Guatemala is grappling with the horrors of its recent past. Between 1960 and 1996, the country was engaged in a tortuous civil war between the authoritarian government and a coalition of leftwing rebel groups, typically from poor, rural, Mayan communities. Over 200,000 civilians were killed or ‘disappeared’ (the practice of U.S.-trained death squads capturing, torturing, and executing opponents, then disposing their bodies into the Pacific). A United Nations human rights truth commission published in 1999 attributed 93% of the atrocities to government forces.¹ According to the commission, the activities of the Guatemalan government amounted to genocide against the Mayan people.

In 2013, after years of wrangling, former dictator José Efrían Ríos Montt was finally brought to trial. The prosecution secured a guilty verdict on the charges of genocide and crimes against humanity. However, this victory was short-lived. Ten days after the verdict, the Constitutional Court of Guatemala controversially ordered a portion of the trial to be repeated, citing a supposed violation of a technicality in the oral debate. Subsequent efforts to reinstate the trial have faced complications. In the words of Edgar Gutiérrez Girón, foreign minister between 2002 and 2004, post-conflict Guatemala has become “a kingdom of impunity.”²

Like many other countries recuperating after civil war, Guatemala has pursued policies of transitional justice. A product of the late Cold War, transitional justice was conceived as a way for formerly repressive regimes to transition to more peaceful, democratic, just societies. It involves a range of measures that identify and redress the legacies of past misdeeds, including investigating human rights abuses, putting perpetrators on trial, and providing reparations to victims. In June 2016, the United States State Department recognized the promotion of transitional justice as a priority of U.S. foreign policy.³

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In an exclusive interview with Alejandra Castillo Díaz, the assistant director of the organization that led the prosecution against President Ríos Montt, Rebecca TeKolste and Erik Woodward discuss the mechanisms of transitional justice currently operating in Guatemala.

**Yale Journal of International Affairs**: In the current Guatemalan context, what does transitional justice refer to?

**Alejandra Castillo Díaz**: When we talk about transitional justice, we are talking about the search for memory, truth, justice, and reparations. We’re talking about how, as a result of these processes, survivors become political actors with the capability to generate political transformations at the national level and, through social movements, at the community level. These processes develop organically over a long period; they are impossible to achieve immediately.

[In this system,] sentencing is not the ultimate goal of judicial processes. Instead, in searching for justice, you generate conditions that recuperate and fortify political identity, community identity, and the ability to break the silence about what happened. This search needs people to see reforms in the judicial system and to integrate themselves in the judicial process.

**YJIA**: When we think about transitional justice, we tend to think about a tension between forgiveness and retribution in the eyes of the victim. How is this tension reconciled in Guatemala?

**ACD**: The primary objective of transitional justice is to find mechanisms that guarantee that these acts won’t be repeated. It must build a system that recognizes that violations were committed and that no dictator will commit violations or denigrate the life of a citizen again. This message is shown in the testimonies of men and women in the trials. When they were asked by the judge, “why are you testifying,” they responded, “I don’t want my children and grandchildren to experience what I lived through.”

For them, this is broader than forgiveness. People say to me: “how can I forgive if I don’t know who committed the violations?” So there are two parts to the process of transitional justice: one is justice, another is truth. For them, this is not a reconciliation with the perpetrators but a dialogue. They want to understand exactly what happened, where the ‘disappeared’ are, and how we can learn from this experience. So this moves beyond the victim/victimizer relationship. It is a transformation of the structures of Guatemalan society.

**YJIA**: Can you speak more specifically about this in the Guatemalan context?

**ACD**: It is important to recognize the prevalence of racism, classism, and patriarchy in the lives of Guatemalan people. Since the Spanish invasion [in the early sixteenth century] when the state was constructed, racism, classism, and patriarchy have been a part of the nation’s history. They have been internalized in decisions and decision-making processes. They are the motors of human rights violations.

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So, after an internal armed conflict that lasted thirty-six years and included crimes against humanity, sexual violence, and genocide, we should ask: how do we use the processes of transitional justice to re-envision ourselves as a society? How can we identify these structural problems, principally racism and the disregard of the rights of indigenous populations, and rectify them?

YJIA: Your law firm was involved in the 2013 trial that found former dictator Efrén Ríos Montt guilty of crimes against humanity. While the verdict has not been nullified, the case itself has been reopened due to alleged technical irregularities in the judicial process. What is happening with this case?

ACD: Impunity does not die quickly. After the verdict was recalled, there were several attempts to initiate a new trial alongside Montt's director of military intelligence José Mauricio Rodríguez Sánchez. The last attempt was successful. However, Ríos Montt is in poor health and doesn't have the mental ability to be able to participate in a trial. There is a detail in the judicial system that says that when a person isn't able to participate in court, a representative can be assigned for him but the trial in such cases must occur behind closed doors. This is a problem because it violates the right of Rodríguez Sánchez to his own public trial. Incredibly! If the cases are divided, the trial would have to return to the beginning. This would be the fourth attempt to bring these two to trial.

YJIA: In the past decade, the International Commission Against Impunity in Guatemala (CICIG), an anti-corruption commission under the joint auspices of the United Nations and the Guatemalan government, has helped to uncover corruption in the highest levels of government. But I assume that the objective is that transitional justice solutions ultimately come from Guatemala. So, what changes in Guatemala will aid this process?

ACD: First, we must purify the judicial system. For every major case – corruption, drug trafficking, transitional justice – you can find out who the judge is, their connections, where they come from, who they talk to. And you can use this knowledge to say, “This judge is acting according to a context of impunity.”

Second, we must separate the army and the national police. They have two distinct mandates. It is always said that the army should have a civic role because the police are corrupt or because the police don’t have the capacity to protect citizens. Yes, the police have to be purified. But it should also have its own budget. This was a central goal of the Peace Accords.

Finally, I think the 1996 Peace Accords, which brought an end to the war, must be recuperated and revised. We have to revisit them, see what has advanced, and identify everything that hasn't advanced. In those instances, we must ask why it hasn't advanced and set new targets in place.
ABOUT THE INTERVIEWEE

Alejandra Castillo Díaz is the Assistant Director of the Center for Human Rights Legal Action (Centro para la Acción Legal en Derechos Humanos, CALDH). CALDH specializes in cases of transitional justice, representing victims of state-sponsored violence during the country’s thirty-six-year civil war, from 1960-1996.

ENDNOTES