

## **Guatemalan Experience in Dealing with the Past**

### Commission for Historical Clarification

Lecture by Marlies Stappers<sup>1</sup>  
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**Ljiljana Hellman:** Good day and welcome to you all. I am honoured to announce our guest for today, Marlies Stappers, who is the director of Impunity Watch, a Netherlands based NGO, with active projects in Serbia and Guatemala. She is, also, an expert on Latin America and Guatemala. She was present there during the conflict, and she worked as an investigator on the Guatemalan Truth Commission, after it was established. Today, she will speak about the experience of the commission and Guatemala in general.

**Marlies Stappers:** Good day. My Serbian is not so good, so this talk is going to be in English. Let me start by saying that I'm very flattered to be here and that I am able to talk to you about Guatemalan experience. I know that many of you here are very involved in the RECOM, and are pushing for that commission. So, I really hope that the Guatemalan experience can be of use to you. I've prepared this lecture in two parts. The first one is just to give you a very brief background of the conflict and the effect it has had on the Guatemalan society. I would like to invite you all to, during the presentation, if there is something unclear, or if there is an issue that you would like to hear more about, please feel free to post your questions so we can make this a working meeting, and I really hope that it can be useful to your work. So, as this first sheet says, in this lecture, we are going to explore the search for truth in Guatemala and I am going to share with you my experience from the Commission for Historical Clarification. That was the name of the Guatemalan truth commission. As I said, I will start by giving you a very brief overview of the conflict, of the armed confrontation in Guatemala. The Guatemalan internal armed conflict officially lasted from 1962 until 1996, and it was an armed confrontation that took place between the state and the guerilla forces. In 1962, that is when, for the first time, the guerilla starts to appear in Guatemala, and this is why the Commission for Clarification put 1962 as the official initial date of that conflict. I think that it is important to bear in mind that the conflict in Guatemala was, really, one of the most brutal ones that Latin America has known. And, normally, the conflicts in Argentina, Chile, even in El Salvador or Nicaragua, are much more familiar. But, if we come to compare those conflicts with Guatemala's, it's really dramatic to see a much higher death toll and, also, the extent of the violence and cruelty, which was extremely high in Guatemala. The truth commission in Guatemala estimated that, during the conflict, 200,000 civilians were killed or have disappeared, and that among those victims were men, women and children alike. And, also, a very important element of the conflict is that the majority of the victims belong to the Mayan population, 83 percent. The crimes that were committed during this period were, really, of all ranges. But, the ones that can be highlighted are extrajudicial killings, massacres, forced disappearances, torture and cruel inhumane acts, sexual violence, as well as genocide against Mayan groups. And, out of all those violations, whereas we are talking officially about an armed conflict, 93 percent of all these crimes are to be attributed to the state. And, the state includes both army and paramilitary groups, and other security forces. Only three percent could be attributed to the actual guerilla forces, and for four percent, it was not possible to establish who was responsible. If you come to read the Guatemalan report, you will see that the commission concluded that Guatemala actually committed state terrorism

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against its population, and that state terrorism needs to be seen within the doctrine of national security existing in the framework of the cold war. The United States played a very important role which had a lot to do with communism in the world, the cold war, as I said, but also with what had recently happened in Cuba, the victory of Fidel Castro. And, obviously, that made the United States very afraid of what might happen on the continent and Guatemala, being seen by the United States as their backyard. So, this was of particular interest to them, that communism would not spread to the region, and this explains, in part, why the US took a very large interest in supporting the repressive state in Guatemala in developing the doctrine of national security. And, a very important aspect of the doctrine was that, whereas the army normally had a role of guarding the frontiers of the country and protecting the country from outside threats, with the doctrine of national security the enemy was perceived as being much more within the state limits, and it was the concept of the internal enemy. And, according to this doctrine, it was the guerilla, directly, who were their main enemy and needed to be combated, but, also, the population that was prone to be a social basis for that guerilla, and that was predominantly the Mayan population, because they lived in a situation of extreme poverty. There was a lot of racism, so they thought that, due to their condition of poverty, they were more prone to get involved in social justice or more prone to sympathize with communist values. And that is why the entire Mayan population was seen as a potential internal enemy. And, I think that explains, also, the brutality and the extent of the violence that was committed, especially against that population. If you take a look at the Guatemalan Conflict, you can see, like, waves of violence and, as I've told, in 1962, that is when guerilla forces first start appearing. And, that had a lot to do with what is called in Guatemala the closing of the political spaces. In the early sixties you saw that there was a starting social movement that wanted to achieve more social justice for the excluded population. And, once you see that these movements start appearing, then that's also when the repression starts. So, in the first phase, it's really a repression against the social leadership and its union leaders, its people in the university, which are really being tackled by the violence and massive repression. And, because of the closing of the political spaces, more people see no other option but to continue their social struggle, to spread it around. And, that is when more people start sympathizing with the guerilla and, also, take up arms. When that happens, it's a vicious circle, almost, the response of the state also gets much more brutal, in order to prevent the guerilla from getting more sympathy. Rather than to attack the guerilla itself and fight a military war, the strategy was to fight a war against their potential social base, and that is indigenous community. So, we see that in the period at the end of the seventies - the early eighties, a policy of massacres is really being committed in the interior of Guatemala against the Mayan population, and thousands of people get erased off the map. Complete communities are burned to the ground and killed in a brutal manner. According to the army, according to their military doctrines, it was a period they call the campaign ashes, and it describes how their campaign was really, literally, burning communities to the ground. And, it was in these years, also, that the Commission for Historical Clarification found that genocide occurred against the Mayan population. After the period of the massacres which was, more or less, '82 - '83, the military moved into a new phase, and it was a phase in which they wanted to control the effect of the massacres when, really, the social bases of the guerilla was destroyed and the guerilla, really, militarily had no more power. So, in order to guarantee that this situation would continue, and that it would not occur in the minds of the population to think of the issues of social struggle again, the military started to create a policy in which the population was actually made co-responsible for the violence. It was what they called the creation of a militarized mentality in the population. So, within the villages, within the Mayan villages predominantly, people were forced to participate in paramilitary troops, and were forced to participate in massacres, and other kinds of abuses against their fellow neighbors

within those communities, and that is how terror became a permanent factor within those communities, because you had victims and perpetrators living together. And, perpetrators were victims first, and were then turned into perpetrators. It was some sort of a perverse mentality installed that the people who fought for social struggle and tried to do something for the country, and for people to live in more dignified conditions, that those people had to pay a very high price. Not only by being themselves brutally killed, but, also, by seeing their families and their communities being brutally killed. Whereas the people who actually participated in the violence were being prized for that, because they were the ones who got the chickens of their neighbors, and they were the ones who got important positions within the local community. And, these are the effects that we still see in Guatemala up until today. In this period the PACs were controlled, rather than mass violence committed, and the army conducted a policy of low intensity warfare. Especially in communities where it was thought that resistance was still in place. That is where most violence still continued to occur. For example, the army would contaminate the water supply of the people so people would die of poisoning. Mines were put in place, and people who were trying to remain living in resistance to the army, it was really very difficult for them survive. I think it's important to bear in mind that the population of Guatemala, the Mayan population, especially, since they are so poor and don't have access to resources, for them it was, also, not possible to refuge to Europe, for example. Whereas we can see that the victims in Chile and Argentina had that possibility and they could bring word of what was happening in their countries to Europe. And, therefore, there was much more social outrage about what happened. Whereas in Guatemala, since this was violence that happened without being seen by the world, this was something that could go on much longer and the displaced population was really displaced within the frontiers of Guatemala itself. And, with some luck, they came to cross the border with Mexico, and there you had a lot of refugee camps, but, basically it was a war in which the victims remained within the country or barely crossed the border into Mexico. Well, after this was all installed and the state was pretty sure that they had a system of control in which the population was not prone any more to think of any form of social struggle, you see that the transition phase starts. So, in 1995 there is a new constitution proclaimed, for the first time general elections are being held, and there is a civilian government being installed. But, while this is happening, the military still retains firm control over the country and continues with its low intensity warfare, that is to continue until 1996, when the peace is finally, officially signed. In 1985 is when the transition starts, and in 1996 is when the peace is officially signed. So, during '85, also, peace negotiations start between the guerilla and the state. But, it's important to bear in mind that these peace negotiations are enforced by the international community, and that the guerilla really doesn't have much negotiating power, because they were a military in shambles and they really didn't have much power to demand strong positions. So, you see that this is a handicap, very much a handicap in the peace negotiation phase, and that it is predominantly the international community and the UN who play an important role to establish certain criteria. The peace negotiations take place around a certain agenda, and this agenda seeks to deal with the causes of the conflict. So, 12 peace accords, in a period of ten years, have been negotiated, that deal with issues that affect the population. So, one deals with the role of the army, there's another, that we supported, that deals with racism, there's another one that deals with the *situacion agraria*, the lands issue of the indigenous population, and these are all very crucial issues. But, when it comes to dealing with institutional reform, and dealing with causes of who controls the state, and whom the state is defending, those are issues that are not being tackled. And, neither the guerilla, nor the international community, dare to take it up themselves to really enforce that the people who were responsible for the mass crimes are really being taken out of their positions. So these peace agreements are, one by one, being signed, and it was a very long process. And, finally, in 1996 the final peace is

being signed between the guerilla, there were four guerilla forces that, by then, joined in URNG, and the Guatemalan government. To very quickly go over what made it possible for this conflict to happen, I think there are a few root causes that need to be highlighted. The first one, and one of the most important ones, has to do with the historical existence in Guatemala of structural injustice and inequality, and the concentration of products of wealth and political power in the hands of small elite. And, in Guatemala, this is often forgotten, whereas we concentrate on the state and how the state was responsible for the crimes against the population. This state was really an instrument in the hands of those elites who used the state as an instrument to uphold the status quo and to ensure that, in terms of their wealth, and their access to resources, that nothing would change in that respect. A very important aspect there, also, is racism, and it means that those elites and the state really don't care at all about the country as such. The country is seen as some sort of a source of wealth for the elites and that is how they use the state and that is how they use the country. But, when it comes to the rights of the population, this has never been an issue really high on the agenda. And, this also explains the anti-democratic nature of the Guatemalan political tradition, and that's what I was explaining. The state, really, has always been an instrument in the hands of those elites to maintain the status quo. Another important aspect, as I already mentioned before, is the aspect of the cold war and the role of the United States. That started in the 1960s with Cuba and was strengthened when the genocide took place at the end of the seventies and in the early eighties, when, obviously, in Nicaragua and El Salvador, we saw first successful revolutionary movements. So, again, to prevent this from happening in Guatemala, also, the role of the United States was to fiercely support the counter-insurgency doctrine, and they actively trained the Guatemalan military in how to torture people and how to conduct counter-insurgency, in order for the status quo or the system not to suffer any changes. So, in 1996, the peace was signed. And, just to give you an idea of what Guatemala looks like today, I think, based on what I was explaining about the creation of a militarized mentality, perpetrators and victims are living together, the society, especially in the interior of the country, remains to be deeply traumatized and divided. This is really, as you probably know, it's really a tragic thing, because it means the survivors, who have seen, sometimes, 18 or 20 family members being brutally killed, are living side by side with the perpetrators, who not only go unpunished, but they see them living in their houses, they see them living with the goods that they stole from their houses. And, this is an open wound in the society up until today. Also, I think a very tragic consequence of the war was that when people were killed, this was always done with the criminalization of the social struggle. So, people were not simply killed, but it was always said that the killing took place because of their belief, at one point in life, in social change and that their lives could actually be better. So, up until today, what you see in Guatemala within the population which lives, now more than they did during the war, in extreme poverty with little access to health, to education, to other services, you see that people think that wanting to change their life, wanting to be an active participant, political participant, to control your society, contribute to it, that that is really a criminal offence, and that if you opt for social struggle, that means that, again, you might have to pay the price of terror, as people experienced it during the war. Another important problem of the transition phase in the peace process is that in Guatemala we have not seen any serious criminal justice regarding the perpetrators. In Guatemala, genocide was committed, in Guatemala 200,000 people were brutally murdered. Still, there are no criminal cases, successful criminal cases. Maybe there have been a handful in Guatemala City, and if they came to judgment, then it was only for the lower level perpetrators. And, this lack of justice and institutional reform, in which the state institutions have not been rid of the perpetrators, has meant that many of the former perpetrators still uphold positions of power within the state or parallel to the state. And, since they have not faced any accountability, that has also meant that they have not

changed their mentality in how to enrich themselves. So, it's believed that many of the former perpetrators have now moved on to organized crime, for example, which is rampant in Guatemala, and use the state, still, to uphold impunity, now not for more ideological violence, but for organized crime or other illegal interests. Also, we see in Guatemala that social cleansing still exists, which is basically directed towards the youth, the marginalized youth in society, that live in *favelas* on the outskirts of the city, but also in the interior of the country. And, also, there are ongoing human rights abuses. So, those organizations with whom we also work, that fight for accountability for victims and try to force the country to deal with the past, are threatened on a very ongoing level and really need a lot of courage to be able to deal with their work. And, obviously, the most important thing, maybe, of all of that, is that we see the country that suffered such a tragic conflict, during which people believed or fought for a dream of social change, and in current Guatemala, we see that this dream of change has not had any results and that status quo, the elites which hold the power in their hands, still hold power up until today, and that the population, as I said, lives in more poverty that they did before, and that racism is still ongoing in Guatemala. So, with this introduction to Guatemala, that brings me to what was officially called the commission to clarify past human rights violations and acts of violence that have caused the Guatemalan people to suffer. In Guatemala it is called the CEH, or it's called the Truth Commission and this commission was part of the peace accord. As I said, there were 12 peace accords signed. One of them was the creation of this commission and it was signed in Oslo in 1994 with accompaniment of the international community, especially the United Nations. When the Guatemalan Truth Commission was being thought out, it has to be seen against the developments in El Salvador, because El Salvador had just had its truth commission there. And, the experiences of El Salvador were very clear, especially in the minds of the military and people who were negotiating the peace negotiations. So, the lessons learned from that commission played a role in how CEH is to look in Guatemala. Whereas the peace accord was signed in 1994, the commission could not officially start its work until the formal peace was signed. That took until the end of '96, so that means that the starting up of the commission started, actually, in 1997, and it took three months of preparation, after which it was formally installed.

### **The mandate of the *Comisión para el Esclarecimiento Histórico*, of the Commission for Historical Clarification, CEH.**

These three are really the main issues that oriented the work of the CEH. The first objective was for the commission to clarify with total objectivity, equality and impartiality, the human rights violations and acts of violence that have caused suffering to the Guatemalan population, linked to the internal armed confrontation. And, by human rights violations, what was meant were the violations committed by the state, and the acts of violence – the ones to be attributed to known state actors. Secondly, the commission was asked to produce a report on the basis of the results of the research, and to offer objective analysis to allow interpretation of what happened in this period, including all internal and external factors. The report should be handed over to the parties to the agreement once it was finished, and the UN Secretary General, which was Kofi Annan at the time, was the one to make the report public. And, thirdly, the commission was asked to formulate specific recommendations that would benefit peace and national harmony in Guatemala. And then these recommendations should be directed in particular to preserve the memory of victims, to promote a culture of mutual respect and observance of human rights, and to strengthen the democratic process in the country. And, it was stipulated by the parties to the treaty the period of investigation will be the start of the armed conflict in 1962 until the signing of the peace agreement, until 1996. So, within the framework of that mandate, I think it is good that we take a look at the limitations of that mandate, and one of the main critique points, especially by civil society,

was that the commission was not to attribute individual responsibility in its work, in its recommendations and reports. So, that meant that even though the commission would find data about individual responsibility for crimes, that these names would not be named in the report. The commission, with the report it would produce, also, could not, that information could not - have any judicial aim or effect, so it could not lead to any criminal cases. And, also, what weakened the mandate of the commission, was that the state institutions were not obliged, forced to cooperate with the commission or to hand over information. So, all cooperation, everyone who wanted to cooperate with the commission, had to do that on a voluntary basis. And, it was specified in the addendums that all state institutions were called on their good will to collaborate, when it was, in fact, a great handicap that the commission could not force the state to collaborate with it. And, finally, also, the time period of the commission was very short. It was only given six months to conclude its work, initially, and then, only with a possible extension of six months. But, the six additional months were not taken for granted either, and they needed to be asked for, in a very bureaucratic way, also. So, that was also seen as a very short time period, taking into account the enormous amount of time the commission had to invest and the enormous amount of crimes, obviously, that were committed during that period.

### **The role of the civil society in the creation of the CEH.**

When the peace negotiations were ongoing, like I said, this was basically something that took place between the guerilla and the state. Armies played a very active role in those negotiations, as well, and the international community, basically the UN, played a negotiating role. Civil society had a huge interest in many of the agenda items, but they were not sitting at the negotiating tables, so their role was somewhat secondary to that process. When they heard about, obviously, the commission that has taken place in El Salvador, and, also, the work in Argentina and Chile, civil society thought this was a very important instrument for the country to make progress in aspects of truth-finding. So, they looked very hard to influence the mandate. And, for example, they were very keen on the mandate to include the naming of perpetrators, to have judicial effects and to have a much longer time period in which it could function. So when, in the end, they saw the final mandate, they were really very, very disappointed, and very critical of the results. And, civil society in Guatemala, whereas they are very damaged, I would say, by the consequences of the war, they are also a very strong civil society and know how to raise their voice. So, their discontent, particularly with this accord, led to a huge crisis and almost stalled the entire peace negotiations altogether. A consequence, also, of the weak mandate, what was conceived as a weak mandate of the commission, was a more proactive role of the Catholic Church. The Catholic Church has its human rights office, which is called the ODA in Guatemala, and its director, monsignor Gerardi, he saw that mandate and was very worried about the limitations, especially the time limitations. So, since the peace was not formally signed yet, he thought it would be good idea if the Catholic Church would start preparatory work for the commission. So, they started, they initiated their own truth commission, which was called the REMI, and organized a huge operation to take testimony throughout the entire country. And, it must be said that the REMI did incredible work and it was very important to the work of the later official truth commission in getting people to talk. Obviously, the Catholic Church, by its nature, and Guatemala being a very catholic country, had its infrastructure throughout the entire country. And, in a country that is so affected by fear, by terror, having this infrastructure really helped to get people to talk, to get the familiarized with the idea of why having a truth commission was important, why going forward with this history was important, and many people collaborated with the REMI commission. The Guatemalan truth commission, as I said, started its work in 1997, and the report of the Catholic Church came

out in April 1998, which was on the 26<sup>th</sup> of April. In two days, after the presentation, which was a very important moment, two days after the presentation, bishop Gerardi was brutally killed. During the conflict, normally, people would be killed in a campaign of selective repression, and important leaders were eliminated. This was done in a very exemplary way, so if you were a writer and you were killed, then you would be found somewhere with your hands cut off, so the message would come across. And since bishop Gerardi was seen as the spokesperson for the victims of terrible crimes, he, it was generally believed, was found dead with his skull beaten up with a big stone, so his head was almost completely crushed by the stone. So, for the Guatemalan society, some few years after the conflict, this was a huge blow, and people took the message really very literally, and it obviously had a huge impact on the victims, who also took this as a message to them. So, when we started taking testimony, at least in the interior of the country, we were faced with this fear that was reinvigorated by the killing of the bishop Gerardi, and people really, in many communities, feared for their lives, and that the cooperation with the truth commission might effectively lead to very serious consequences to their direct security situation. What is important to say, also, the CEH, when it designed its work, did consult the civil society, and they got an opportunity to offer advice and offer their insights in how they recommended to the truth commission, how to organize its work.

### **The integration of the commission.**

In the peace accord, it was established that the commission will be integrated by three members, by three commissioners. The first, and chair of the commission, should be an international, and should be appointed by the Secretary General of the UN, and Christian Tomuschat was appointed. Tomuschat is a German law professor, and used to be the independent expert to Guatemala, so he had a lot of knowledge of Guatemala and was generally being perceived as a very good choice for that function. In addition, Otilia Lux de Cotí was chosen. She was a Mayan Guatemalan scholar and, according to the mandate, the Guatemala university president came up with a short list of candidates, and it was Tomuschat who was the one to pick from that list whom he wanted as the second commissioner. And, then, the third one, according to the mandate, needed to be a Guatemalan that was of irreproachable conduct, so it should be someone who played an important role in promoting human rights in the country, who was not involved in any way in the conflict, and that person should be the third commissioner. This person was also elected by Tomuschat. When the commission started its work, as it is often common with UN related bodies, the commission did not have any money to start its work, nor did it have any infrastructure. But, I think, at the time, it was a very important moment, so when after the installation, the commissioners made a formal call to government of Guatemala and the international community to finance the commission. Pretty soon many, many countries came forward and effectively contributed to the commission. The total sum of what the commission cost in Guatemala was ten million dollars and ten percent of that, including the building, etc., were being given by the state, which was also stipulated in the accord. The rest of the money came from the international community. The commission, in order to operate in the country, asked help from the political department of the United Nations, the DPA, and UNOPS, which is a United Nations body, to provide service to projects, and it was given the mandate to deal with everything that had to do with personnel, with administration and with finances. And, the UN also provided many experts to the commission. Since it was a very extensive mandate, specific experts were needed, and those were being provided by the UN. The commission organized its work on different levels, and it was guided by a central team that was composed. Tomuschat participated in the central team, as the chair of the commissioners. There was a coordinator for the report that participated in the central team, there was a director of investigations and

there was a director of operations. In the first phase, when the commission had the most personnel, it had 273 professionals, support and security staff, that were employed. And of that staff, 142 were Guatemalans, and 131 people came from other countries. 31 other countries. And, it was an explicit decision to have a combination of Guatemalan staff and international staff, and the issue of the neutrality of the commission, of the fear within the communities, was always being looked at, when striking a balance between the nationals and the internationals in order to maintain the independence of the commission, but also to count on the expertise, local expertise, obviously very much needed when you conduct this kind of work. The commission had a documentation center, which was accessible to researchers - a database unit in which all the cases were being taken. Information that was gathered was introduced there. There was a group for historical analysis that functioned from the beginning till the end of the commission. And, there was also a legal team that would assess the cases that were being gathered by the researchers, but it would also give legal advice if victims asked for that. In the research phase that lasted four and a half months, CEH established 14 regional offices throughout the country. Guatemala has a population of, more or less, 15 million people, and many of the people live in the interior of the country, and these are areas of very difficult access. So, to insure that victims would have access to the commission, it was very important to have offices throughout the country. And, parallel to these offices, the CEH launched an outreach campaign, through the radio, through leaflets, through the television, to call one people to come forward ad testify and to cooperate with the commission. I, myself, worked in one of the most marginal areas of the country, and that was an area that, really, there was no infrastructure in. So, for us to come to the victims, you would normally have to walk for eight or ten hours. There were no roads, there was only mud. So, when we came to these communities, we would find that people would not even be aware that there was that there was a peace agreement in Guatemala, and would not be aware of the truth commission being there. And, often, we would find that victims and perpetrators were living together. So, it was quite an adverse situation to get people to talk. During this period of research, more than 2,000 communities in Guatemala received a visit from the researchers and almost 8,000 testimonies were taken. Also, because of the displacement, testimonies were taken in Mexico, in the refugee camps, in the United States and in Canada, where some of the victims live, and some were taken in European Countries. In all of these cases, many of these testimonies were taken with the help of NGOs within those countries. So, NGOs in the United States, or in Canada or Mexico, would offer help they and would facilitate location and take interviews. And, also, it was very important, I already mentioned the importance, to the truth commission, of the work of the REMI, of the Catholic Church truth initiative, and they also built an extensive database. There was another organization in Guatemala besides CEH, and they, also, already started, during the war, building a database of victims of crimes that occurred. And, they all handed over their databases to the truth commission, and they were integrated and cross-referenced with the database of the CEH. And, the final numbers that I mentioned at the beginning of victims of massacres, of crimes that occurred, they were the result of the combined databases of these organizations.

### **Which human rights violations and acts of violence were investigated by the CEH?**

Well, the researchers of the truth commission had, obviously, their methodology, and the crimes that we were looking at started with human rights violations and acts of violence leading to death, and within that, there was a categorization of extrajudicial killings, massacres, death from forced displacement, civilian deaths in hostilities, civilian deaths through indiscriminate attacks, deaths from use of mines and death from use as human shields. This was a very common thing done by the army. If they feared an attack by the guerilla someplace, they would always, or often, take civilians for them to serve as human



shields. In addition to killings, the commission looks at human rights violations and acts of violence that led to severe injuries, and there, we also had a sub-categorization that I previously mentioned for the killings. It was also applied to the severe injuries. Then, we looked at disappearances, and there was a separation between forced disappearances by the state and disappearances for unknown reasons. Then, there was torture, cruel, inhumane and degrading treatment, sexual violence, kidnapping, and others. The important ones were threats to people, the burning of the *milpa*, which was very important to the Mayan culture, the *milpa* is where the Mayan population grow their *maize*, which, in their view, is sacred, and is their prime source for survival. And, burning of *milpa* was seen as an act of genocide, also. And, it was sometimes impressive to see that, if you went to take testimonies from the Mayan population, that the people would, after you had asked them what had happened to them in the war, they would say: "The *milpa* was destroyed.", and they would cry over the fact that the *milpa* was destroyed. And then, afterwards, they would say: "Oh, yeah, and 18 of my family members were also killed." Another issue was deprivation of liberty, forced recruitment and deaths of combatants. The obstacles we faced in the research phase - there were many more, but these are just to give you an idea of the type of obstacles that we faced. Obviously, four and a half months was far too short a time to take the testimonies, especially in those areas of very difficult access, this was very difficult. And, you have to take into account that a population so traumatized, living together with perpetrators, living under social stigmatization, for them to gain trust in people they don't know and to come forward with a testimony, is a very difficult thing to do. So, I think, many people, in the end, decided not to come forward, and didn't want to take the risk. And, maybe with more time, and having the possibility to build more trust, that could have been different. Like I said, this especially affected work in the most marginalized areas and the victims, also, most hit by the violence, tragically enough. We faced difficulties in obtaining official information from state institutions and, also, interviews with the perpetrators, because the commission could not force the state institutions to cooperate. So, we would take many testimonies of massacres or crimes that took place in different parts of the region, but then, when we went to the army to try to find military documents, or to find information about which military units were where at which time - that was impossible and we never got that information. We also never got access to the military plans, and also in other aspects, in terms of the justice system, it was very difficult to get access to information. We did manage to get some interviews with military people, but all those interviews were done on a voluntary basis, and were done, obviously, in a way reflecting that those military people were very much afraid of coming forward with their testimony, because they feared the consequences coming from their own institutions. But, still, it is important to say that we did manage to get important testimonies from perpetrators, in the sense that they were very important for the facts about the crimes to be established. Also, it is important to say, I think, that it was very difficult for the CEH, because the was the first thing to do was to determine how to develop the methodology that would guide the researchers in their work. So, we all had a *ficha*, it was a form in which you had to fill in all the information. It provided the questions to ask, but, still, this information was not sufficient. And, also, for example, it was not clear how you would have to take that information. So, many people made summaries of cases, rather than really write out, literally, what people said. And, in the end, when we began to write the report, it was actually the words of the people that were the richest, and were really giving you an idea about the horrors that occurred in Guatemala. So, I think, if we had had all those lessons before, we could have made a much better methodology, which would have been better suited to getting information. Also, taking into account the fact that many people were *unalfabeta*, illiterate, and had a different form of expression, so if you summarize the cases, much of their way living through things, the cultural impact of violence done to them, all those aspects, I think, in some cases,

were not captured in a way they should have been captured in. Also, a very important, and I would almost say tragic aspect was the lack of follow-up with the victims. Based on my experience, if we went to the communities, we would come there after a long walk, and then we would give a speech to the community to explain what the commission was and to try to convince them to talk. But, for many people, the ones who did come forward and offered their testimonies, this was the first time in their lives that they spoke about those crimes. And, those crimes were not just simple crimes, they were so horrific, so people would normally, very often, break down during their testimonies. And, the next morning, or even the same evening, we were to go, and we knew that we had to leave people in their communities, without having any system of psychological support for them, or the community, or even basic security. So, that provoked quite a few problems for the researchers, also, because, obviously, you would feel very responsible for those persons, but these mechanisms were not thought out or taken into account sufficiently. And, obviously, without having this in place, you can imagine that many victims decided not to come forward. Another aspect of the lack of follow-up was based on this marginalization and the difficulty to reach these people, and the fact that we took their testimonies and would convince them, give them expectations of why this was important to the country, but after the report was published, it appeared quite impossible to get this information back to the victims. So, they would give their testimony, but in the end, I think, to them, the impact of the report and what it did for themselves and their lives, was not very visible. So, I think that it is very important to think about the ways and mechanisms to get the actual results back to the victims and start a more sustained process with them, to see what we can learn of those results and what it means for the Guatemalan society, but also to them. And then, obviously, working in a multi-cultural society, where many people are illiterate, where fear was an important factor, it was very important for researchers to be trained in all those elements. And, some training was given to the researchers, but, I think, it was insufficient to really deal with this complex situation. After the research phase, after these four and a half months, all the regional offices were closed and the phase of the report writing started. So, from more than 200 staff that we had, it was reduced to 100, and they were all based in Guatemala City, in one building. In that phase, the CEH was organized in three main areas. There was an area for the systematization of data, which I'll explain later what it consisted of, there was a thematic area that was really in charge of writing the body of report, and there was an area that was in charge of formulating the recommendations. And, then, there were supportive units, an operations unit, and a unit for public information that would give information to the Guatemalan society about the progress made in the work. The area of systematization of data was composed of a team that was responsible for going through all the cases that were documented by the researchers, and for getting them into shape to be put in the report, and this involved a very complex process of applying criteria to the cases to see if there was a basis to actually say that these were cases, and to put them in the report. Then, there was a team that was responsible for illustrative cases. And these were cases that the commission sought because it was thought that they were illustrative either of the violence that has occurred, or because they marked a change in violence, or for other reasons why they were important, and would show something and enable the society to learn something about the violence that took place. Then, obviously, there was the database unit, that would produce all the graphics and the statistics. In the documentation center, there was a team responsible for history and context analysis. That was an important part of the report. There was a unit responsible for systemizing information from key witnesses. Many key witnesses throughout the country, from different sectors, were identified and interviewed, and they systematized that information to feed into the report. There was a unit to analyze documents from the government. We've talked about the role of the United States, the declassification of documents, and this unit analyzed these documents.

Also, the information from Israel and Taiwan, was being asked for, and from Cuba, for their role in the conflict. But, little progress was made there. Information was not given. And then, as I already said, there was a unit for legal advice. It would also go through the cases for their legal merits. The thematic area was the area that really wrote the body of the report and it consisted of three main chapters. There was a chapter that was also produced in the report as such, on the origins and causes of the armed conflict. The strategies and mechanisms of violence, and this was a chapter where the actual human rights violations and acts of violence were described. And, there was the chapter on the consequences and effects of violence, on how this violence affected the population and the society today. And, there was the area where I worked, and I wrote three chapters for that part of the report. And, then, finally, there was the area for recommendations, and this was one unit, and these people interviewed different people, went through the testimonies taken, to be able to identify and to produce recommendations. Also, by the end of the report, a few months before ending the report, there was a huge conference organized to which all key sectors were invited, and more than 100 people participated. Victims associations, civil society organizations, also the state actors, came to formulate policy recommendations. And, then, in the last phase, the team was even more reduced, and that was the phase when the report was already written. It was a small team of coherence, as it was called, that went over the report to make sure that all the chapters were related to each other, etc., etc. Then, the day of the 25<sup>th</sup> of February 1999 came, and the commission had managed to extend its mandate for six months more, and after eight months of work, the report was being published. The report was called “memory of silence”, which, I think, reflects the situation very well, what was felt, the situation in terms of the war. And, it was presented to the public, and there was this huge event in the city center, with representation of all sectors of society. But, because of the killing of bishop Gerardi and because of this being an official truth commission of the UN, and because of the limitations to the mandate, the general feeling was, in the public, that this report would not be very good. People were very afraid that it would be a very weak report, because it would not name those responsible, and that it would be very, very careful in what it had to say about the reasons for the conflict, and the acts that occurred. So, when the event started, and I remember that very well, there were all these victims associations, and they had their *pancartas* [banners]... Sorry, you're right, it should be 1999. Thank you. So, people were there, present, to make a scandal, really, you could feel the tension in the event, and there was the entire military present, and there was the government, and there were all the state secretaries that were responsible for those crimes, and upstairs were the victims, and outside, because people could not fit in the room. Thousands of people came from the interior, and, really, with the idea to make a manifestation if this report turned out to be weak. And, then, when the commissioners started to read out the conclusions, slowly, you felt that the tension falling away, because the report was able to make very strong conclusions about the things that happened, and to touch up on the root causes of the conflict, and name the genocide, which was something that no one really had expected the commission could have the nerve to do. So, from a situation of complete tension, you could feel the change, and people would start crying and hugging each other, and it was really very impressive. And then came the moment when the commissioner had to hand over the report to the government. And, then, the president stood up and he walked out through the back door, with the military behind him, and he refused to accept the report. Later, there were theories that were confirmed by some people that were very close to the government then, that said that because of the commission highlighting genocide, that this would obviously open, by the state accepting the report and acknowledging the content of it, that the state would then see the possibility of many legal cases opened against it, and the cost that would involve. So, the government didn't accept the report, but for the society, it was a very, very important moment. One of the most impressive moments I have, at least, seen in

my years of living in Guatemala. And it opened, also, it sparkled, like, this hope that things now, maybe, could start changing in Guatemala. The report was also translated into nine Mayan languages, there are 23, and into English. And, I think, people were very critical that it was only translated to nine Mayan languages, but I think it was a very important step to do that. The problem, obviously, is that many of these people that speak these nine Mayan languages are illiterate and could not read it anyway. And, when that report was being published, basically, it stayed in the capital, and there wasn't an active policy to distribute it, and work with the material of the report, with the victims. And, also, the summary was published in two newspapers. So, the entire report would come as an appendix in the newspapers, and was published. So, very quickly, to go over the main conclusions of the report. The commission concluded that the state used disproportionate violence against the civil population, and that this was unacceptable since there was never a real military threat to the regime. And, the closing of the political spaces, I already mentioned it, were seen as the main reason why social movements had to go underground and the guerilla started in the first place. The national security doctrine that was adopted by the state to repress the population and the concept of the internal enemy, the responsibility in all this, not only of the state, but also of the Guatemalan elites, was highlighted. The support of the United States in the counter-insurgency was highlighted, and their responsibility in training the Guatemalan army in the counter-insurgency techniques and providing them with weapons. The extreme cruelty of the violence in Guatemala, especially against the Mayan population, was highlighted, and it was said that this was done with the intention to destroy social cohesion in the communities. Acts of genocide were highlighted, the racism, the turning of victims into perpetrators, and the criminalization of victims and social struggle. In terms of the recommendations of the report, to highlight a few, the commission said that after this report, and these findings, it was very important to create a body that would monitor the fulfillment of the recommendations and could ensure that the state would move forward in this respect. Further on, more specifically, measures were being promoted for the preservation of memory of the victims, the creation of a comprehensive reparation program, the search for the disappeared. Also, the support for exhumations, because so many people still lie in mass graves in Guatemala, the dissemination and teaching of the report, the creation of a commission to examine the conduct of army and state security forces, the need for a new military doctrine that would change its concept of the internal enemy and would leave security, internal security tasks, to the police, the elimination of racism and the importance of a fiscal reform. Guatemala, up until today, remains the country in Latin America that has the least taxes raised, taking into account the huge wealth of the elites. This is a shocking thing, and means that the state doesn't really have any money to invest in social programs.

### **Reactions and follow-up to the report.**

As I have already been explaining, the impact, the direct impact of the report, when it came out, was much higher than anyone could have expected, and that was because the expectations were really very low. Many people thought that this report would be very weak. So, when it came out with the unexpected findings, and I need to highlight the mention of genocide, the racism, the social injustice, the terrorism and the role of the elites and the United States, the impact was really huge and it really triggered change of hope in the society. I already mentioned that the president refused to receive and acknowledge the report, and left through the back door, and up until today, the state has not formally acknowledged the content of the report, although it has asked, in different activities, pardon for what it has done. But, it has not acknowledged the report, and therefore, has not acknowledged its agenda that was responsible for genocide, and that racism was one of the main features of that conflict. Also, when the report came out, although it didn't have any judicial effects, the Nobel peace prize

winner Rigoberta Menchú, a Mayan indigenous, filed a case for genocide in Spain, and she filed the entire truth commission report, as one of the main proofs, pieces of evidence to support her case. The government refused to create a body to promote monetary implementations of the recommendations, and, not surprisingly, this is one of the reasons why there hasn't been done any serious follow-up on the reports and recommendations. And, I think, also, which is a pity, really, that neither the state, nor the MINGUA, which was the United Nations Body to verify the peace accord, nor the civil society, took up dissemination of the report in a sufficient way. So, this means that we had this potentially very powerful tool, that had the potential to educate the society about what had happened, and offer the roadmap of where to change things to really create a different Guatemala, and nobody really did that. Also, with civil society, there was, I think, a weird thing, that people were so happy with the report as if with that we had won the battle. But then, afterwards, when it was really needed to follow-up on that, to push for it, to involve the international community, which, obviously, played a very important role in the establishment of the commission, that never really happened in an organized way, and, I think, an opportunity was lost to really put the report on the agenda and to use it as a political tool in the combat with impunity in Guatemala. And, as a result, if you go to Guatemala today, and you go to any library, it's very difficult to obtain the full copy of the report. With any luck, you'll find a summary somewhere, in a different version, but it's really a material very difficult to obtain. Well, I don't want to finish this without saying that, on the 25<sup>th</sup> of February, 2009, and this is 2009, I should have put 2009, it will be the tenth anniversary of the Guatemalan truth commission. And, as Impunity Watch, together with the Guatemalan society, we see this as a historic opportunity to take up the issue of the report again, especially now that we see that the findings of the commission and the consequences are still so very important for the society. So, we are making a report to assess the impact that the report has had on the country. So, we will be turning to the victims that we interviewed for this report, returning to them to ask them how they feel that this report has contributed to their wellbeing, to their dignification, to a different Guatemala. We are interviewing people in the press to see how they see the impact of the report and how it has changed their way of thinking about the war, and their way of reporting on that. And, we are doing a follow-up to see, based on the recommendations made by the commission, which ones have been taken up and which ones haven't, and, based on that, to formulate an agenda for the country, to see what is remaining and what is the pending on the agenda. So, I had a very quick overview of the lessons learned, at least in my view, from the experience of the truth commission. And, I think, one important lesson to me was that, when the mandate was being established, as I told, it was heavily criticized by the civil society, and there was this huge feeling of disappointment, and people thought that the opportunity was now lost, and it also meant that many that civil society organizations were so frustrated that they didn't even want to cooperate with the commission in this historic opportunity that they had. But, everything was not lost at that moment of the mandate, and it was, really, in the process when the commission came to be installed that the real struggle started, to make sure that, with the limitations of the mandate, you could still make the most out of it, and I think the commissioners that Guatemala had were really very creative and courageous to make the most out of the commission and its work. And, I think the report shows that they managed to do that in a very important way. So, I think, also for civil society, at least in Guatemala, this should be a recommendation, because there are other processes, similar processes ongoing in Guatemala right now, new commissions that are being created to combat impunity, to combat parallel groups in society. And they, also, feel that their mandate is not ideal, and therefore they tend to turn their back on those initiatives. But, by accompanying them and by being there in the entire process, you do have the possibility to influence and to see how you can make the most out of it. Obviously, I already said it, but the

accompaniment of the victims associations, international and national civil society, is crucial to the successes of these kinds of initiatives. And, it was very important in Guatemala that victim organizations, civil society organizations, provided access to their constituencies to come forward with the commission and to provide their information and databases that proved to be very valuable to the commission's work. I also think it's important based on the fact that Guatemala, after once having the report, missed out on really having a good strategy on how you use this tool that you now have, and how you can make the most out of it. So, I think, it's important to build a careful strategy, that involves all sectors in society, that can help you push for, once you have it, to really make the most out of it. An important issue, which is my personal frustration, has to do with the victims, and I think that, once you set up a commission, you have a huge responsibility to the victims, and that involves victim protection, it involves how to deal and how to handle victim's expectations, what you are telling victims they can expect from this commission, and what it will do for their lives, and how you can handle that in a way that doesn't betray them, that doesn't turn it against them in the end, so that it is a negative experience for them. And, then, obviously, the issue of the victim follow-up. So, I don't think it's enough to just take their testimony, but you should have some sort of a strategy of how, after they have given their testimony, how you continue to involve them in a process that can really work on the issues of facing the past. I also think that Guatemala is a great experience in that, whereas the mandate of the official truth commission was not perfect, I think it was such a good decision of the Catholic Church to come forward with their own truth commission, so that you don't only rely on the one and unique opportunity, that there might be others, and one initiative can strengthen the other, and I think that's an important aspect to bear in mind. So, one commission should not do all, but you can think of different approaches, to make sure that the issue of truth-finding and truth-telling and what that means for the country, of how you can really approach it in a meaningful way. And, finally, I would say once you have a commission, and, also, during its work, it's good to have some sort of monitoring system, to make sure that you don't miss the opportunity, and, I think, civil society should play a role in this, but also the countries that give money to the commission, that have commitments to the country, too, in overcoming these violent conflicts, so that they also play a role, and that once you have the report, the recommendations are being taken seriously, that something is done. So, this is my brief presentation. I was very interested to hear from you, if you have any questions and if we can discuss some of these issues I've been talking about, and apply them to your situation.

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**Q:** I'm wondering if there is no legal basis to prosecute the people responsible for the crimes?  
**Marlies Stappers:** In Guatemala?

**Q:** Yes.

**Marlies Stappers:** Well, the truth commission didn't have the mandate, because they could not name individuals. So, the commission was seen as a commission for historical clarification, and what it had in its mandate was to clarify the responsibilities of the state, but it could not have legal purposes, so it could not individualize, in persons, their responsibility. What was informally discussed between the commissioners, and also with other people who advised in the creation of the mandate, was that, whereas the commission could not name individuals, it could give a lot of information by saying: "At this point in time, this massacre took place, in this part of the country.", and then to say: "It was this military unit that was in that country." So, that would give a basis from which you could take and see, based on military information, obviously, who was in that place, at that time. But, since the military never cooperated with the commission, that was information very difficult to obtain. So, if

you would have a commission, that would have had this individualization of responsibilities, I think, the impact, political impact of the commission would have been less, because we would have much less information, and we could not have based our work, as much as we can now, on the voice of the victims. So, for the victims, the truth commission was, the report of the truth commission was, maybe for the first time, a reason they felt that their voice was taken seriously, and it was not only the voice of the state and the elites. But, this was a document that said it was an official story, official history of the country, in which their voice was leading in establishing what had happened.

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**Q:** I will ask my question in Serbian, my name is Bogdan Ivanišević. How do you explain the fact that the government agreed to the establishment of commission at all, considering that, obviously, they were the ones to have committed the most violations? What was their motive to agree to the commission being formed? Were they not intelligent enough, or were they forced to agree, and if so, how did that happen? I would like to ask another question, and that is, if you could just clarify the acceptance, or non-acceptance of the report by the government to this day. You said that there were some gestures of apology, and I found some information that, on the fifth anniversary of the report, the president of Guatemala at the time apologized for human rights violations by the government. You have said that the government never accepted the report, so, if you could just clarify that a bit. Obviously, the qualification of genocide was not accepted, but something, I presume, was. And, one more question, the last one. How much did the inability of the commission to gain access to government documents affect the quality of the findings in the report? Do you believe that some crucial issues were not dealt with well, due to the lack of access to government sources of information?

**Marlies Stappers:** Thank you. Starting with your first question about the government and their lack of intelligence - I think the fact that the government accepted that the truth commission was to be established has different reasons. The first one, obviously, has to do with the international pressure to establish such a commission. And, as from the moment that the transition took place, there was a lot of social demand, also, that something should be done about the past. And, I think, the government was very aware that, if they wanted to be perceived, also, in the eye of the international community, no longer as this criminal state, but a state that was really committed towards democracy, that it was important to make some sort of a gesture. So, I think that pressure and the importance for Guatemala, being a small country, and the support, also, for the peace process and the money brought in by the international community was an important factor. I also think that an important factor why they agreed to the truth commission was that this was a truth commission that was not to have any legal effects, and that individuals would not be named. So, whereas this was a new government, I think that what played in their minds was that it was easy to say that this was the military regime's, and that they would distance themselves from that government. And, since it would not name individuals, which would have made a difference, because some of those individuals upheld power positions within the government at that particular time. I think they felt quite sure of themselves, that it would not have a devastating effect on their government. And, I think it, also, has a lot to do with the culture of impunity in Guatemala, where it is, sometimes, shocking to see how the elites and how the government are so convinced that the impunity will shield them, as it has always done, that it would also happen with this commission, that, by having lobbied so hard for the restrictions to the mandate, they thought that this would probably be covered. And, indeed, the civil society thought that the commission would come up with some conclusions, that we would then say that it was all in the past, and now we progress, and look towards the future, and we leave the past behind.

And, I think, also, that the state made a very careful calculation, because there were many things pending, obviously, in Guatemala in the transition phase, and criminal justice being one of them, and institutional reform being another of them. So, by having a truth commission that would allow the government to say: "Look, we are committed to dealing with the past.", it would enable them to leave a good impression. But, it was also a way to then avoid the more pending and more urgent agenda points, criminal justice and institutional reform. So, that brings me, also, I think that is partially also the answer to your question about the acceptance or non-acceptance of the report, and why that was. Because, I think, for everybody it was a surprise when the commission came to conclude on genocide, and, especially, also, since the government and state were very reluctant in sharing their information. So, I think that also led to a certain idea that the findings, or that these strong findings were difficult to make. In terms of the acceptance or non-acceptance, the commission came out with its report in February, 25<sup>th</sup> of February, and it was in 1999. And, two months before, there was the celebration of the peace accords, and that was the first time that the government officially asked for pardon from the society for the crimes or the atrocities committed. But, they were not being mentioned within the framework of the state policy, but they were mentioned or named more as occasional errors or things that the state did, but that were not so much a part of state policy. And, obviously, they would have, by having accepted the report. So, it is one thing that you ask pardon for those crimes committed, but it's very different if you do that for a state policy of terror, that deliberately sought to target the population and to, to an extent, exterminate it through genocide. So, I think, when the government, for the first time, asked pardon in December, the word was already out in some circles that the report would come with very strong conclusions, and that it might be the case that the commission would mention genocide. So, I think that the government, thinking what the wisest strategy would be, that that inspired the government to come forward with that declaration two months before, if I make myself clear. And, then there have been different, the government has asked pardon on different occasions, for the crimes, but it has never made a very clear commitment to say what this report states, in terms of the crimes committed, and the genocide committed, in terms of the state policy behind it. And, that is what it has not done, and that is something that we'll be demanding, as we are now preparing for the 10<sup>th</sup> anniversary, from the new government, which is now in place for a year, that this government will finally do that, and that, also, congress will publish a law confirming that this has happened and that this report is a part of the state history. The third question, of the access to data. Obviously, this was a handicap to the commission. Some of the information we did get. We got a lot of information, for example, through the declassified information of the United States, and through the testimonies that were given to us by military people. And then, obviously, what the commission also did was look for different angles to verify information. So, a lot of sources were being put together to really be able to confirm situations and cases. But, it was definitely a handicap. And, I think, if we had access to all documents, we would have had a stronger report. There's another detail which, to me, was very striking in terms of the state cooperation. It is that, obviously, whenever the commission asked for documents, especially from the military, it was very difficult to obtain that information. When the genocide occurred, first you had the Lucas Garcia government, and it was a dictatorship, and it was the military that was very much linked to the economic elites. And, then, there was a coup d'etat, a military coup, and then Lucas Garcia was thrown out, and Rios Montt took over. Rios Montt is, by the way, still very active in congress, and until recently he was the president of the congress. But, Rios Montt took over and he was not very friendly with the rich elites. He had a different doctrine and he had a different idea of what the military should do, and ideology. So, for the elites, Rios Montt was not necessarily a very good person. Rios Montt was, also, not very discreet in the way he committed his massacres and his crimes. So, when Rios Montt



took power, it was much more obvious, also, to the international community, that very terrible things were happening in Guatemala. So, in terms of the access that we had to military documentation, it was easier to obtain information on the period of Rios Montt. Whereas, of the period of Lucas Garcia, which is when the massacres really started and the scorched earth policy, as it was called, was designed, from that period, a lot of information is said to have completely disappeared, and it was impossible to obtain any military documents in an official way. Through unofficial ways, some of that we were able to recover. But, it was interesting to see the different attitude of government cooperation towards those two periods.

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**Q:** Thank you very much for your lecture, I think it's very useful, and I would like to ask you to tell us something about social structure of Guatemala. You told us that 83 percent of victims are among the Maya people, so it is interesting to know what the percentage of the Maya people is in Guatemala. And, in relation to this, it is quite obvious from your lecture that the political elite and the economic elite in Guatemala is pretty much the same, if I understood well, as it was during the cold war period. So, why is that? Is it connected with the US involvement in Guatemala today, and, generally, what is the role of the United States in Guatemala, and do you think that the leader of the democratic world can promote human rights in the world, really, if it promotes it very successfully in Latin America? Thank you.

**Marlies Stappers:** Social Structure in Guatemala. In Guatemala, at this point, the numbers differ according to which story you read, but it's more or less 56 percent of the population. So, the majority of the population is Mayan, and lives basically in the rural areas. Although, during the war, many of them were displaced and now live in, as displaced people still, live in the capital. As you say, very rightfully so, I don't think that the social structure of Guatemala has really been changed since the conflict, and the social structure has very much been defined since the colonial period, really, when the situation of power balance was being structured and composed. So, that is something that is still very much ongoing, and the reason why that is, I think, has very much to do with what I tried to explain of this transition phase. Whereas the elites control the state up until today, in a very important portion, and the state doesn't really respond to the needs of the society, and somewhere the society has missed the opportunity to create a state that is really able to respond to the needs of its most vulnerable population, but continues to be the state that responds to protect the interest of the rich. So, when we see impunity today, for example, in Guatemala, during the conflict you had a lot of crimes, but the crimes today, the number of crimes today is higher than it was during the conflict. As I said, Guatemala has a population of 15 million people, and, on a daily basis, 20 people, more or less, die a violent death. And, out of all those deaths, 95 percent remains committed with absolute impunity. Then, there is the issue of the rich elites, and, if there is a kidnapping taking place of the rich elites, or if there's something that targets the interests of the elites, that is when the state operates very clearly. A very interesting example were the actions of the police when poor Indians, who have no access to grounds, when they invade the lands of the rich elites, which they don't use, and immediately the police would be there with a huge force, to throw the people out in a very violent way, in order to protect the interests of those rich elites. And, this is, unfortunately, something very much true up until today. And, obviously, we now live, and this is something that really affects Guatemala when we come to talk about the role of the United States, in a period of neo-liberalism and globalization, and Guatemala and Latin America is an interesting market for the US, but also for the rich elites, which want access to other markets. So, that's another component that puts a lot of pressure on the social structure in Guatemala. And, if you come to combine, ironically, the maps of the genocide and the maps of where massacres took place during the war, which is in the

zones where the indigenous populations live, we now see that those maps correspond largely with where the natural resources are being found. Oil, gold, you name it. And, in these places, you see, again, that there is a very harsh policy of the state towards the indigenous population, which resist the gold mines, the oil companies, because that directly threatens their traditional way of surviving, which is a much smaller peasant economy, based on the *milpa*, based on small products. But, this is unsustainable with the interest of globalization and the bigger markets, and you see that the rich families buy the land, in the best of cases, of the indigenous people, or defraud them off their lands because there are all kinds of legal problems with the land titles. So, this is the new form of how the social injustice, as it was in the past, how that is being continued up until today with new forms of violence, but with the same logic to it. And, then, there's the huge problem that the judicial system, traditionally, has been so weak in Guatemala, in order to shield and condone the practices of the elites to repress social justice. This very weak justice system is now very much a problem in Guatemala today, to the extent that Guatemala is very close to being called a failed state. And, that has also led to new developments, which the elites are less happy with, which is the development of the organized crime. And, whereas in Guatemala it is promoted, there is an active war against organized crime in Mexico and in Colombia. Everyone sees Guatemala now as the paradise of impunity. You see that all those organized crime groups go to Guatemala, that it is the perfect country for transporting drugs, etc., etc. So, this is making Guatemala into this narco state all of the sudden, whereas all the problems of the past have not been resolved. And, in combination with extreme poverty that continues to increase, in combination with the violence that is the result of the war because the small arms are still very much in the country and the fact that there is no justice, so, all these factors combined, make it very difficult to control the country and very socially explosive, and organized crime is really benefiting from that. On top of that you have, also talking about the role of the United States, many of the people that fled Guatemala going to Mexico, and then, illegally, to the US to find a better life there, and there they merge with the so called *maras*, gangs, and then these gangs go back to Latin America, and it's a problem. It's a regional phenomena in central America, and this is new phenomena that inspired a lot of violence, especially amongst youth, which, without any perspective of a better life, are now seeing these gangs as their only alternative. These gangs merge with organized crime, which uses the gangs to commit crimes, to commit violence. This means that the general population lives in constant fear, and this constant fear is, again, being manipulated by the ex military, which has a very high interest now, also, in the organized crime, and which uses these gangs and manipulates this kind of violence to uphold the crimes of terror and fear, which makes it the people's only goal to live through the day, and definitely no to look at the past to see how we are going to resolve the problems of the past. So, if you come to Guatemala and you say: "How are we going to deal with this?", people will look at you as if this might be very interesting, but it's for people who have nothing better to do, because they have their lives to save, and see how to reach the end of the day. So, that makes it an extremely complicated combination of factors on how to deal with that issue. And, the United States, they play more of a nuance role, I would say, at this time. On the one hand, there's this globalization and market issue, the organized crime, obviously, that is of very high importance to the US, and the issue of the *maras*, of the gangs. But, on the other hand, they are the ones who have invested a lot, also, in all sorts of reform programs, in strengthening the police, the army, at this point. And, so, they also make a positive contribution. A very interesting initiative that is now ongoing in Guatemala because of the situation of impunity, and the country not having handled impunity in the post conflict situation, and now the situation of organized crime and rampant violence in the country. There was this moment when even the Salvadorian parliamentarians were being killed in Guatemala, and that was a moment when the international community thought:

“This is now a failed state and something has to be done.” So, now, a new commission has been created in Guatemala. It’s a hybrid commission between the UN and Guatemala. It is to do research into the parallel structures in Guatemala and the clandestine security apparatus, that are involved in the state structures, and that use the state to facilitate organized crime, that are involved in human trafficking, in drugs, in social cleansing, in human rights violations, in killing judges, in whatever you name. So, this commission, it’s has now functioned for a year, is doing research into the parallel structures, and once they have their information, they are going to work with the public prosecutor’s office in Guatemala to see how they can make cases that should lead to key people and key institutions that facilitate impunity to happen. And, people are quite convinced that, whereas the mandate is not the past, but through this research, former military people would be targeted and should be in the picture. And, already this commission has said, because in their work they are dependant also on the cooperation of the state institutions, so they have already said that this person, on this position, this *fiscal general*, this public prosecutor, this police officer, is actively obstructing the work, so these people need to be removed from the state institutions. So, that is an initiative that, I think, is an interesting, very new model, that might work for Guatemala, to a certain extent.

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**Q:** I hope you’re not tired. Thank you for these two hours that you’ve talked constantly. I suspect that the national reparation program never actually happened. It did? Could you tell us more about it? That’s my first question, because it tends to be easier to, you know, provide reparations, then to beat impunity. And the second question deals with the security concerns - you must have been quite brave to take part in the work of the commission, and were you attacked or threatened, or did you really feel danger, or something, or even this commission that is now operating, I wonder how you manage?

**Marlies Stappers:** My experience as a truth commissioner? The reparations program exists since three years ago and, I think, country of Guatemala compared to Serbia, has seen some progress in the areas of truth, and on reparations, but, again, nothing on criminal justice and institutional reform. And, I think it’s for that reason it was easier for the state to deal with truth and with reparations, because it doesn’t touch the structures that are responsible for the violence, and if you change them, then really the country would have to change, and having a reparations program is not that complicated to them. Even less, if you see that the money for the reparation program comes from the international community. So, the reparations program, without wanting to be too negative, I think it’s a positive thing that it exists, and it was very complicated for it to be created, and I have to be very honest, a very important part of that was due to the civil society, which really messed things up. Civil society, which was very much involved in the guerilla or in the conflict, and has now evolved into civil society, they are very much traumatized by that war. It was one of the tactics of the war, also, to crate divisions in civil society and to create paranoia, for no one to trust each other. You have a very divided civil society, depending on which side of the guerilla you were on. If you were not in the guerilla, the guerilla part of the civil society would not take you seriously. I’m simplifying a little bit, but, in general lines, it is more or less what is happening. So, when the reparation program started, it was something that civil society pushed really hard for to exist. There was, immediately, this battle, political battle, between the two sides of civil society which wanted to take control for their own constituencies. So, it was very sad to see that, over the back of the victims, this was made into a very political thing, and that civil society made a political battle out of it, basically. So, it started off as an initiative that was controlled by civil society, and it had, I can’t remember exactly what it was, but it had, like, quite a budget to deal with it. And, then, after two years, they had not been able to spend one cent on

victims within this program. So, that was when the state stepped in and said: “You see? Civil society is incapable and we have to take control.”, which is what they did. And it’s still a mess, but it’s functioning better, in what it does at this point. Because it was an *acuerdo gubernativa*, so the commission is created on the legal basis of a government accord, but, it was not ratified by the congress, so it has a very weak legal framework. So, that makes it very difficult for the reparations commission to coordinate its work with different state institutions, because, for that, you need a different legal framework. So, for now, what they have basically been doing, is paying checks to victims. And some of them, because they live in such horrible poverty, are happy with that, but others think it’s an insult to their dignity, because they feel that if they receive a check, that they are eating their beloved ones. So, that remains a very complicated issue. What makes the issue even more complicated is that, during the war, as I’ve told, the government, the military created the PAC, the paramilitary groups within the communities to commit massacres against their own population. And these PAC, although they were officially abolished after the war, they still are very much the power structure, from this militarized mentality point of view within the communities. And they control the program, as they often are the mayors in the communities. And, when discussions started about reparations, they also came forward, and they immediately organized themselves in a very violent way, causing damages and kidnapping people, and said that they wanted to be repaired for their work for the country. So, tragically enough, what has happened, is that when the government of Rios Montt, who wanted to be president, but then, for legal reasons, could not, and was the second one in power, when his government was in power, they started to pay the PAC. So, up until today, the PAC have received more reparations than the victims of the genocide have, so that is also, obviously, a very cynical and tragic aspect of the reparations program. And what was your other question? Ah, security, yeah. Well, obviously, I am white, and I am very tall, and I am very international community, so, for the commissioners, in a country such as Guatemala, this is something that makes you pretty secure. But, nevertheless, because I worked in these very remote areas and, obviously, when you go to a community where these local structures of power rule, they have less awareness of what that means. So, you can feel, when you are in these communities, that there is this tension and this possible threat. So, yes, there were times when they said that they would lynch me, and it didn’t happen... But, you could feel the threat, and it wasn’t the nicest of situations. And, also, when I worked in the capital, and I was writing this report, chapter on the social, psychological consequences of terror on the population, I started receiving very minor death threats. So, I was very good in writing the report... But, that has happened to many of us, but I don’t think we really faced fear, or threats to our lives.

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**Q:** I’m sorry, just very briefly, any progress in search for remains of the missing persons?

**Marlies Stappers:** Well, a lot of progress has been made in terms of exhumations, so, civil society, basically, there were three to four different, in time, exhumation organizations, and many of the graves, mass graves, have been exhumed, that have led to some sort of recovering of the disappeared people. In terms of people who are not in mass graves, no progress has been made whatsoever. It is one of the agenda points that the state has not done anything whatsoever to help, in recovering.

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**Ljiljana Hellman:** If there are no more questions, I would like to thank Marlies on her difficult, two hour long lecture, and would like to invite you all to have some refreshments or

coffee which are being served outside. Those of you who are coming from out of town will be able to have their expenses refunded, also outside. Thank you, all.