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Guatemala's President Vows To Make Secret Military Archives Public

by LADB Staff

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Recent events indicate the Alvaro Colom administration may be moving toward making good on promises to comply with Guatemala's obligations under the December 1996 Peace Accords. Signing the final accord officially ended the 36-year civil war, but, 11 years later, victims of that war have not seen the beginning of the acts of redress that the government promised. Colom has just said he would open long-hidden military documents to the eyes of the world. The potential revelations in these files could trigger a turn toward justice.

In December 2007, speaking at the annual end-of-war commemoration event put on by the Secretaria de la Paz (Sepaz), then vice president-elect Rafael Espada spoke to a largely skeptical audience and told them, "The task now is to renew the peace process on the basis of firm objectives contained in these Peace Accords. This multipartisan and multisectorial work is important for adopting fundamental public policies." In that December speech, Espada freely admitted, "Qualitative defects persist in many areas of fundamental importance" for complying with the accords, particularly in socioeconomics, rural development, state reforms, and indigenous rights. "The list of specific obligations and the dates by which they must be completed were made. Nonetheless, the events of the last decade make it evident that the subject must not just be reduced to a mere accumulation of punctual accomplishments, but rather to unleashing the processes that bring about the expected changes."

Espada left it to others to enumerate the failures, the accomplishments that never accumulated. Ricardo Rosales, one of the signers of the accords for the rebel Partido Guatemalteco del Trabajo (PGT), reminded listeners, "A discriminatory society and economic and political social injustice still prevail." What has been done during what should have been a decade-plus of meeting deadlines, he characterized as "cosmetic." Rosales said regretfully that, if the accords had been complied with, today "Guatemala would be very advanced in its social, political, financial, and institutional development." He expressed grave doubts that the Colom administration, with its ties to the business sector, would be any different. But just a short time after his Jan. 14 inauguration, Colom announced he would open to public scrutiny the Army archives containing heretofore-unrevealed information about human rights violations during the war. The occasion for the announcement was the Dia Nacional de Conmemoracion de las Victimas de la Guerra Interna (National Day of Commemoration of Victims of the Internal War).

Until now, this has been another day of remembering without redress. The difference this time: the president of the republic told the people, "We are going to make public all the Army archives so that the truth will be known, and once and for all we will be able to build on truth and justice." Colom said the information to be revealed would include all the information that has until now been classified as secret. Colom told at least one secret of his own. He said he had decided to declassify

the archives even before he took office but had not spoken of it "because first they [the archives] had to be protected so they wouldn't disappear." He said, "As of today, they have been well-protected," and he added that the defense minister was as determined as he was to make the records available.

Legal bars to disclosure

However, Colom did not give a date for the unveiling. Before that happens, some legal issues must be resolved. "The legal part must be sorted out," he said. "There were mistakes in the past; there are protections, legal restraints. But there is the will to deliver those archives." Among the legal restraints are several injunctions in legal cases in Guatemala and in Spain against individual officers. These injunctions have already kept the Guatemalan courts from ordering the armed forces to give up the archives. Lawyers have argued the Constitution forbids revealing documents that contain state secrets. Human rights organizations expect there to be information that will shed light on, and produce evidence about, thousands of assassinations and more than 50,000 kidnappings and disappearances at the hands of the military.

According to the Comision para el Esclarecimiento Historico (CEH), whose report has thus far been considered to contain the most reliable data as a result of its exhaustive research, there were a total of 200,000 deaths in addition to the disappearances during the 36-year period. The report was commissioned by the UN and presented Feb. 25, 1998. It held the armed forces responsible for 95% of all human rights violations. The human rights community awaiting the release of the material seems to be doing so without letting its hopes get out of hand. "We will wait until the president's announcement gets specific, because the Army has managed the archives as a military secret and there will certainly be internal opposition about their declassification," said Carmen Aida Ibarra of the Fundacion Myrna Mack, perhaps the country's foremost human rights organization. Ibarra happily acknowledged Colom's move as "spectacular" and unprecedented but held herself in check. "Before applauding we have to wait for it to happen," she said.

Fundacion Myrna Mack is just one organization that has attempted in the past to gain access to the archives, but it has always been turned away or outmaneuvered by military lawyers. These very powerful attorneys have already begun to defend the ramparts. Fernando Linares Beltranena, attorney for ex-President Oscar Mejia Victores (1983-1986), called Colom's announcement "illegal." Linares is representing the ex-president and general against charges of genocide filed in Spain. So far, he has been eminently successful (see NotiCen, 2008-02-14). "It is an unconstitutional act and shows President Colom's ignorance because the Constitution prohibits it," said Linares. The lawyer, who has been on the winning side of this issue for years, accused Colom of making the announcement "to placate the politicos of the left that he has in the government," and he predicted the president would fail legally and politically.

The international human rights community is equally interested in the release of files. Amnesty International (AI) USA said it welcomes the announcement, and AI's Guatemala researcher Sebastian Elqueta said, "Opening Guatemala's military archives is a long-awaited positive step, which Amnesty International welcomes. But the real test will be whether anyone is brought to justice for the hundreds of thousands of killings, torture, and disappearances that took place during

Guatemala's internal conflict." Colom has said that, in addition to dealing with constitutional issues, there are also laws and decrees that interfere with the delivery and dissemination of these documents.

One such would be a decree amended in November 2006 during the administration of President Oscar Berger (2004-2008), which sets out general rules for access to public information in the executive and in its departments. Colom said he may have to overturn that decree as part of the preparatory work for releasing the archives. Another who is counting on a Colom failure is Otto Perez Molina, the ex-general and now leader of the Partido Patriota (PP). Colom beat Perez in the runoff for the presidency. Perez called the announcement political, accused the president of doing it to neutralize the opposition, and warned that Colom should be "very careful" not to generate false expectations because in the archives "they are not going to find orders to assassinate someone because they never existed." As former head of the Estado Mayor Presidencial (EMP), the military unit accused of innumerable assassinations, Perez is in a position to know what is in the files and perhaps to fear their release (see NotiCen, 2000-06-08). But it is also true that previous investigations have convinced most analysts that the military did not routinely issue explicit written orders of this kind, and none have turned up.

The many investigations of former dictator Gen. Efraim Rios Montt (1982-1983), both as a general and as president, have found no such written orders. Rios, in fact, was upbeat on the Colom announcement, saying, "The decision is good," but warning that the Constitution precludes it and reminding reporters he has nothing to worry about because "I never violated the law." In 2007, a document did turn up that purported to link Rios to the Plan Sofia massacres in Quiche. But there was never any prosecution because the documents were never authenticated.

Plan Sofia was a military operation that involved massacres committed predominantly within the western region of the country from 1982 to 1983. Still, sophisticated observers expect there to be more of interest than explicit orders in the archives, and Perez may be expressing little more than hope in saying, "There is no proof that would serve to indict anyone. It is a measure that generates hopes that are going to turn into frustration." Perez is already wrong in characterizing the opening of the archives as solely an evidence-gathering expedition for prosecutorial purposes. The files are of very significant historical value, said Orlando Blanco, head of Sepaz and chief of the commission Colom appointed to work on the prodigious task of declassification. Blanco will choose his own commissioners. He told reporters, "We hope the archives will serve to clarify the history surrounding these human rights violations."

The immediate task of his commission is to parse out which documents should be declassified under a constitutional requirement that government documents be made public automatically unless doing so compromises national security. He said it could take months to go through all the files. He said he would begin with those between 1979 and 1983. That would cover the Rios Montt years and most of the Fernando Romeo Lucas Garcia (1978-1982) presidency, thought to be the bloodiest period. Once declassified, he said, "any citizen will be able to order a particular military document and inspect it." So far as is now publicly known, the EMP archive is the largest in existence. It is currently under seal pursuant to one of the military's legal victories.

Iduvina Hernandez, an expert on these matters and director of Seguridad en Democracia (SEDEM), hypothesized that, "if the president announced that the archives would be made public, it is because they have located them, and Colom would have to fire the military officer who refused to hand them over and have him prosecuted for disobedience." Such action would be necessary in the Rios Montt Plan Sofia file. The document was never authenticated because then minister of defense Ronaldo Cecilio Lieva refused to turn over the original copies, citing Article 30 of the Constitution. He said it was a military matter of national security. The unauthenticated version of the document is now reported to be in the hands of the attorney general's office (Ministerio Publico).

Victims and survivors of the military's brutal excesses have not yet been fully compensated for their losses, and claimants are now counting on the opening of the files to facilitate that process, in part by documenting the atrocities. In 2003, the National Reparations Program (Programa Nacional de Resarcimiento, PNR) was established with an annual budget of around US\$40 million. It was supposed to indemnify and improve the lives of these people, as recommended by the CEH, but so far it has not. "We are asking the president to create specific institutions for the National Reparations Program in order to make better use of the funds earmarked for the victims," said Raul Nagera, spokesman for the Union Nacional de Comunidades por los Derechos Humanos Integrales (National Union of Communities for Integral Human Rights, UNACODI).

Another group needing the disclosures is Hijos por la Identidad y la Justicia contra el Olvido y el Silencio (Children for Identity and Justice against Oblivion and Silence, HIJOS). Spokesman Luis Mendez said, "There is still a mantle of impunity," and he complained that "the new government officials have not recognized the Army as solely responsible for the human rights crimes." Mendez said the lack of specific information has led to a number of shortcomings in the PNR including failure "to recognize the category of the 'disappeared.'" Also needed, he said, was "proof that rape occurred the testimony of the women is not sufficient." Reparations for these crimes go beyond the monetary. For instance, said Mendez, military parades continue to be held, which, in the absence of documented acknowledgment of their crimes, continue to be an affront to victims. The problems of compensation in the absence of information seem endless. From rape, murder, and torture to cases like that of Fidelio Ahilan, who said, "The army evicted us from our land. We lost our livestock and crops. I spent seven years as a refugee in Mexico, and when I came back, someone else was living on my place."

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