic evidence will be central to these trials. Recently, those involved in the collection and interpretation of such evidence have found themselves the object of threats. On February 21, 2002, a fire at a church in Nebaj, Quiché destroyed most of the documents stored there, which had contained information on 35 massacres recorded by the Catholic church between

1980-1983 in Nebaj alone. The day before the fire, forensic scientists from the Guatemalan Forensic Anthropology Foundation (FAFG) had removed human remains that had been stored at the church after they were exhumed from a mass grave in the village of Xecot.

In late February 2002 and again in early March, as reported by Amnesty International and other Human Rights organizations, eleven forensic anthropologists—all current or former members of the Guatemalan Forensic Anthropology Foundation (FAFG), or forensic experts with the Human Rights Office of the Archbishopric of Guatemala (ODHAG), and the Center for Forensic and Applied Sciences (CAFCA) received death threats. All have worked on exhumations in the recent past. Several of those threatened had given key forensic testimony in proceedings against former government officials for past human rights abuses. In the threats, according to Amnesty International, the anthropologists were warned "in a war there are no guilty parties and it is not your place to judge us" and that "there will be no legal proceedings because of any exhumations done by you bastards or any damn

foreigner. We will kill you first, you piece of shit." Human rights groups suspect that these come from former military and intelligence officers involved in mass killings during the civil war.³ As we go to press, additional threats have been directed against local Human Rights activists and journalists. The UN, Amnesty International, and other organizations are speaking out against these threats.

EAAF's Work in Guatemala

From April 30–May 4, EAAF member Luis Fondebrider and Argentine forensic pathologist Luis Bosio conducted a workshop on forensic anthropology during which they invited the 52 participants, mainly judges and staff from the Public Ministry, to take part in a training exhumation to enhance their understanding of forensic anthropology



Dos Erres, circa 1980. Children at Dos Erres' school months before the massacre. Photo courtesy of FAMDEGUA.

procedures and the archaeological removal of remains. The group exhumed an unidentified individual from La Verbena cemetery in Guatemala City. The workshop was organized by Bosio and the Public Ministry of Guatemala as part of the Technical Cooperation program with the Argentine government.

While in Guatemala, Fondebrider and Bosio also visited the offices of Forensic Medicine Services in Guatemala City and met with Dr. Mario Guerra, its director. After touring the facility and discussing the development of forensic sciences in Guatemala, the three agreed to explore possibilities for further training for local forensic specialists.

EAAF has worked in Guatemala since 1991, initially invited to carry out exhumations by Guatemalan groups representing the families of the victims of the civil war. In 1991, EAAF participated in the exhumation of a clandestine grave in Chontala, in the Quiche region. This was

one of the first exhumations to take place in Guatemala. In 1992, forensic specialists and EAAF members helped to train the FAFG, who began to carry out exhumations throughout Guatemala, and have since gone on to participate in international missions. In 1996, ODHAG, the Guatemalan Archbishop's Human Rights Office, formed a second forensic team.

EAAF members participated in subsequent exhumations in the Quiche region in 1992 and 1993, and in the Petén region in 1994 and 1995. In 1997, the FAFG requested that EAAF regularly collaborate with its investigations. The two organizations established an agreement in which EAAF members conduct periodic missions to Guatemala to provide technical assistance and continue the ongoing exchange of skills and experience between the two teams. Under the terms of this agreement, EAAF participated in four investigative missions since 1997.

Compensation Paid to the Families of the Victims of Dos Erres⁴ Massacre

In 2001, the families of the victims of the massacre in Dos Erres were finally awarded compensation for the deaths of their loved ones, the first reparation to be paid by the Guatemalan government for human rights crimes that occurred during the war. EAAF worked on this case in 1994 and 1995.⁵

According to eyewitnesses, on December 5, 1982, the *Kaibiles*, an elite force of the Guatemalan Army, entered Dos Erres, La Libertad, an agricultural settlement in the northeastern department of Petén populated by landless peasants from other parts of Guatemala. During the three days that they were there, they reportedly massacred more than 330 men, women, and children, raping the women before killing them. They allegedly threw the bodies into the village well, starting with those of the children, or left them in the surrounding woods and the village was then razed. A resident of Dos Erres, reports Amnesty International, had been tortured to say that the villagers were guerrillas. After leading the Army there, an eyewitness claims that he was killed (Amnesty International, 2002).

In the years after the massacre, local parish priests gathered testimonies of survivors and victim's relatives, passing them on to local and national human rights organizations. In July 1994, EAAF was invited by FAMDEGUA (Organization of the Relatives of the Detained/Disappeared in Guatemala) and ODHAG, to conduct the first exhumations at the site. Team members recovered the remains of 171 individuals, 162 from the well and others from the woods. EAAF established the identities of three victims anthropologically. Relatives and survivors identified another sixteen, aged six to sixty five, based on clothing and personal effects.

Despite skeletal remains and other overwhelming evidence, the Public Prosecutor appointed to the case did not follow up on testimonies collected by FAMDEGUA or other aspects of the investigation, claiming that former military personnel had threatened his life and he feared for himself and his family.⁶ Continued requests to the Office of the

Attorney General failed to produce a special investigating attorney for the case until 1996. Even then, little happened. FAMDEGUA, as representatives of the relatives of the victims, and the Center for Justice and International Law (CEJIL), a legal organization based in Washington, DC, introduced the case before the Inter American Commission for Human Rights of the Organization of American States on September 13, 1996 (Case No. 11,420). The plaintiffs accused the Guatemalan government of violating several articles of the American Convention on Human Rights, particularly Article 4, the Right to Life; Article 8, Judiciary Guarantees; and Article 25, Judicial Protection.

In reply to the Commission in 1997, the government of President Arzú acknowledged that it was impossible to deny what had happened at Dos Erres. However, they asked that the Commission take into account the “prevailing insecurity” of the time. In July 1997, the Guatemalan government appointed a new investigating attorney to the case. The high-ranking military called for testimony—including General Rios Montt and General Mejia Victores, Minister of Defense when the massacre occurred—denied all knowledge of this and other massacres and attributed them to the guerrilla forces. After charges were announced against 14 soldiers in the Dos Erres case, there were further threats and intimidation of staff of FAMDEGUA and the UN Mission to Guatemala (MINUGUA) working in the Petén, and the investigation was suspended for several months.

When inquiries resumed at the beginning of 1998, they stalled abruptly when two former soldiers present at the massacre, who had given pre-trial testimony, failed to appear, stating that they were unwilling to give formal testimony unless their safety and that of their families could be guaranteed. The two, both former *Kaibiles* who allegedly guarded the perimeter for the military unit but did not directly participate in the killings, gave their testimonies in exchange for asylum. They testified that the executions began with soldiers throwing babies and children into the well. This was consistent with EAAF's exhumation, in which we found children's bodies at the bottom of the well, followed by women's bodies, and then those of men.

In 1998, FAMDEGUA also extended its suit against the Guatemalan government to ask for compensation for survivors and relatives of the victims, and asked the Commission to help negotiate payments. On March 2, 2000, an agreement to reach an amicable solution was signed between the Guatemalan government and FAMDEGUA and CEJIL before the Inter American Commission. This resolution was guaranteed to include compensation and reparations to be paid by the Guatemalan government. This so-called “friendly settlement” was signed on April 1, 2000. By accepting this settlement, the Guatemalan government ensured that the case would in all likelihood not result in an Inter

insist that those responsible be brought to justice, pointing out that at least four participants in the massacre were still active in military service and that the new Minister of the Interior, appointed in November 2001, was believed to have trained the responsible military patrol.

The Dos Erres reparations and the sentences handed down in the Gerardi case represent progress for processes of justice and human rights in Guatemala. In the few cases having to do with the war that have been heard in courts, forensic evidence has been central. Therefore, current threats to forensic scientists come at a critical moment for the peace process in

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American Court ruling against Guatemala. However, FAMDEGUA understood the agreement to imply only that the state recognized its responsibility for the massacre. Family members continued with their suit before the Guatemalan courts.

Numerous setbacks to the agreement ensued, some due to threats, others to appeals on the part of the military. Among these setbacks were the exile of four people involved in the case, including two former *Kaibiles*, one survivor, and the Special Investigator appointed in 1997. Finally, in December 2001, nineteen years after the massacre, the Guatemalan government paid Q14 million (approximately US \$1.87 million) to families of the people massacred at Dos Erres. Still outstanding pursuant to the agreement are the Guatemalan government’s obligations to provide physical and psychological treatments to survivors and families of the victims, to investigate and try those responsible and to build a monument in memory of the victims of the massacre. While they welcomed the reward, relatives continued to

Guatemala and for the work of those who have been involved in gathering evidence for almost a decade. As Dr. Clyde Snow recently commented to the New York Times,

“these people are probably more afraid of the dead than they are of the living. Witnesses may forget throughout the years, but the dead, those skeletons, they don’t forget. Their testimony is silent but very eloquent.”⁷

FOOTNOTES

1. Ninety-three percent of Human Rights violations and acts of violence registered by CEH were attributable to actions by the State. The Guatemalan armed forces were considered responsible for 50,000 of the 55,000 cases studied by REHMI.
2. Amnesty International.
3. See “New Violence Over Rights Raises Fear in Guatemala” David Gonzalez, New York Times, May 3, 2002, and Amnesty International.
4. Dos Erres, meaning “Two Rs” was founded in 1978 by Mr. Ruano and Mr. Reyes, whose initials became the village’s name. The village was settled as part of a Guatemalan government campaign to populate the Petén.
5. For more information, please see “Exhuming Political Violence in Guatemala: Forensic Anthropology and the Investigation of Human Rights Violations in Dos Erres, El Petén, Guatemala”, by Patricia Bernardi, Darío Olmo and Silvana Turner.
6. See “Impunity in Guatemala: The State’s Failure to Provide Justice in the Massacre Cases”, Report of the March 2000 Crowley Delegation to Guatemala, Fordham Law School.
7. New York Times, May 3, 2002.