



Permanent Peoples' Tribunal

GUATEMALA

Madrid 27-31 January 1983

Judges of the Tribunal:

GEORGE WALD (USA), president
VICTORIA ABELLAN HONRUBIA (Spain)
RICHARD BAUMLIN (Switzerland)
AMAR BENTOUMI (Algeria)
SUSY CASTOR (Haiti)
HARVEY COX (USA)
EDUARDO GALEANO (Uruguay)
GIULIO GIRARDI (Italy)
FRANCOIS HOUTART (Belgium)
LEO MATARASSO (France)
SERGIO MENDEZ ARCEO (Mexico)
VICENTE NAVARRO (USA)
ADOLFO PEREZ ESQUIVEL (Argentina)
JAMES PETRAS (USA)
SALVATORE SENESE (Italy)

The Procedure

The Permanent Peoples' Tribunal

convened in Madrid, January 27-31, 1983,

Taking into consideration:

- the Charter of the United Nations of June 26, 1945,
- the Charter of the International Military Tribunal or Nuremberg Charter, of August 8, 1945,
- the Universal Declaration of Human Rights of December 10, 1948,
- the Declaration on the Protection of all Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment contained in Resolution 3452 (XXX), adopted by the General Assembly of the United Nations, December 9, 1975,
- the Charter of the Organization of American States of 1948,
- the American Declaration of the Rights and Duties of Man of 1948,
- the American Convention on Human Rights of November 22, 1969 (at San José, Costa Rica), ratified by Guatemala on May 26, 1978,
- the Convention on the Prevention and Punishment of the Crime of Genocide of December 9, 1948,
- the International Convention on the Elimination of All Forms of Racial Discrimination of December 21, 1965, signed by Guatemala,

- the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity, November 26, 1968,
- the Principles of International Cooperation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes and Crimes Against Humanity, contained in Resolution 3074 (XXVIII) of the General Assembly of the United Nations of December 3, 1973,
- the Hague Conventions of 1899 and 1907, on the Uses and Customs of War,
- the Geneva Conventions of August 12, 1948,
- Additional Protocols I and II of 1977 to the Geneva Conventions of 1949,
- Convention No. 87 of the International Labor Organization on Freedom of Association and Protection of the Right to Organise, July 9, 1948, ratified by Guatemala,
- Convention No. 98 of the International Labor Organization on the Right of Unionization and Collective Bargaining, July 1, 1949, ratified by Guatemala,
- the Convention on the International Right of Correction, of 16 December, 1952, ratified by Guatemala,
- the Convention on the Political Rights of Women, of December 20, 1952, ratified by Guatemala,
- Resolution 2625 (XXV) of the General Assembly of the United Nations: Declaration of Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations, of October 24, 1970,
- Resolution 34/169 of the General Assembly of the United Nations, which establishes the Code of Conduct for Law Enforcement Officials, December 17, 1979
- Resolution 34/178 of the General Assembly of the United Nations concerning the Right of Amparo, Habeas Corpus, and other legal remedies to the same effect, of December 17, 1979,
- specific resolutions relating to the situation in Guatemala, and particularly the resolution of the General Assembly of the United Nations of December 17, 1982,
- specific resolutions relating to the situation in Guatemala adopted by the European Parliament, particularly the one adopted during the last session in December 1982,
- the Constitution of the Republic of Guatemala, September 15, 1965,
- the draft articles on the International Responsibility of States, prepared by the Commission on International Law of the United Nations (C.D.I, yearly, 1979, II, second part),
- the draft Code of Crimes Against the Peace and Security of Humanity (Document A/36/535 U.N., October 16, 1981),
- the Universal Declaration of the Rights of the Peoples, approved on July 4, 1976 in Algiers,
- the Statute of the Permanent People's Tribunal, adopted June 24, 1979,
- the sentences handed down by the Russell II Tribunal on Latin America in the sessions held in 1974, 1975, and 1976,
- the sentences handed down by the Permanent People's Tribunal in sessions on:
 - the Western Sahara (Brussels, November 11, 1979),
 - Argentina (Geneva, May 4, 1980),
 - Eritrea (Milan, October 3, 1980),
 - the Philippines and the Bangsa-Moro people (Anvers, November 3, 1980),
 - El Salvador (Mexico City, February 11, 1981),
 - Afghanistan, first session (Stockholm, May 3, 1981),
 - East Timor (Lisbon, June 21, 1981),
 - Zaire (Rotterdam, September 20, 1982),
 - Afghanistan, second session (Paris, December 20, 1982).

Having heard on January 27, 1983 the reports and testimonies* are listed below as follows:

* The presentations referred to here were the full-length versions rather than the synop-sized versions published in this volume. Since the titles of long and short versions sometimes differed, titles of presentations listed here may vary from the published ones. Some titles have also been

- the opening speech, given by George Wald, President of the Session,
- information provided by Gianni Tognoni, Secretary General of the Permanent People's Tribunal, on the procedure adopted to guarantee the exercise of the rights of defense and, in particular, the notification of the holding of this session to the Government of Guatemala;
- the report, "Analysis of the Economic Structure", by Rafael Piedrasanta, economist,
- the report, "Social Analysis of Guatemala", by Miguel Angel Reyes, sociologist,
- the testimony of Miguel Angel Albizuere, union leader,
- the testimony of Israel Màrquez, union leader.

Having heard on January 28, 1983, the reports and testimonies are listed below as follows:

- the "Report on the Guatemalan Army", by Gabriel Aguilera Peralta, of the Central American Institute for Social Research and Documentation (ICADIS), Costa Rica,
- the testimony of Eliás Barahona, journalist and former secretary of the press office of the Ministry of the Interior,
- the testimony of Pedro Luis Ruiz, ex-secretary of the Guatemalan army, from Quiché,
- the report, "Political Analysis", by Raúl Molina Mejía, ex-president and ex-rector of the University of San Carlos in Guatemala,
- the testimony of Juan Velázquez Jimenez, a Mam peasant and refugee,
- the communication of Carolina van den Heuvel, Member of the European Parliament, vice president of the socialist group,
- the testimony of Philippe Texier, magistrate, member of the commission of investigation organized by Pax Christi International, carried out in Guatemala from June 22-29, 1981 to obtain information about the human rights situation there in general,
- the testimony of Harald Edelstam, ex-Ambassador of Sweden to Guatemala and Chile,
- the report, "Historical Analysis of Guatemala", by Guillermo Toriello, ex- Foreign Minister of Guatemala,
- the report, "Popular Culture, Indigenous Cultures, Genocide and Ethnocide in Guatemala", by Arturo Arias, of the Alaide Foppa Association of Guatemalan Cultural Workers (Costa Rica),
- the testimony of Manuel José Arce, writer,
- the testimony of Luis Felipe Irias, former president of the Association of University Students,
- the testimony of Rolando Castillo Montalvo, physician, ex-president of the Faculty of Medicine of the University of San Carlos;
- the report, "Analysis of the Indigenous Question", by Fr. Ricardo Falla, anthropologist,
- the testimony of Pablo Ceto, peasant leader, Ixil.

Having heard, on January 29, 1983, the reports and testimonies are listed below as follows:

- the testimony of José Efraín Rosales, peasant, Quiché,
- the testimony of Rigoberta Menchù, peasant, Quiché,
- the testimony of Gabriel Ixmata, peasant, Mam,
- the testimony of Juan José Mendoza, peasant from Atitlán
- the report "The persecution of Christians and the Church in Guatemala", by Julia Esquivel, Pro Justicia y Paz Committee of Guatemala, Mexico;
- the report, "On Human Rights in Guatemala", by Marco Antonio Sagastume, Guatemalan Human Rights Commission, Spain,
- the testimony of Carmelita Santos, peasant, Quiché
- the testimony of Irma Consuelo de Azmitia, housewife,
- the testimony of Guillermo Morales Pérez, peasant and refugee, mam,
- the testimony of Regina Hernández, teacher of religion,
- the testimony of Sandra Judith de Medina, professor of mathematics,
- the report, "The Complicity of the U.S. Government and U.S. Capital in the Violation of Human Rights in Guatemala", by Susanne Jonas of ISLEC (Institute for the Study of Labor and Economic

Crisis), United States,

- the report, "U.S. Penetration and Intervention in Guatemala", by Jenny Pearce of the Latin American Bureau (LAB), Great Britain,
- the "International Juridical Report Concerning the Situation in the Republic of Guatemala", by Fernando Marino, professor of public international law at the Autonomous University of Madrid.

Having seen:

- the written testimony dated January 25, 1983, sent by the Secretary-General of Pax Romana, Geneva,
- the written testimony, dated December 25, 1982, of a 35-year-old witness from Bullaj,
- the written testimony of Verny Anibal Samayos Lòpez, Honduras, dated January 14, 1983,
- the written testimony of a professor of law of the University of San Carlos,
- testimonies gathered by the Guatemalan Human Rights Commission from Guatemalan refugees in Mexico during November and December, 1982,
- written testimonies contained in the document "Other Testimony".

Having seen:

- the report of the Commission on Human Rights of the United Nations on "The Situation of Human Rights in Guatemala", 38th period of sessions 1982,
- the report of the Organization of American States on the human rights situation in the Republic of Guatemala, 1981,
- the report of the mission of Pax Christi International on the human rights situation in Guatemala, 1982
- numerous reports from Amnesty International, primarily the July 1982 report, "Guatemala, Large-scale summary executions in the Rural Zones Under the Government of General Efraín Ríos Montt"; the 1981 Annual Report dated October 26, 1981; the report, "Disappearances, a Work Book" (1981); and the report of 1981, "Guatemala: A Government Program of Political Murder",
- the report of the International Commission of Jurists, June 1982, Geneva, and the report of its visit to Guatemala in June 1979,
- the report of an investigation carried out by a North American Commission on Guatemala organized by the National Council of Churches, November 7-12, 1982,
- the report presented at the 37th session of the United Nations General Assembly by the Unitary Delegation of the Opposition in Guatemala: "Guatemala: a Case of Constant and Systematic Violation of Human Rights",
- the report of the Guatemalan Human Rights Commission to the first World Congress on Human Rights, December 6, 1982,
- the report of Oxfam America, "Witnesses to Political Violence in Guatemala: The Suppression of a Rural Development Movement", 1982,
- the report of Americas Watch, "Human Rights in Guatemala: No Neutrals Allowed", November 23, 1982,
- the report of Survival International USA, "Testimonies of Refugees in Mexico, August 1982, and a Report on the Present Situation of Indians in Guatemala",
- the dossier sent by the Secretary General of the World Federation of Trade Unions on the violation of human rights in Guatemala, December 1982,
- the report, "We, the Guatemalan Women Denounce Before the Permanent Peoples' Tribunal the Constant and Systematic Violation of Human Rights in Guatemala", January 1983.

Taking into account the abundant documentation, written and photographic, which has been given to the members of the Tribunal.

I. HISTORICAL ANTECEDENTS

1. Guatemala is a country of about 110,000 square kilometers with an estimated population of about 7.5 million inhabitants, divided ethnically into indigenous and non-indigenous people, the latter ordinarily called “ladinos”. Although the censuses indicate a lower number of indigenous people (43% in 1973), most of the rural population is certainly indigenous, heirs to the creators of Mayan civilization, comparable for its exceptional development to the civilizations of the Incas and Egyptians.

2. When the peaceful and contemplative Maya suffered the invasion of the Toltec groups, they were forced to abandon the flat jungle lands to retreat to the highlands, where they could seek shelter in places that were easily defensible. This new habitat of hills and canyons contributed to an internal differentiation of languages and customs. In fact, currently 20 linguistically different groups exist, even if the most widely spoken languages are *quiché*, *kekchì*, *mam* and *cacchiquel*. The “ladino” population originates from the Spanish invasion of 1524. After a ferocious and technically unequal war, a government dependent on the Spanish crown was imposed on the indigenous people. They were obliged, under various forms of enslavement, to give the surplus of their production both to Spain and to the Creole society that was established in Guatemala, and that, in its lower social strata, mixed with the natives creating the “mestizo” or “ladino” population. The war left many victims but not as many as the plague that decimated the non-immunized native inhabitants. Since then, despite continuous attempts at indigenous rebellions, exploitation has become the structural cause of hunger as well as racial and ethnic discrimination against indigenous people and the mestizos. Despite the indigenous uprisings against the payment of taxes at the beginning of the 19th century, the political independence from Spain (September 15, 1821) did not bring structural change for the indigenous people, especially in regard to the peasants. In 1871, the “liberal reform” brought a change in the economic orientation of Guatemala. Measures were decreed that favored the export of coffee and broke down the property of the indigenous communities, imposing forced labor upon them so that they had to provide labor for the coffee plantations. The introduction and penetration of capitalism reinforced the dominance of the hegemonic classes and the subjugation of the indigenous, whose Latinization increased with the formation of colonies on the plantations.

The decision to open agricultural exports to the world market attracted immigrants from Germany to Guatemala. At the same time, it offered the North American capital the opportunity to initiate the cultivation of bananas on a large scale. In 1904 the United Fruit Company was established. A subsidiary of this company, the International Railways of Central America, dominated the railways used for the transportation of fruit. Finally, Electric Bond and Share came to control 80% of the electrical energy of the country. Thus, a power above the state was established, which owned, besides *latifundios* (very large estates), the railroads, the ports, maritime transportation, telegraphic communication, and the international telephone system. This power supported the tyrant Estrada Cabrera from 1898 to 1920 and made Guatemala one of the “banana republics” of Central America.

3. The greatest effort to overturn this dominating structure arose when the approaching end of World War II allowed for a realignment of the internal power structure. The Revolution of October 1944 ended the era of tyrants and gave way to democratic reforms such as the popular vote, the establishment of political parties, the legalization of trade unions and the right to strike and the suppression of, above all, forced indigenous work, social security, etc. From 1945 to 1951, the government of Dr. Juan José Arevalo gradually expanded its base of support, which initially was primarily urban, to the countryside. The southern coast and the northeastern coast - the zones of the United Fruit Company – were the centers of the main peasant struggles, which mainly consisted of government-supported strikes. The anti-imperialist character of the movement strengthened in 1952 when land reform was decreed under the regime of Colonel Jacobo Arbenz. In an agreement with the land oligarchy, the lawyers of the United Fruit Company, among them John Foster Dulles and his brother Allen Dulles (Secretary of State and chief of the CIA of the United States respectively), prepared the invasion from Honduras which in 1954 stifled all liberation efforts.

In response to the violation of the rights of labor, political, student, and cultural organizations, and to the murder of hundreds of leaders and peasants by the anticommunist regime of Castillo Armas, there gradually arose a new liberation movement. It was fueled by an attempt to reconstitute the labor union, student, and political movements, by support from the Catholic Church in the rural areas, and particularly by the birth of a guerrilla movement in the capital city and in the northeastern region of the country. In March 1963, this movement precipitated a new coup d'etat, and in the second half of the 1960s it was brutally repressed. About 12,000 civilians were murdered under the pretext of combating 300 guerrillas.

4. The repression conducted by General Arana Osorio in accordance with North American counterinsurgency schemes eradicated the guerrillas from the rural areas. They regrouped, however, and insurgent activity began again in some indigenous zones. In turn, the workers and students movement strengthened in the capital and gradually connected with the peasant movement, giving rise to demonstrations never seen before in Guatemala, such as the miners' march from Ixtahuacán to Guatemala City in 1977.

5. The guerrilla movement expanded its bases when the possibility of genuine elections was repeatedly negated (especially by the frauds of 1974 and 1978), and when the repression of mass organizations forced those in struggle to change their methods and strategies. The Panizos massacre in May of 1978 and the burning of the Spanish embassy (1980) were the two historical milestones that strengthened the unity of all sectors - workers and peasants, indigenous and ladinos, men and women, students and professionals, Christians and non-Christians - in a common struggle.

II. THE FACTS

6. The Tribunal has corroborated the following widely reported facts, not only through reports from governmental and nongovernmental organizations, but also through the direct testimony of the affected persons.

1. Political and Juridical Institutions

7. The democratic process long pursued by the people and led until 1954 by Presidents Arévalo and Arbenz, was stifled with massive help from the United States. Since then, only a "restricted democracy" has been possible.

The Constitution of Guatemala of September 15, 1965 can be defined as "liberal"; it recognizes the equality of all human beings and traditional freedoms such as individual freedom, freedom of association, freedom of expression, freedom of the press and teaching, religious freedom, and above all the freedom of property and the freedom of commerce and industry. It also institutes legal guarantees such as the use of habeas corpus.

This Constitution, however, bears the signs of the social repression that characterized the previous period. The freedom of trade unions is in fact limited to "economic defense and social progress" (Article 114,12) and strikes are allowed only after the process of conciliation has failed, and political strikes are completely excluded (Article 114). The limits placed on political activity are expressed in Articles 27 and following, in regard to political parties. Their constitution and their functioning remain necessarily linked to legal registration, which is denied to "all parties and organizations that advocate the communist ideology or that for their doctrine, methods of action or their international ties attack against the sovereignty of the state and against the foundations of the democratic organization of Guatemala "(Article 27.2 and Article 64.2, relating to the right of association, with a similar provision). Legal registration is authorized only for organizations that have at least 50,000 members in the electoral registers, of which at least 20% must be able to read and write (Article 28). This last provision tends to prevent the formation of new parties that would be authentic expressions of the poor population, particularly the indigenous people, even though

their program may not fall under the restrictions of Article 27.

Evidently this Constitution sanctions a regression in respect to the opening that made the 1945 Constitution possible. It sets a narrow framework for political action and processes. It is the order established by a society engaged in capitalist development processes. In a society that shows such serious social imbalances, these limits also restrict respect for fundamental freedoms and for political and legal guarantees.

Opposition forces that do not respect the limits of the established socioeconomic system are protected neither by fundamental rights nor by juridical guarantees. In May 1966, not long after the Constitution took effect, 28 communists were detained, tortured, and murdered, even though the Constitution forbids torture (Article 51, 79 and following), and limits the death penalty to extremely serious and undoubtedly established facts. However, the constitutional norms failed to contain the political mobilization of the masses within the so-called liberal democratic system. To complete the juridical modifications, it would have been necessary to proceed with clearly illegal manipulations and to simultaneously resort to increasing brutality and systematic mass murder, which negates the validity of recognized, fundamental rights and political freedoms.

8. Within this context we can cite the following facts:

Fraudulent elections. Every time an election has threatened to produce unwanted results, it has been manipulated or falsified. That was the case in 1974 (the election of General Laugerud García instead of Ríos Montt) and in 1978, when General Lucas García came to power through electoral fraud involving all political parties, up to the elections of 1982. The military coup d'état led on March 23, 1982 by General Ríos put an end to these complications, abolishing the Constitution and in doing so confirming a process which had started long before: the seizure of power by the army. The Constitution is only a facade.

The seizure of the state by the army. The fall of President Arbenz, suffocating radical bourgeois democracy for the benefit of foreign interests and the oligarchy, and setting aside the interests of the people, unleashed a process of political dissolution. The bourgeois fractions were incapable of controlling the armed resistance to which the masses had resorted and offered ever greater leadership to the army. The military repression of popular demonstrations against counter-revolutionary politics (especially those of 1962, which endangered the government of General Ydígoras Fuentes) further increased the leadership of the army which, after getting rid of its own progressive sector, and through an internal restructuring, became the main political decision-maker. Faced with the incapacity of political parties to make use of "limited democracy", the army imposed itself as the arbiter of the situation, ready to assume power whenever the constitutional process ran the risk of breaking down. In 1963 the army usurped power in the face of the risk of the electoral victory of the former democratic president Arévalo (1945-1950) and in 1954, the army had made possible the expulsion of President Arbenz by refusing to support him. Finally, in 1982 an end was put to the fighting between the political parties with a coup d'état by General Ríos Montt. The latter immediately replaced the Constitution with a Fundamental Statute of Government that concentrated all political power in the hands of the junta. In spite of the fact that the Statute of Government of March 27, 1982 adopted almost word for word the fundamental freedoms and the legal and political guarantees of the abolished Constitution, its provisions are in reality only a facade:

- The Statute transfers all legislative and executive power to the military junta (Articles 3 and 4).
- Decree 46/82 establishes Secret Tribunals and Tribunals of Special Jurisdiction which function outside the procedural guarantees.
- Repression continues, and petitions to General Ríos Montt by the parents of the disappeared go unanswered.
- The "amnesty" granted after the coup d'état with the Decree-Law 33/82, in practice only favors the perpetrators of the repression that preceded it. To the knowledge of this Tribunal, no penal sanction has ever been instituted against them, nor a single punishment.
- The State of Siege promulgated by Decree-Law 45/82 of July 1, 1982 has been regularly prolonged.

-The creation of an army with unlimited powers corresponds to the militarization of the entire society, that is, its forced integration into the repressive structure.

-The “civilian patrols”, created by the regime of Rios Montt under the pretext of protecting the population against “subversion” in fact serve to control the population through the army and to create conflicts between the different ethnic groups (the various indigenous people against each other and town against town), thus destroying the fundamental unitary consciousness of the people towards the repressive apparatus of the state;

- The “strategic hamlets” and the institution of the “military commissions” are part of the same penetration of society by the repressive apparatus.

9. This development of state structures as elaborated above and the role of the state itself clearly indicate that the violations of fundamental rights which will be addressed in the next chapters are a necessary and logical consequence of the system established and the will to keep it.

2. Cultural Repression

10. Among the Indigenous Peasants. In order to destroy indigenous culture at its roots, Rios Montt's army attacks villages, killing people. In addition, people are forced to abandon their respective villages. This obliged them to leave their sacred places: cemeteries, places of worship and ceremony, “the centers of power”. The army also destroys the looms where *huipiles* are woven and all the raw material necessary to weave them, as well as the *huipiles* that are found in the village and which represent tradition (before dying grandparents typically gave them to their grandchildren and explained to them the symbolism of the embroideries that enclose the tradition). Deportation also interrupts communion with the earth and corn, a sacred life-giving element, the planting of which signifies the reaffirmation of faith and the peoples’ eternal gratefulness for creation.

11. When the army of Rios Montt concentrates the indigenous population in strategic hamlets, it imposes upon them “Western” clothing, thus depriving them of their last ties. For the indigenous woman to take off her costume means to betray her ancestors. They even get their hair cut, which is another sacrilege in indigenous culture. Finally, they are given a minimum of food and are not allowed to go outside of the strategic hamlets to plant corn or to celebrate their sacred rites at the places or on dates which have been established for centuries. An attempt is thus made to systematically and consciously destroy the most sacred values of the indigenous population in order to subvert their identity and, by annihilating them from within, destroy any ability to defend their own ethnic identity.

12. At the University and in the Sphere of Education. Policemen and members of the military intelligence dressed in civilian clothing carry out kidnappings and murders, in homes and workplaces or even on the street. Repression at the University [of San Carlos - Eds.] and in the educational field has been aimed at about 250 University-connected people, students, professors, professionals, labor unionists, University and student leaders; essentially, people from almost every sector of the University.

One can cite individual cases, such as that of Victor Valresth. Violent action against collective groups was also taken. For example, the machine-gunning of university students who got off the bus, which took place at 8.35am on 14 July 1980 and, at the end of the same year, the massacre of the participants attending a round table conference held at the University Cultural Center. Thefts were common and bombs were also frequently detonated, for example in the university centers of the North and the West, while the headquarters of the Association of Economics Students and the Documentation Center of the Faculty of Medicine were set on fire.

The most serious and recent instance of repression against the University, whose autonomy is guaranteed by Article 99 of the Constitution, is briefly mentioned above. At eight in the morning, while the students got off the buses at the terminus, in front of the Rectorate, agents stationed in unmarked vehicles machine-gunned them, killing fourteen and wounding over sixty. Dr. Rolando Castillo Montalvo, dean of the Faculty of Medicine, was witness to this event.

Virtually all cultural sectors have suffered persecution. One only needs to read the following examples to gain a general picture of the pervasiveness of this persecution:

- Dr. Rita Navarro was director of the University cultural center, a place which brought together all the artistic groups subsidized by the University, such as the theatre of art. In July 1979 she was murdered.

- The same year a ferocious repression began against the popular neighborhood art movement of loosely organized theater and musical groups, which had emerged from various marginal neighborhoods of the capital and generally had a Christian orientation.

- The policy adopted by the governments of Lucas García and Ríos Montt for primary and secondary school was to economically strangle public education in order to liquidate it and in turn favor the dominance of private education. According to the former Minister of Education, Colonel Clementino Castillo, public schools are the "focus of subversion" so "the state has no reason to finance them". It should be remembered that only the middle and upper classes can access private schools and that they are only present in the capital and in some of the main cities. If this gradual liquidation of public education continues, it will - by means of a conscious and deliberate effort - condemn all popular sectors in the country to illiteracy and ignorance.

- It is also important to take note of the psychological repression, which is operated through different methods, aimed at quieting the "critical consciousness of the nation". Some of these methods include sending anonymous messages and public threats from civilian and military authorities of all levels, including the President Romeo Lucas García.

13. *In Other Cultural Spheres.*

- In July 1980, the group "Teatro Vivo de Guatemala" (Living Theatre of Guatemala), perhaps the most brilliant theatre group of the country, was forced into voluntary exile after two of its main actors miraculously escaped an attack in Chinautla, Guatemala. Following their escape, the police occupied the cultural center "La Galera", an autonomous center where writers and artists gathered, and shows were frequently held. All those associated with the center, whether through working or gathering there, had to go underground.

- In September of 1980 Carlos Obregón, a theatre director and veteran of Teatro del Sol in Paris, France, was kidnapped. He was saved from death by the prompt intervention of the French authorities, who demanded his return. He, however, did not manage to escape savage torture, losing an eardrum as a result of the violence.

- On the 19th of September 1980 the 67-year-old writer Alaide Foppa, who had only returned to the country to visit her sick and elderly mother, was kidnapped in the center of the capital. Alaide Foppa is notoriously known as Guatemala's first feminist and arguably the most brilliant Guatemalan writer of this century. Foppa's son, Mario Solórzano Foppa, journalist and creator of the first television news program, was assassinated in June 1981. Alaide Foppa was not seen again in spite of an international campaign demanding her reappearance.

- In February 1981 a G-2 platoon appeared at the offices of the Department of Archeology where the writer Franz Galich worked. Fortunately, the doorman was able to warn him, allowing Franz to hide on the roof of the building and avoid capture. Later the same workers took him in complete secrecy to the Embassy of Costa Rica.

- In June 1981 the musician Tito Medina had to suddenly leave the country after escaping an attack.

- The writer Adolfo Méndez Vides also left the country in June 1981 following his kidnapping by a group of judicial police. He was released after witnessing the execution of his friend and colleague who had accompanied him.

- In November 1982 the sculptor Edgar Guzmán managed to leave the country after being confidentially informed that he was about to be kidnapped.

- In September 1982 Rolando Medina, the most notable and brilliant literary critic in Guatemalan history, also a writer and a poet, was kidnapped. The kidnapping took place in a parking lot in front of the School of History of the University of San Carlos. His wife Sandra Judith was there: she witnessed the kidnapping and took a note of the number plates of the cars involved.

- Finally, adding to all these fully substantiated facts, the playwright Otto Gaytán escaped from kidnappers in November 1982 by jumping into the courtyard of the house next door.

14. *In the Press.*

In Guatemala self-censorship is instigated by government terror, whilst direct censorship is strongly imposed onto the directors and journalists of the various available newspapers.

- In the last four years 23 journalists have been kidnapped. To this date they have never reappeared, nor has anyone heard from them. Amongst the kidnapped were Sonia Calderòn de Martell, Abner Recinos Alfaro and Irma Flaker. Another 23 were machine-gunned in the street. Amongst the murdered were Marco Antonio Cacao Munos, Jesùs Marroquìn Castaneda and Jorge Marroquìn Mejìa.

- According to the Interamerican Press Society (SIP) in a 1980 report, Guatemala is one of the most dangerous countries for journalistic activity. About 100 journalists have been forced to flee the country due to attacks and death threats.

- On July 5, 1980, journalist Marco Antonio Cacao Muñoz, a member of the Socialist Democratic Party, was machine-gunned by the G-2 of the army. He was accused of traveling too frequently to Mexico and Costa Rica, according to what the Minister of the Interior, Donaldo Alvarez Ruiz, told his press secretary, Elías Barahona. The killing was attributed to the Secret Anticommunist Army (ESA). Alvarez Ruiz confidentially told Barahona that Cacao Muñoz was “a good guy, but he didn’t control his tongue when he was bad-mouthing the government”.

As a consequence of all that has been described above, journalists are forced to work in secret in order to report objectively about what is going on in their own country.

3. Religious Repression

15. Despite diplomatic relations with the Vatican, the first repressive act against Christians took place on May 9, 1967, after the pervasive violence was denounced by the Bishops.

- In 1968, the Melville brothers, both American priests, were expelled from the country. Later, as popular opposition to the government grew, clergymen and pastors became aware of what was going on. They gave a voice to those who did not have one, in the face of the misery and discrimination against poor people, particularly against the deeply religious indigenous people.

- In December 1971, a group of pastors called for lifting the State of Siege. Those who were foreign were expelled, whilst those who were Guatemalan were threatened.

- The Christians became more involved in the popular struggle at the time of the earthquake of February 4, 1976, and through the Pastoral Letter of July 1976 entitled “United in Hope”. The bishop of Quiché defended the persecuted Christian student leaders. During Lent of 1977, the Union of Guatemalan Priests (Confederación de Sacerdotes de Guatemala, COSDEGUA) was founded. Following this, the Committee for Justice and Peace was established in November 1977.

- The massacre of 130 peasants, which took place on May 29, 1978 in Panzoa, is one of the most extreme cases that occurred during this time of religious repression. The Bishop of the Verapaz provinces and the pastors protested; the Spanish sister Raimunda Alonso Queralt was expelled from Guatemala, and the police began an investigation into the priests of the region.

- On June 30, the priest Hermògenes Lòpez Coarchita was murdered because of his identification with the social struggles of his community and his opposition to the army.

- Repression increased with the presidency of Romeo Lucas García. For example, on 4 August Mario Mujìa Còrdoba, a Christian, was assassinated along with other leaders.

- Father Carlos Stetter from the Diocese of Huehuetenango was expelled in 1979 after engaging in work on social advancement.

- The Jesuits were particularly accused of being Communists. They answered, on 11 January 1979, with a profession of faith and service.

- In 1980, two sets-of events stand out: the repression and closure of the Diocese of El Quiché and a similar repression in Escuintla:

1) On January 31, 1980, 27 indigenous Quiché peasants, workers, students and villagers, were shot

dead and burned alive in the Spanish Embassy by order of the President and the Minister of Security. On that occasion numerous catechists also died. On June 4, Fr. José María Gran Cirera, M.S.C.M., a Spaniard and the priest of Chajul, was murdered along with his sexton. On July 10, Father Faustino Villanueva, M.S.C.M., priest of Joyabaj, was murdered. On July 19, murder was attempted against Bishop Juan Gerardi of El Quiché, President of the Bishops' Conference of Guatemala. The Diocese of El Quiché was closed down in protest. On November 1, the Pope addressed a letter of encouragement and support to the Bishops, however Bishop Gerardi was denied permission to enter Guatemala on his return from Rome.

2) The Diocese of Escuintla began to be persecuted from 1 March 1980, when Bishop Rios Montt, brother of the president Ríos Montt, sided with and acted as an advocate for the peasants. The Emaús Center, a place of meetings and encounters, was searched. The Filipino Father Conrado de la Cruz, I.C.M., parish priest of Tiquisate, was kidnapped. The Belgian father Walter Woodeckers, J.C.M., parish priest of Santa Lucia Cotzumalguapà was assassinated.

4. Labor Union Freedoms

16. Attacks against trade union rights and the repression of trade unions began in the 1960s and have become increasingly serious. All the testimonies gathered by the Tribunal and the reports gathered by the International Labor Organization are proof of the repeated violations of trade union rights: restrictive legislation on the right to strike, death and imprisonment of trade union leaders, searches of offices (for example, see report delivered by the International Labor Organization on September 17, 1981 to the Secretary General of the United Nations).

After 1970, the murders of union leaders intensified. Between October 1978 and April 1979, violence became a regular occurrence at the Coca-Cola bottling plant, where collective bargaining laws had been violated and union members were threatened and, one day, attacked by 80 armed men in the plant itself. Among the attackers were members of the "model platoon" judicial police. The strikers were beaten and some were kidnapped. On August 24, 1980, security forces detained and tortured 17 union leaders on the "Emaús" plantation in the department of Escuintla. The elimination of union leaders reached its peak with the assassination and kidnapping of more than 80 individuals. On June 21, 1980, the Workers Central of the CNT was raided and surrounded by the army: 27 union leaders, the majority of them general secretaries, were kidnapped and subsequently disappeared. In the space of two months, 44 leaders disappeared.

Since then, trade union organizations have no longer been able to carry out public activity due to both the impossibility of speaking out and the kidnapping of their leaders, many of whom have been assassinated. Any attempted strike was repressed. Lawyers can no longer defend the rights of workers, as they have no organization.

On July 1, 1982, a State of Siege was established, suppressing all intellectual and collective rights and "prohibiting the functioning of labor organizations and political parties". The Workers' Centers are closed, and, in practice, trade union rights cease to exist in Guatemala.

5. Personal Liberties

17. The problem of forced or involuntary disappearances began in Guatemala in 1966 and has continued with varying intensity since then (see Reports of the task forces of the United Nations Commission on Human Rights and testimonies collected by the Tribunal).

The victims of these disappearances come from different social backgrounds, but most of them are workers' leaders, peasants, indigenous people and leaders of the Christian communities. In most cases these are not legal arrests: victims are kidnapped from their homes, workplaces, during meetings and even on the street.

The kidnappings were carried out by groups of individuals who were almost always members of the security forces. These groups act openly, using vehicles ordinarily used by the police.

In the majority of cases, we have assumed that the person who disappeared is dead, without ever being able to know for certain. Only the discovery of the sites where the killings took place or of clandestine cemeteries confirms this hypothesis. For example, in the cemetery of Comalapa, 30 bodies were found in 1980, and 23 bodies were found buried in a common grave in 1981.

The extent of this phenomenon is extremely difficult to assess. It is almost impossible for survivors to use legal recourse, particularly the "exhibición personal" [the right to demand to see the physical evidence - Eds.] contained in Article 79 of the 1965 Constitution. In 20 years, only once has it been possible through legal recourse to make a missing person reappear. The threat of violent reprisal explains the lack of effective investigations.

There are no complete lists of the forced disappearances. The Tribunal has sufficient information to affirm that this phenomenon occurred without interruption from 1966 to 1982, and can be described as systematic. For example, the task force of the United Nations Commission on Human Rights concerned with forced and involuntary disappearances gave us a list of 615 persons who disappeared from June 1978 to October 1981, with names, dates of disappearance, place of detention, etc.

The use of torture is also systematic. The reports given to the Tribunal reveal that it has been constantly practiced since 1954 in varied forms, many of them horribly cruel. Very few have managed to survive. The mutilation of the corpses gives us an idea of this cruelty: men and women torn apart by machetes, corpses without heads, burned and beaten, pregnant women with their bellies open and the fetus in their hands.

Torture is the hallmark of the army, of the security forces, and in particular of the elite troops called "Kaibiles".

The Tribunal has received numerous written testimonies and has listened to many indigenous people who were eyewitnesses to these acts of barbarism.

Many members of the family of one of the witnesses died of torture: his mother, his father, the members of his community. The descriptions alone reveal the horror: women were raped, and their nipples were cut before being killed slowly with machetes, fingernails torn off one by one, destroyed bodies thrown down a well.

Elías Barahona, who was press secretary to the Minister of the Interior for four years, has told the Tribunal the location of the clandestine torture centres in the capital. He also stated that a counter-insurgency project suggested by the US to General Lucas García provided for the presence of Israeli and Argentine instructors in support of the Guatemalan military.

An Amnesty International report dated February 1981 concludes its observations by stating that "torture and death are part of a deliberate long-term program of the government of Guatemala".

It is now recognized that Guatemala was the first country to practice forced and involuntary disappearance as a form of repression and that Guatemala has thus inspired several Latin American countries, in particular Chile, Uruguay and especially Argentina to do the same.

6. Murders and Massacres

18. Repression in Guatemala began a long time ago, but the current situation of permanent and systematic violence dates back to the beginning of the 1960s, at the time of the military uprising against the government of General Ydígoras Fuentes.

In that period, paramilitary forces were created, such as the Organized Anticommunist National Movement (MANO, the White Hand), the Death Squad, and many others that helped to eliminate all forms of political opposition with threats, torture, and assassination. The victims were not only guerrillas but also, increasingly, members of the political opposition, and the entire populations of rural areas like Quiché, Huehuetenango, Chimaltenango, as they were suspected of supporting the guerrilla forces.

The numerous testimonies that have been given to the Tribunal, the numerous reports that have been received and the study of abundant mission reports sent by the Organization of American

States, Amnesty International, and the International Commission of Jurists clearly accuse the military and government authorities, and the security forces of acts of extrajudicial execution against the civilian population. Killings often take place in the villages, but also occur in the capital: ex-Minister of Foreign Affairs Alberto Fuentes Mohr, killed January 25, 1979, political leaders such as ex-mayor Manuel Colòn Argueta, or numerous professors at the University of San Carlos (27 between March and September 1980).

Crime and violence only grows and worsens when one considers the peasants and native of Guatemala. The examples are abundant, and the Tribunal has been able to obtain considerable documentation of these crimes. The most recent cases illustrate the pervasive and violent character of this repression.

- on May 29, 1978 in Panzòs, Department of Alta Verapaz, about 700 peasants were gathered in a square, where the army opened fire, killing 130;

- on January 31, 1980, 29 indigenous people from Quiché peacefully occupied the Spanish Embassy. The diplomatic headquarters were immediately surrounded by 400 policemen and, despite the intervention of the ambassador, the police invaded and set fire to the building. There were only two survivors, the ambassador and a peasant. The following day the farmer was taken from Herrera hospital, where he was being treated and his body was found a few days later in front of the San Carlos University. The fire caused 37 deaths, among them 8 members of the embassy staff.

Elías Barahona told the Tribunal that the order to attack the embassy was issued by the President of the Republic, General Lucas García, and that the majority of the officials and police who participated in the action still held their jobs.

- Another episode, following the 1982 coup d'état is the San Francisco massacre, perpetrated by the army on July 17, 1982, which killed 352 people. The Tribunal has in its possession a list of 302 names and the testimony of the survivors (living as refugees in Mexico) brought to the Tribunal by the priest Ricardo Falla.

The Tribunal is aware of numerous massacres perpetrated against entire populations in recent years up to 1982. These killings provide evidence that the situation has become more serious since the coup d'état of 1982. The documents in the hands of the Tribunal do not allow a precise evaluation of the number of murders from 1954 to this date, but the figure is certainly not less than 50,000 and probably exceeds 100,000.

7. Generalized Terror

19. Since the coup d'état of March 1982, a phase of terror began which affected a great proportion of the population; between March and November of 1982, more than 8,000 were killed.

The forms of terror consisted of public torture and massacre and had the goal of intimidating the entire population. For example, from March 23 to September 30, 1982, 4,044 peasants were massacred in groups of up to 500 people at a time.

The description of the San Francisco massacre, which took place on July 17 1982, is highly indicative of the method of torture generally used. Men and women were separated and gathered in the local village, where they were told that a meeting would take place. Women and children of all ages were gathered in the church, where the army began to shoot. Survivors were separated from their children and taken in groups to homes where they were brutally murdered with machetes. Later on, the children were killed. A witness saw soldiers slicing open the bellies of children with knives and then proceeded to slam them against a wall to smash their heads. After a short pause, the soldiers started executing the men: they let them out, tie their hands, threw them to the ground and shot them in that position. The massacre continued for an hour and ended with the throwing of grenades on homes. Two survivors managed to escape San Francisco at night. The responsible were 600 soldiers, led by 6 officers.

Parallel to this, the "scorched earth" policy consists in systematically destroying villages to force

the indigenous population to leave and regroup in "model villages" that were set up after the coup d'état of March 1982. From this date, the army also tried to force the peasants to set up "civilian patrols". The Tribunal heard numerous witnesses reports (August 18 and October 5, 1982) that even recently they had come under pressure to organize civilian patrols. When the peasants resist, the military threatens to destroy the village and, if they persist in refusing, they burn down the houses, even if children are inside. Officials speak of "orders from the government of Efraín Ríos Montt ... to protect the population".

The forced displacement of entire populations involves the army building "model villages" copied from the "strategic villages" of the Vietnam War.

In October 1982, for example, 5,000 peasants from 15 villages in the Department of Chimaltenango, which had been destroyed by army attacks, fled to the mountains. They have been concentrated under the control of the army in San Martín Silotipeque, in the Chuatalum area where "model villages" were set up. Some died, but since access to the zone is forbidden, a definite number cannot be given.

The reign of terror imposed mass forced migration of populations. It is impossible to give precise figures since there is no consensus. However, Guatemalan human rights organizations as the Guatemalan Human Rights Commission, the Episcopate, etc., estimate that one million people have been displaced, of whom 200,000 have taken refuge abroad, particularly Mexico.

8. The Armed Forces, the Paralegal Forces, and the Creation of the Dehumanized Man

20. The Armed forces and security services have developed immensely and exercise an influence that surpasses the military field of action.

This process occurred on two levels: firstly, the army began to set up its own economic activities, such as the creation of an ammunition factory, and participation in the creation of a cement factory, the establishment of its own bank and the so-called "torre de estacionamiento" (parking tower) in the capital. At the level of ideological indoctrination, the army broadcasts TV Channel 5 and plans to create a military university. At the individual level, high-ranking officers integrated with factions of the ruling groups, whose interests are reflected in the officers' social policy.

Growing militarization is also reflected in the decisive influence exercised by the military over the political life of Guatemala: for example, in determining electoral processes and controlling, by means of political forces that have no autonomy of their own, the very government of the country. This militarization of both political and civil society explains the continual use of terror as a state policy, for which the army and police units are directly utilized, or groups that appear to be "paramilitary" but are, in reality, dependent on the army.

Militarization also explains the absence of political life and real democratic alternatives that have characterized the political system of Guatemala up to now.

These policies adopted by the military can be partially explained by officer training and the peculiar process of socialization that tends to separate officers from the rest of society, which begins in adolescence. This process includes living in their own exclusive neighborhoods, such as the "military colony" of "Santa Rosita" in Guatemala City, as well as desensitizing them to human suffering and instilling them with a strong sense of cruelty.

The Tribunal is also facing the development of another phenomenon: entire armies are being trained to rape, murder, torture and maim women, men, children and the elderly in a deliberate and conscious way. These acts are carried out publicly, without any secrecy whatsoever, with the perpetrators showing themselves openly to the victims. This is done in order to terrorize the civilian population and thus prevent them from organizing themselves politically and economically. We first encountered this phenomenon in the Tribunal on El Salvador. Since then, we have asked ourselves how it is possible for a government to succeed in militarizing peasants (as happens in the armies of El Salvador and Guatemala) against other, non-uniformed peasants? In fact, we have sufficient proof that these atrocities are committed by peasant soldiers who act not only against their

villages but also against their families.

How is a policy like this, which involves tens of thousands of people joining Guatemalan army and police, realized on such a large scale?

A constant process of brutalization and alienation begins when soldiers are recruited and continues systematically throughout their entire training.

A typical example of this will now follow. A young peasant, 17 years of age, doing his military service, has shoes and good clothing for the first time in his life. What follows is somewhat strange: he is locked up in jail for two days. Later, together with 60 fellow soldiers, he is transferred and beaten hard on a frequent, regular basis. In this first phase of training, in addition to the beating, he is continually insulted (especially if he is indigenous), attacking his family, his village of origin and all aspects of his previous civil life. The beatings continue throughout the first phase of their training, accompanied by constant insults and invective regarding their origins (particularly if they are indigenous), their families, their villages, all aspects of civilian life. One could say that their sense of self and identity is being completely destroyed in order for them to be reborn as Guatemalan soldiers.

In the words of one of our informants [verbal testimony - Eds.], an ex-sergeant major:

“Every day we were told the same things: that a soldier must defend his homeland, that he is strong and worthy of the utmost respect. They beat us to death, until we bled, so we were ready to kill our comrades. A certain Lieutenant Morales despised the indigenous and our customs. He demanded that we replace our families with machine guns and our wives with prostitutes and taught us how to rape women. When he asked, we brought him women and after he raped them he would pass them onto the soldiers. It was in this way that I first became a soldier and then a sergeant. I was promoted because I could beat my own *compañeros* and I had the stomach to watch anything that was done”.

21. Moreover, there are also proven cases of threats and the practice of cannibalism, especially among lieutenants and captains. This is done to set an example to their troops and to provoke terror in the civilian population. A lieutenant announced in a public plaza that for him “blood is sweet”; another officer yanked out the heart from the warm body of one of the people massacred at San Francisco and put it in his mouth; a captain or lieutenant in Todos Santos, Huehuetenango, ate the raw liver of a man considered subversive. Cannibalism is a practice that soldiers and officers are normalized to in the military bases, for example by using the blood of the kidnapped.

It is obvious that all these acts of barbarism generate strong violence and hatred. It is through these methods that the Guatemalan army is able to brainwash thousands of indigenous peasants into becoming tools of terror that are ready to carry out any atrocity, are completely subordinated to their officers and completely disconnected from their people, even from their families. This is the creation of an army of psychopaths in the truest sense of the word, dehumanized and brutalized until they are totally unable to live as civilians among civilians and to reunite with their families and ethnic communities.

9. Ethnocide and Genocide

22. The reduction of the Indigenous to the category of subhuman is referred to, for example, in frequent expressions by officers of middle and high rank who proclaim they will exterminate whole populations that, according to them, support the guerrillas, until “we do not leave a single seed”.

The concept that guilt and crime are transmitted biologically underlies the destruction of entire villages and the killing of small children too young to reason. It is as if they were part of an infected organism, a cancer or some kind of bad pervasive weed that must be uprooted.

A widely documented example of the destruction of a whole community (village or farm, or a combination of both) is the massacre at San Francisco. The survivors have been interviewed separately on different dates by different people and their stories always coincide. It thus cannot be an invention, fabricated by an international conspiracy. The informants are immediate eyewitnesses

of the massacre: they survived only because three of them escaped whilst the soldiers were killing the men and setting fire to the building. The smoke and the heat facilitated their escape, as it hid them from view when they jumped out of a window. There was one other survivor, who was not wounded by the soldiers last grenades. He threw himself onto the ground and, as it was night, the soldiers thought he was dead. During the massacre the soldiers first killed the women, who had been separated from the children, and then the children, by slashing their bellies with a knife and slamming them against wooden poles. The intention of the soldiers and officials was to exterminate the entire village.

23. During the period of Rìos Montt, other similar cases at different times and in different parts of the country. For example, in April, before Holy Week in La Uniòn, Inxàn, 390 murders occurred; June 17, in Pambach, San Cristobal, Alta Verapaz, 96 murders; July 18, in Plan de Sánchez, Rabinal, Baja Verapaz, 200 to 250 murders; September 13, in Agna Frìa, Uspantàn, Quiché, around 350 murders; September 26 in Laz Rosas and Chijocòn, San Martín Jilotepeque, Chimaltenango, around 275 murders.

24. The basic social units, i.e. villages, departments, etc. (but not the family), are in fact ethnic micro-groups which, as such, enjoy their own identity, distinct but not opposed to the greater one of the municipality, the linguistic area and, in general, the indigenous ethnic group. In this sense, an inhabitant of the village of Paxjut has a cultural identity that links him to his village, to the township of Rabinal, and more broadly to the group that speaks the language Achì and to the indigenous people as a whole.

Therefore, attempting to totally destroy an ethnic micro-group, including its small children, means that this act was not only carried out for political reasons, but also racial ones. Here, we are talking about genocide in the strict sense of the word.

III. THE ECONOMIC, POLITICAL, AND SOCIAL CONTEXT

25. All the facts gathered by the Tribunal cannot be correctly interpreted unless they are seen in a more global context, which also takes into account the elements of the economic, social, political, and cultural structure of Guatemalan society and the fundamental reasons for the behavior already mentioned.

1. Main Characteristics of the Coup d'état of 1954

26. The coup d'état of 1954 completely changed the orientation of Guatemalan society. The principal actor was the government of the United States, and particularly the CIA, as has been documented in recent studies. The military coup, which defended the interests of large U.S. Corporations and had the support of Guatemalan landowners, resulted in the permanent exclusion of the masses from political power and the alienation of any popular consensus. A real state of war was thus established, which is expressed in a counter-insurgency strategy, whose deep roots lie in the existing socio-economic structures and in the phenomena of international domination.

2. Regional Differences of the Economic System and Social Heterogeneity: Its Progressive Hierarchization

27. The predominance of agriculture in the economy (70% of the active labor force works in the agricultural sector, 12.5% in the industrial sector, and 17.5% in the services sector), together with the importance attained by the petroleum industry, result in the fact that land ownership continues to be a decisive factor in the constitution of the social structure.

The fall in the productive value of the soil has led to different forms of land exploitation. This historical-colonial phenomenon persists today and is now even further accentuated by technological development. This explains the massive concentration of land in the hands of large agricultural enterprises (for instance, in 1979, 2.6% of agricultural proprietors had more than 45 hectares each and used more than 65.1% of the cultivated land), and the increase in the number of *minifundios* (small farms) under the pressure of fast population growth (an annual rate of 2.82%). In 1950, there were 74,300 farms of less than .7 hectares; in 1979 there were 166,700, while 88.1% of the landowners occupied 16.1% of the land. In addition, there were 174,900 peasants without land in 1970.

28. This differential distribution of the land and communication difficulties in a country with a very rough and uneven terrain have created a highly diversified society from region to region. Currently, this social segmentation tends to shrink, on the one hand because of the economic mobility of the agrarian bourgeoisie, and on the other hand due to the geographical mobility that the economic situation imposes on the rural workforce and in particular on indigenous groups.

29. One can observe two kinds of regions:

a) *The Regions of an Expanding Capitalist Economy.*

- The South Coast has large agricultural enterprises whose products are oriented toward export (cotton, sugar, citrus). These are owned and managed by a modern bourgeoisie. The labor force is made up of resident “ladin” workers and unattached temporary workers.

- The North Coast is the region of banana enterprises, with foreign capital directed by local intermediaries. They are a point of attraction for landless peasants.

- The High North is a region of uncultivated high plains, which the local bourgeoisie converted into a cattle zone for the export of meat, and from which foreign companies extract oil. Large numbers of ladino and indigenous peasants are coming to this zone.

- The East, with an exclusively “ladin” population, is the region of medium-sized enterprises belonging to rich peasants who seek to concentrate ownership by expelling the poorest peasants.

b) *The Economically and Socially Traditional Regions.*

- La Boca is the region of coffee plantations owned by a small oligarchy whose labor force consists of a nucleus of permanent wage workers (ladin) and temporary seasonal indigenous workers.

- The Altiplano (High Plateau) and the Low North, both mountainous regions, are completely indigenous. Because of demographic growth the population is forced to emigrate either temporarily or permanently.

- The Low North was formerly characterized by the presence of large farms of the *colonos* and small farms of indigenous communities. The possibility of extracting oil and nickel has practically led to the total expulsion of the indigenous population.

The slow industrial development does not allow for the absorption of the surplus rural workforce. This is the reason as to why in 1979, 20% of the available labor force was unemployed and undeclared work reached 54%. Finally, it is necessary to analyze the growing dependence on foreign countries, which will be discussed later.

From the social standpoint, rural society continues to be a dual society: an agrarian bourgeoisie, often industrial, in opposition to a wage labor force largely composed of seasonal temporary indigenous workers. The bourgeoisie is not homogeneous. It includes the coffee oligarchy, the modern bourgeoisie of agribusiness, and the rich peasantry “campesinado”. Within the peasant class, ethnic factors are not only an aspect of social status but have implications in terms of employment and job retention.

3. Economic Domination

30. After the intervention of 1954, the permanent alliance of the United States with those sectors of the dominant classes willing to accept subordination facilitated an increased penetration of foreign capital into the Guatemalan economy. This phenomenon is a determining factor in structural

dependency and the growing insertion of Guatemala in the North American sphere of influence. In the 1960s, a new orientation emerged in foreign investments traditionally attracted to the banana, transport and communications sectors. The new investments, primarily North American, were directed towards industries linked to the Central American Common Market, which was a key part of the developmentalist “desarrollista” strategy put forward by the United States. From the 1970s onwards, the same monopoly interests have been directed towards tourism and towards some strategic production sectors, such as the extraction of nickel and oil (250 and 300 million dollars respectively). In 1980, North American private investment controlled 34 of the 40 largest firms in the country.

31. It is also important to highlight the significant role played in recent years by big finance capital. In June 1981, the assets of the eight major U.S. banks in Guatemala reached \$331.9 million. As the movement of business, of currency in circulation, was stimulated, the margin of profit also increased.

The state of dependence in which the Guatemalan economy finds itself with respect to the objectives of transnational capital, and the trade substantially oriented towards the United States, have made the traditional distortions of its economy more acute. Some companies, by hiring little manpower and excluding tax payments, bring very few benefits to the country (this is the case of the nickel and oil companies).

32. The consequences of the international capitalist crisis and the inability of the counter-insurgency policy to guarantee a climate of security for foreign capital has ultimately resulted in a decrease in foreign investment. Since September 1980, EXMIBAL (nickel) has cut back its activities, and about 100 businesses linked to tourism have closed down.

This economic dependence has further exacerbated the antagonisms already existing within Guatemalan society, at the same time strengthened the will of foreign entrepreneurs to defend their own interests at all costs. In this sense, this dependency constitutes one of the major obstacles to any structural change in the economy of this country.

4. Religious and Cultural Conflict

33. The economic and political relations of domination tend to spill over onto the cultural and religious terrain. The dominant sectors of Guatemalan society have not been able to consolidate a national identity. Instead they have developed a culture which is a reflection, a series of imitations of the various hegemonic centers, from Spain to the United States, that have controlled the country politically and economically since the Conquest.

34. It is precisely from the standpoint of this dependent culture that the dominant sectors attempt to impose their hegemony over the popular sectors, and particularly over the indigenous, through a major effort at cultural destruction. At the same time, they deny those sectors access to the fruits of so-called Western culture when these do not serve their goals of domination.

Ideological domination begins through the myth of Spanish superiority and through the Catholic religion, considered the fundamental sign of this superiority: the fraudulent notion of a submission presumably decided by God has been imposed upon the indigenous people. However, the indigenous population has never forgotten that preserving its culture is essential to preserving its identity. In the face of the dominant groups, indigenous defense of ethnic specificity becomes a subversive element and contains ideological elements that lay the basis for the transformation of the social system.

35. In recent years, the cultural and religious dialectic has intensified greatly. On one hand, the process of cultural destruction has reached gigantic dimensions, and has been translated into a policy of literal annihilation. On the other hand, the defense of cultural identity has become central to the struggle for liberation, and the Christian faith itself has come to play a positive role in transforming the consciousness of the popular sectors.

Today, President Ríos Montt is trying to manipulate the Protestant churches to legitimise his government and even to convert it into a virtual theocracy. He has said that he governs “not thanks

to votes or arms, but by the will of God". Some fundamentalist sects (in contrast to most Evangelicals) have come to see the coup d'état and the government as a miracle of God and the defeat of Satan.

36. However, in the 1960s a process of transformation, characterized by a clear identification with the oppressed of the country, began in the ever-broadening sectors of the Catholic Church and the Protestant churches. That is how the Peasant Unity Committee (CUP) ("Comité de Unidad Campesina"), the Coordinating Committee of Settlers (CDP) ("Coordinadora de Pobladores"), the Robin García Student Front (University and Secondary, FERG-U and FERG-S) ("Frente Estudiantil Robin Gracia Universidad y Secundaria"), the Guatemalan Committee for Justice and Peace ("Comité Pro Justicia y Pas de Guatemala") and the Guatemalan Church in Exile came to exist.

Particular attention should be directed towards the emergence of the "revolutionary Christians", who take their name from D. Vicente Menchu, an indigenous religious teacher from Quiché who was murdered in the massacre at the Spanish embassy. This massacre symbolized a blood marriage between workers and peasants, indigenous people and ladinos, believers and nonbelievers, and it gave new life to the popular revolutionary struggle.

37. In this struggle, the Christian faith, which had been used as a means of repression against the Mayan cultural identity, has become a tool to defend it. This has provoked brutal repression against so many lay Christians, priests, pastors, and even bishops.

5. Guatemala in the Central American Geopolitical Region

a) Today, Central America, and Guatemala in particular, continue to provide raw materials and benefits to U.S. corporations. This area has acquired a special strategic importance. Guatemala is the key country for U.S. control of the entire Caribbean area, including the northern part of South America. The government of the United States believes that a democratic revolution in Guatemala would be the fall of a "domino" that would provoke very profound change in the entire region.

b) The U.S. government subordinates the sovereignty of all the governments of Central America, and the government of Guatemala in particular, to its policies of global confrontation with the Soviet Union. It is essential, in this sense, that the regimes of this area can be mobilized in international forums to support U.S. positions unconditionally.

c) Guatemala has served the geopolitical interests of the United States in a variety of ways. The military coup of 1954, supported and directed by the United States, has served as a model and reference point to stifle future revolutions in Latin America. This was evident in the Bay of Pigs invasion of Cuba in 1961, according to Richard Immerman. In his book *U.S. Intervention in Guatemala* (quoting secret and confidential information from the U.S. government), Immerman points out that many agents of the CIA who had actively intervened in the military coup in Guatemala in 1954 also participated in organizing the Bay of Pigs invasion.

Guatemala has also served as a point of support for North American interventions in the Caribbean and Central American area. Recently, the regimes of Lucas García and Ríos Montt have offered sanctuary and support to the Somozis terrorists who are attempting to overthrow the Sandinista government in Nicaragua.

Finally, the Guatemalan military regimes, together with that of Somoza, were the major instruments in the creation of the regional military organization CONDECA, wanted by the United States to act as a "regional police force" against local revolutions, without the need to send American troops directly. After the Nicaraguan Revolution, CONDECA was superseded by the strategy of the "Iron Triangle", which coordinates the armed forces of Guatemala, Honduras, and El Salvador in its repression against popular movements and its attempt to overthrow the Sandinista government of Nicaragua.

It must also be remembered that at the end of the 1960s the government of the United States chose Guatemala as its laboratory to test techniques of counterrevolutionary repression. These techniques and methods were later applied to other regions of Latin America.

d) Other states are also intervening in the region, with even more force after the suspension, in

1977, of US military aid to Guatemala. In particular Israel, which after that date assumed the role of the army's main supplier. It provided, among other things, ARAVA airplanes, REY-MK armored vehicles, 81 mm. mortars, bazookas, grenade launchers, "Galil" rifles, and tons of munitions. Israel also provided training for the air force and contributed to the training of the police.

The governments of Chile and Argentina have also collaborate in training the army and the police in counterinsurgency methods, thus establishing a new dimension, the Latin American dimension, in the Guatemalan situation.

6. Socioeconomic Consequences

38. An economic, social, political, and cultural structure of the type described above entails a variety of consequences.

39. Sudden Social Transformation and a New Configuration of Social Opposition.

One of the main characteristics is the dissolution of the traditional "campesinado" without the emergence of a new social structure that could open the way to cultural flourishing and economic development. The mechanisms of this process are varied: displacement of rural populations, primarily of indigenous origin, through economic expropriation, political terror, or the establishment of "strategic hamlets"; the emigration of workers, which transforms hundreds of thousands of peasants into agricultural workers with barely sufficient means to survive; the growth of marginal groups in the economic system, which swell the ranks of the urban "squatters" ("pobladores").

On the other hand, the dominant groups are being rapidly transformed, and the contradictions which exist among them are a fundamental cause of their inability to establish authentic power. These contradictions also lead them to unite with the army to ensure their economic interests, in turn sacrificing to a certain extent their political interests. The military hierarchy also uses its power in the political arena to become the protagonist of the economy, appropriating land, especially in the plantation sector.

40. The Growing Impoverishment of the Peasant and Working-Class Population.

This political and economic situation generates the growing impoverishment of the peasant and working-class groups (70% of the population has an annual income of \$42), whose most vital necessities of subsistence, health care, and education are not being met.

Infant mortality (88.8 per 1,000 babies under one year old); malnutrition (75% of the children under 5 years old); illiteracy (60% of the population over 7 years old and 82% of the rural population); endemic diseases, aggravated by the lack of drinking water and sanitation systems in almost 60% of the houses, are constantly increasing among the poor classes, reaching alarming proportions.

Expropriation of the Wealth of the Country.

It must be emphasized that Guatemala has suffered a veritable expropriation of its natural resources. Mining and oil production is in the hands of foreign companies. Moreover, agro-industrial production is oriented essentially toward exports, while the population suffers from hunger and malnutrition.

41. Establishment of a Totalitarian State.

The permanent political crisis which exists since the overthrow of democracy in 1954 has become manifest in the use of military force and the illegitimate character of the country's political leadership. The coup d'état of March 1982 has simply added one more episode to this history.

The army has become increasingly indistinguishable from the state apparatus, causing an intense military occupation of the countryside and, consequently, increasingly serious massacres of peasants. The well-known doctrine of national security has constituted the ideological basis of the state, but in 1982 a new aspect appeared: the use of religion as an ideological factor. Its function is, on the one hand, to legitimize military action by identifying the internal enemy with Absolute Evil; and on the other hand, to improve the image of the government abroad, giving it the appearance of respectability, honesty, and a spirit of anti-communist crusade.

42. Special Repression of the Indigenous Population.

In correspondence with the economic project, the indigenous population was subjected to a particularly cruel repressive policy. This program demands, by its own logic, not only the dissolution of pre-capitalist forms of social organizations in order to facilitate the establishment of a labor market suitable for the development of agrarian capitalism, but also the prevention of any socio-cultural form of popular resistance. This explains in part the brutality of the repression against the indigenous population.

It must be added that contempt for indigenous people, who are almost always not seen as human beings, is today being revived among the repressive forces, thus legitimating the brutality and the killings. For nearly a century the coffee oligarchy built its profits and dominance not upon liberal ideology but upon racism that facilitated exploitation by denying the natural inhabitants of the land their own status of citizenship, thus reinstating colonial practices in all institutions of civil society. Destroying the ethnic identity of indigenous people becomes an objective in the service of economic interests.

7. Popular Resistance

43. Faced with this situation of blatant injustice, popular resistance developed progressively. While in the 1960s the groups of organized resistance were composed of people from the middle class and the urban working class, today they appear to be rooted in the rural areas, with strong social bases in the peasant or indigenous population, flowing from the new modalities of their economic exploitation and cultural destruction.

44. The four principal movements of armed struggle, coordinated in the Guatemalan National Revolutionary Unity (URNG), are: the Guerrilla Army of the Poor (Ejército Guerrillero de los Pobres, EGP), the Rebel Armed Forces (Fuerzas Armadas Rebeldes, FAR), the Organization of the People in Arms (Organización del Pueblo en Armas, ORPA), and the Guatemalan Labor Party (Partido Guatemalteco del Trabajo, PGT). In the respective regions where they have a base, these movements - each with its own characteristics - bring together peasants, intellectuals, workers, indigenous people, ladinos, Christians, and non-Christians. They give continuity to the social struggle, above all through labor union organizations, workers' parties and the new prospect of broadened peasant bases. In certain aspects, their development resembles the movements of resistance against the Nazis in Europe during the Second World War.

45. In addition, the broad front formed by the Guatemalan Committee of Patriotic Unity (CGUP) also groups together broad sectors of political parties opposed to the totalitarianism of the regime, and cultural, humanitarian, and religious organizations. The Guatemalan Human Rights Commission and the Committee for Justice and Peace (Pro-Justicia y Paz Commission) must also be mentioned.

46. However, in Guatemala the resistance has fundamental cultural aspects based on indigenous populations. For several centuries these populations mainly developed a passive, cultural resistance. Today this resistance is developing into a growing organization, whose starting point is based in the local communities.

47. On the other hand, the pastoral decentralization initiated by the Catholic Church with the development of base communities, the increase in the number of religious teachers and Delegates of the Word, as well as a more intense utilization of the Bible have caused, along with the development of political consciousness, the opening up of religious conscience to social dimensions. This same dynamic can be seen in several Protestant churches.

We are dealing with a conflict between, on the one hand, a military power that guarantees the interests of a local minority and some foreign enterprises, and on the other hand, various components of a people stripped and denied of their own basic rights. This is not a case of confrontation between the extreme right and the extreme left with the army as the arbiter, and even less about an East-West conflict, which is how it is usually presented.

IV. THE LAW

1. The Illegitimacy of the Regime and the Government of Guatemala

48. Considering the proven facts of the second part of this judgment and specifically those relative to institutionalized repression in the Guatemalan state, the political regime in this country since 1954, including the present government of General Ríos Montt, is illegitimate according to the judicial principles that inspire all democratic states and according to the norms of International Criminal Law.

49. *In relation to the Principles of Democratic States.*

a) Although the Constitution of Guatemala of September 15, 1965 was still in effect up to March 22, 1982, the political practice of those in power has established a regime whose functioning necessarily entails the violation of the principles of democratic representation, the separation of powers, and the guarantee of and respect for the fundamental rights of man.

b) Since the coup d'état of March 23, 1982, and the annulment of the Constitution, the basic legislation of the Ríos Montt government has been in direct contradiction to the very notion of the democratic state. Decree-Law 24-82, which contains the Fundamental Statute of Government, Decree-Law 46-82, which established the Law of Tribunals of Special Jurisdiction and Decree-Law 45-82, which established the State of Siege, all presuppose:

- Negation of the principle of democratic representation and the free exercise of political rights, by the suppression of political parties and the annulment of electoral legislation (Article 112 D.24-82).
- Violation of the principle of separation of powers, with the army assuming both legislative and executive functions, the appointment and removal of the president of the Judicial Court or Institutions and Supreme Court of Justice, of all the magistrates of the other collegiate tribunals, and of the attorney general of the nation; as well as "the exercise of any public function or attribution not established in the Statute of Government or in the legislation in effect in the nation" (Articles 4-26-108 of D.24-82).
- Violation of the principles of independence and of the permanent tenure of judicial power, of the principle of penal law and of minimum guarantees of due process (the phases of indictment, decision, and appeal) in the penal process (Articles 3, 4, 5, 8, 33, 37, and 39 D.46/82).
- The permanent State of Siege, which remains in effect up to this time.

50. *According to General International Law.*

a) Implementation of the counterinsurgency plan, as central to the internal policies of the regime and the present Ríos Montt government, generates institutionalized violation of the norms of international law, and the perpetration of acts that qualify as international crimes. At the same time, "It has created an endemic climate of total alarm, and even terror, that has subverted the state of law and in practice has compromised the majority of the rights established in the American Convention on Human Rights" (report from the Organization of American States, October 14, 1981, transmitted to the Commission on Human Rights of the United Nations, Document E/CN.4/1501).

b) The decomposition and dysfunction of the institutions that make up the state render the government in power incapable of ensuring the fulfillment of international commitments or guaranteeing the stability of civil society, which are minimum conditions for effectiveness required under international law. Symptoms of this situation are the assault on the Spanish embassy on January 31, 1980 by the security forces of the state itself; the growth of the repressive apparatus, including the official acknowledgment that "adequate conditions of security do not exist" in order to receive the representative of the Secretary General of the United Nations or the Inter-American Commission on Human Rights of the Organization of American States (letters from the Permanent Representative of Guatemala to the United Nations to the Secretary General and to the Commission on Human Rights of the U.N., Official Documents E/CN.4/1438).

As a result, the regime of Guatemala and the government of General Ríos Montt not only fail to fulfill the prerequisites of a state of formal democracy; they also place themselves outside all

legality and in clear contradiction to the prevailing norms of General International Law. In this situation, it can be affirmed that, according to General International Law, the people of Guatemala have a right to insurrection.

2. Internal Armed Struggle

a) The struggle in which the armed forces of Guatemala confront the organizations that make up the Guatemalan National Revolutionary Unity (URNG) constitutes an internal armed conflict, according to Article 1 of the 1977 Additional Protocol II to the Geneva Conventions of August 12, 1949, whose norms are applicable. Consequently, the government of Guatemala is obliged to comply with those resolutions which:

- Prohibit assassination, torture, collective punishment, the taking of hostages, and terrorist acts (Article 4).

- Establish the protection of civilian populations, who cannot be the object of attacks, and prohibit all acts or threats of violence whose principal goal is to spread terror among the civilian population, as well as orders to displace those populations (Articles 13 and 17).

- Ensure the protection of prisoners of war, particularly their right not to be condemned without due process in an impartial and independent tribunal.

b) To the degree that the regime and the government of Guatemala are organized around the serious and systematic violation of the fundamental human rights of the people of Guatemala, it is possible to state (according to a progressive evaluation of International Law) that this situation constitutes a violation of the Right to Self-Determination of the Peoples.

According to Resolution 2625 (XXV) of the General Assembly, this means that:

- The diverse forms of resistance of the people of Guatemala, including the armed struggle of the guerrilla organizations that represent the people, are legitimate; and that

- The use of armed force by the army and security bodies of Guatemala is illegitimate to the degree that these entities deprive the people of their right to self-determination, freedom, and independence.

c) Given the very real involvement of the URNG in the armed struggle in Guatemala, as indicated in Sections 1 and 2 above, it would be possible under International Law to recognize it formally as a belligerent party.

3. The Violation of Human Rights

a) The facts proven in Part II of this Judgment constitute a violation of fundamental human rights recognized and guaranteed by the international judicial or legal order (general and conventional) and specifically by the Charter of the United Nations, the Charter of the Organization of American States, the Universal Declaration of Human Rights of the United Nations, the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, the Convention on the International Right of Ratification, Convention No. 87 of the International Labor Organization on Freedom of Association and Protection of the Right to Organise, ILO Convention No. 98, on the Right to Organise and Collective Bargaining, and the Convention on the Political Rights of Women, all of these documents accepted or ratified by Guatemala.

b) These violations of fundamental human rights are characterized as “serious” because they affect such fundamental rights as the right to life, physical and moral integrity, and judicial security; they are “systematic” because they correspond to concrete plans or policies of repressive action directed against specific rights of the population; they are “massive” because they harm a very large number of Guatemalans and extensive sectors of the population, such as the indigenous peasants; they are “structural” because criminal action or complicity extends to the main institutions of the state of Guatemala as a whole.

These features characterize a situation that can be regarded as an “international crime” of the violation of fundamental human rights in the terms of Article 19 of the project to elaborate draft Articles in the International Responsibility of States, which is an expression of general principles

incorporated into contemporary international law and such other international legal instruments is the International Convention concerning the crime of “apartheid” and the resolutions of the General Assembly of the United Nations regarding torture.

c) As whole, and to the degree that such violations of fundamental human rights are barriers to the right of self-determination of the Guatemalan people, they also constitute an international crime in violation of the governing norm of the rights of the peoples to self-determination, which imposes on states the duty of respecting that right (in this regard, see Article 1 (2) of the Charter of the United Nations, Resolution 15,14 (XV) of 14-12-60; Resolution 2625 (XXV), Article 1 of the International Treaties Covenant on Civil and Political Rights, Resolution 2200A (XXI); and Article 19 of the project of Articles cited above).

d) Furthermore, the consistent facts concerning the indiscriminate, collective killings of indigenous peasants, including women, elderly people, and children, and the form in which those actions have taken place, are evidence of the government’s intention to destroy in whole or in part the indigenous population of Guatemala. These are acts categorized as the crime of genocide, in accordance with Article 2 of the Convention on the Prevention and Punishment of the Crime of Genocide of 1948 (ratified by Guatemala), which states that genocide is to be understood as “acts perpetrated with the intention of totally or partially destroying a national, ethnic, racial, or religious group as such”, and which consists of:

- killing members of the group;
- grave injury to the physical or mental integrity of members of the group;
- the intentional subjection of the group to conditions of existence that could lead to total or partial physical destruction;
- measures destined to prevent births within the group;
- displacement by force of children from one group to another group.

e) Similarly, within the framework of the progressive development of international law and according to the norms of the Statute of the Nuremberg Tribunal, of the Draft Code of Crimes Against Peace and the Security of Humanity, the violations of human rights perpetrated in Guatemala are to be characterized as crimes against humanity. They constitute “inhuman acts such as murder, extermination, deportation or persecution against any civilian population for any political, racial, religious or cultural motives, perpetrated by the authorities of the state or by individuals who act at the instigation of those authorities or with their permission” (Article 2, Project 11, Article DOC. A/36/535 U.N).

f) Similarly, from an examination of the facts presented to this Tribunal, one sees a permanent violation of the economic rights of the great majority of the people of Guatemala, and particularly their right to development, in opposition to the American Convention on Human Rights ratified by Guatemala and also Articles 55 and 56 of the Charter of the United Nations, according to which states have the obligation to provide higher standards of living, permanent jobs for everyone, and conditions of progress and social development. As guarantees to make these rights effective, various resolutions of the United Nations and specifically Resolution 1803 (XVII) and the Charter of the Economic Rights and Duties of the States enshrine the right to the people’s permanent sovereignty over their country’s wealth and resources. The exercise of this right is largely subordinated by the government of Guatemala for the benefit of foreign economic interests.

4. International Responsibility

a) International Responsibility of the State of Guatemala.

The acts which constitute the violations of human rights summarized in Part III of this Judgment are attributable to the state of Guatemala, insofar as they have been carried out by organs of the state of Guatemala or by persons who in fact act on its behalf. This falls under the principles of General International Law as gathered in Articles 5 to 10 of the previously cited project to elaborate draft Articles on the International Responsibility of States. Consequently, the state of Guatemala, specifically the government of Ríos Montt, is responsible:

- For the violation of its obligations contracted in international agreements regarding human rights ratified by that state. That responsibility can be exacted by the other states which are party to such agreements.
- For the perpetration of international crimes against the people's fundamental rights and against their right of self-determination. That responsibility *erga omnes* can be asserted by any state of the international community.
- For the commission of the crime of genocide, being responsible in terms established by the convention on the prevention and punishment of this crime.
- For the violation of International Humanitarian Law, in the terms indicated in the 1977 Additional Protocol II to the Geneva Conventions of August 12, 1949 (cited).

As a consequence, the state of Guatemala and the government in particular have the obligation:

- To re-establish a constitutional regime of public freedoms and respect for fundamental civil, political, economic, social, and cultural right;
- To fully realize, in the domestic judicial order, the norms contained in the treaties which it has signed, particularly those regarding human rights;
- To respect the right of the people of Guatemala to freely choose their own political, economic, and social system, and to seek their own road to development.
- To punish all individuals responsible for the illicit deeds, according to adequate domestic penal legislation;
- To provide reparations, on a case by case basis, in accordance with relevant legislation, for the damages which have been done illicitly, in violation of fundamental human rights, to persons under its jurisdiction.

b) *Responsibility of Individuals*

The members of the government, of the army, of the organs of state security, as well as of paramilitary organization which act on behalf of the public powers, are personally responsible for the crime of genocide and for crimes against humanity, to the degree to which they have participated directly or indirectly in committing acts that violate the fundamental human rights described above (III, 2, 3, 4, 5).

This means, in accordance with the Convention on the Prevention and Punishment of the Crime of Genocide and the Convention on War Crimes and Crimes Against Humanity of November 26, 1968, and Resolution 3074 (XXVIII) of the General Assembly regarding the Principles of International Cooperation in the Detection, Arrest, Extradition and Punishment of Persons Guilty of War Crimes and Crimes Against Humanity:

- The obligation of states, and particularly of the state of Guatemala, to ensure, through domestic jurisdiction, the incarceration and punishment of those who are guilty.
- The unconditional character of the crime.
- The obligation of states not to refuse requests for extradition of the guilty parties by affirming the political character of the crime; and in addition, not to give them political asylum.

c) *International Responsibility of Third States.*

The events taking place in Guatemala permit us to affirm that third-party states are accomplices to the "international crimes" perpetrated by the state of Guatemala.

This complicity, according to Article 27 of the project to elaborate draft Articles on the International Responsibility of States (cited previously), can be established by the following facts:

- The sale of arms to the state of Guatemala, which are destined to be used in carrying out repressive actions that constitute crime, the principal provider being the state of Israel.
- The training of Guatemalan personnel in order to increase their repressive capacities. This activity is carried out by the United States of America and by the states of Argentina and Chile.
- Economic aid given to the state of Guatemala without the condition that it may not be used for acquiring the means of repression or reinforcing those already in existence. Recent economic aid from the United States to the Guatemalan regime can be viewed within this framework.

Similarly, the intervention of the United States in the internal affairs of Guatemala, to the extent that it contributes to the consolidation of the regime, determines U.S. responsibility for maintaining a situation in which the international crimes described above have been perpetrated.

Third States consequently have the obligation:

- To halt the flow of any aid that may serve to reinforce the mechanisms of illicit repression by the state of Guatemala; and also, to refrain from giving such aid in the future.
- To answer, when the occasion arises, to the legitimate government of Guatemala for the damages that their illicit acts may have caused to the people or the citizens of that country.
- To refrain from any act of direct or indirect intervention in Guatemala.

V. THE RIGHTS OF THE PEOPLE - THE STRUGGLE FOR LIBERATION AND PEACE

51. The situation in Guatemala irrefutably presents an armed conflict in which the opposing parties are, on the one hand, a limited fraction of the country that has taken over the state apparatus, militarizing it completely, and, thanks to massive foreign aid, transformed it into a powerful machine of destruction; and on the other hand, the Guatemalan people in their diverse components, ethnic groups, and social strata.

52. This situation has the character of a local war, which, like almost all local conflicts in the postwar period, is linked to the systematic denial of the right of peoples to create their own history and travel the difficult road of self-affirmation as subjects of the international community.

It has been observed that the matrix of these local wars leads fatally to a contradiction with the provisions of the law of war: in effect, when a war takes place with the object of denying people the right to self-determination, the logic of this objective causes its identification with the destruction of the people, thus transforming the conflict into a criminal war.

53. Examination of the case of Guatemala confirms all the points of this proposition. Not only are the armed forces of General Ríos Montt and all his predecessors seen as responsible in a continuous manner for a whole series of violations of the international conventions and protocols regarding the laws of war; they have also progressively engaged in genocidal conduct.

54. It may appear contradictory, if not absurd, to invoke the Geneva Conventions and to claim Belligerent Status on behalf of the organizations of the resistance and the insurrection of the Guatemalan people. Because the right to wage a just war presupposes a type of neutrality in the international community towards both parties to the conflict, its goal is to prevent the belligerent parties from inflicting senseless suffering and destruction in relation to the only acknowledged objective: defeating the adversary. However, the international community cannot be permitted to remain neutral in regard to a party that voluntarily places itself outside the constitutive values of that community, committing the crime of genocide, as people against the party that suffer the horrific consequences of genocide. Further, the international community cannot concede that the adversary of one of the parties in conflict is an entire population and not a government or a state; but it also cannot remain indifferent in the face of the goal of depriving these people of their right to self-determination.

55. In reality the contradiction that we have just underlined is but the reflection of a deeper contradiction in the present system of international relations, which holds as fundamental values the respect for human beings and for people, and the relations among them which should be governed in a peaceful way. In spite of the status of these values in principle, international relations today are still dominated by processes and structures in which only states and the interests they represent have both voice and weight. The true subjects of the international community, the peoples and the individuals who constitute it, do not find in the international sphere either the forces or the means suitable to protect their rights.

56. The duty of this Tribunal is to denounce that contradiction and to indicate all the ways that exist in the present state of law and international relations to overcome that contradiction, although this process will come in stages.

To accord Belligerent Status to the organizations of the Guatemalan people is the most immediate of these ways.

This would allow the Guatemalan people to express themselves in the international arena and to denounce in the first person the criminal character and outlaw nature of the government of their country.

57. This can also contribute to breaking the abstraction by which a people is always and exclusively represented by the state, even when the state is an “alienated state”, a simple instrument of domination, subjecting the people to foreign interests and when any homogeneity between the people and the government has become nonexistent.

A similar effort has accompanied the whole movement of decolonization and has strongly contributed to the development of international law and the rights of peoples, rejecting the mystification of the colonial powers which, under the guise of the principle of nonintervention, tried to treat the events that took place within their colonies as their own, internal affairs. The liberation movements have thus been recognized as subjects of international law.

Similarly, where even the smallest shred of homogeneity between government and population has disappeared, one has to confront a state which invokes the principle of nonintervention, with the right of the people to self-determination, and with its character as an expropriated state.

Even more: international law has admitted the total legitimacy of struggles of liberation against colonialism. Thus, the recourse to insurrection, far from being in contradiction with the profound aspiration of humanity for peace, must be recognized in those cases where the most elemental rights are abused as the only instrument for affirming the values of peace and humanity to which the international community aspires.

58. The preamble of the Universal Declaration of Human Rights makes Reference to this, and Article 28 of the Universal Declaration of the Rights of the Peoples develops this position: “Any people whose fundamental rights are gravely ignored has the right to realize these rights, particularly through labor or political struggles, or even, in the last instance, by the use of force.”

In this case, as happened before in the struggle against colonial oppression, the struggle for liberation allows the integration of important elements for the defense of human dignity into the patrimony of humanity and these can become a moving force for building peace.

Thus, in the Guatemalan insurrection we see new values emerging that can help humanity to overcome its anguish and the profound causes of conflict and destruction.

59. For the first time in this part of the world, we see the possibility of overcoming in concrete ways the rupture that occurred four centuries ago with the genocidal destruction of an entire culture, a civilization, and the populations which inhabited this zone of the planet: one of the most heinous crimes that the white man has ever perpetrated. The Guatemalan resistance today is rooted in the indigenous culture, in the values and elements of a new undertaking: this resistance movement is making as its own the demand for the redress of indigenous identity, culture, and needs. To these demands are added other specific ones, those of women, of the marginalized people, of the peasants, in a framework of reciprocal recognition, mutual respect, and harmonious co-existence with the values and necessities of Western man.

60. In this perspective, the indigenous man escapes the alternatives that industrial civilization has imposed on him - either he becomes integrated, renouncing his own identity, or he is destroyed (and integration frequently corresponds to a subtle and insidious form of destruction). A third way consists of valuing diversity, exalting the dignity of man, respecting his ethnic and cultural specificity, recognizing in this diversity a source of human enrichment and growth, and feeling profoundly that the negation of difference is not only an attack but an amputation of the human dimension of each individual.

61. From this flows the strength of the Guatemalan resistance. There are also valuable implications for the peoples of all the continents, a lesson for the societies of the “first world”, where each day numerous human riches are destroyed in the exorcism of diversity, the homogenization of culture, the negation of that which is different. The Tribunal, faithful to its mission of advancing the

construction of an authentic peace among men, has wanted to show at the end of this session that, above the crimes against the people of Guatemala, there is a ray of hope which their struggle gives to mankind.

VI. DISPOSITION

In consequence, the Tribunal

declares that the successive Guatemalan governments since 1954, including the General Rìos Montt regime, are guilty of serious, repeated, and systematic violations of human rights, and thus of infringing the Universal Declaration of Human Rights, and the American Convention on Human Rights;

declares that the successive Guatemalan governments since 1954, including the General Rìos Montt regime, are guilty, due to the totality of those violations, of attacking the inalienable right of the Guatemalan people to political and economic self-determination and the right of that people to exercise sovereignty over its own natural resources, as is established in the Charter of the United Nations and in numerous resolutions of the General Assembly of the United Nations;

declares that the successive Guatemalan governments since 1954, including the General Rìos Montt regime, are guilty, in the armed conflict against the forces now grouped in the URNG (Guatemalan National Revolutionary Unity) of serious, repeated, and systematic violations of the provisions of the 1949 Geneva Conventions, and of the Additional Protocols of 1977, with these violations constituting war crimes;

declares that because of their breadth and extent, the tortures, killings, and forced disappearances of people constitute crimes against humanity in the sense of the Statute of the Nuremberg Tribunal;

declares that the massacres and the terror unleashed against the indigenous peoples with the demonstrated purpose of partially destroying them, constitute genocide in the sense of the 1948 Convention;

declares that the heads of the successive governments in Guatemala since 1954, including General Rìos Montt, are personally responsible for the international crimes specified above, which is not to exclude the responsibility of the other leading members of those governments as well as the principal higher officials and upper functionaries implicated in the above-mentioned crimes;

declares that the authors of these crimes cannot invoke as an excuse the orders they received, except in the case of junior officers who can cite extenuating circumstances;

declares that the government of the United States of America is guilty of the crimes listed above, because of its determinative interference in the affairs of Guatemala, and that the Israeli, Argentine, and Chilean governments are guilty of complicity because of their aid and assistance.

IN CONCLUSION

62. The Tribunal declares that, in the face of the perpetration of the above-mentioned crimes by the public powers of the Guatemala government, the Guatemalan people, through their representative organizations, have the right to exercise all forms of resistance, including that of armed force, against tyrannical government powers; and that the use of armed force by the Guatemalan government to repress the resistance is illegitimate.