

## 4 'What is Written in Our Hearts': Memory, Justice and the Healing of Fragmented Communities<sup>1</sup>

*Victoria Sanford*

We are often criminals in the eyes of the earth, not only for having committed crimes, but because we know that crimes have been committed.

Alexandre Dumas, *The Man in the Iron Mask*

To forget our past is to risk our future.

Bishop Juan Gerardi, *Nunca Más*

### INTRODUCTION

In 1984 Pablo's community was occupied by the army. After being told by a Guatemalan army officer to forget the massacre in his village, Pablo responded,

You can forget, but we are the ones in pain. We will never forget. What happened is written in our hearts. What would you do if they killed your whole family? Would you be capable of forgetting it? Look sir, the truth is that I am not afraid to declare and speak the truth.

Ten years later, in 1994, Pablo and his neighbours told me this story in Plan de Sánchez when I was working with the Guatemalan Forensic Anthropology Foundation (FAFG) on the excavation of a clandestine cemetery there.<sup>2</sup> This was the forensic team's sixth exhumation of a clandestine cemetery, the third in the municipality of Rabinal.

In Plan de Sánchez, there were 18 mass graves containing the remains of 168 known victims of the 1982 army massacre. The quantity of graves and skeletons meant we were unearthing a

tremendous number of artifacts and clothing associated with each skeleton. On one occasion, local villagers sorted through artifacts found in a grave of burned skeletons. The bones were so badly burned and contorted from the fire that although we could count that there had been at least 16 victims, we had no complete skeletons and were unable to associate any of the artifacts with individual skeletons. Survivors asked us if they could examine the artifacts. We laid them out above the grave in an orderly and respectful manner on top of flattened paper bags. Then the survivors surrounded the artifacts spread out before them. With great tenderness, they began to look through burned bits of clothing, necklace beads and half-melted plastic shoes trying to recognise something of their relatives who had been killed in the massacre. A few of the men recognised their wives' wedding necklaces and asked us if it might be possible for them to have the necklaces after the investigation was completed. There was no dissension in the community about which necklaces had belonged to which wives. Those who couldn't find the necklaces of their wives, sisters and daughters asked if they might be able to have some of the stray beads because 'surely some of those beads must have fallen from our relatives' necklaces'. Then, they said something I was to hear repeated in every other exhumation in which I have participated, 'Si no tiene dueño, entonces es mío' ('if it doesn't have an owner, then it is mine').

This chapter is an ethnographic study of the forensic exhumation of clandestine cemeteries, individual and community memory of genocide, and local mobilisations for truth, healing and justice. I focus on the exhumation of a clandestine cemetery in Plan de Sánchez, the reburial of Panzós massacre victims and the trial of some of the perpetrators of the Río Negro massacre. Plan de Sánchez and Río Negro are Achí-Maya villages located in the municipality of Rabinal in the department of Baja Verapaz and Panzós is a Q'eqchí-Maya town in the department of Alta Verapaz.<sup>3</sup> The massacres in these communities are but three in the army's scorched-earth campaign which ultimately razed 626 Maya villages and left more than 200,000 people dead or disappeared (CEH 1999a). Though most of the massacres took place between 1980 and 1982, the massacres were preceded by selective assassinations and many rural Maya continued to live in ambient violence after the 1985 elections and into the 1990s – some even up until the signing of the Peace Accords in December 1996 (Arias 1990, Carmack 1988, Falla 1992, Manz 1988, Warren 1993). The Commission for Historical Clarification

(CEH) identified 83 per cent of the victims as Maya and attributed blame for 93 per cent of the human rights violations to the Guatemalan army (CEH 1999a, 1999b). Significantly, the CEH concluded that the army had carried out genocidal acts against rural Maya with the intention of destroying in whole, or in part, the Maya culture. This genocide is remembered as *La Violencia*.

#### TRUTH, WITNESSING AND THE RESHAPING OF HISTORY

On 28 May 1998, 20 years after the Panzós massacre, I had the privilege of accompanying the Guatemalan Forensic Anthropology Foundation to return the boxed skeletal remains of the victims to their wives, mothers, fathers, daughters, sons and grandchildren. This concluded the investigation we began in July of 1997 for the Guatemalan Historical Clarification Commission to document the Guatemalan army massacre of Q'eqchí Maya peasants in the Panzós plaza.<sup>4</sup>

In Panzós, in the late evening after the church mass and public gathering, we moved the boxed skeletal remains to the community centre. We placed the bones in small coffins and the artifacts on top of the closed coffins. We had only been able to identify two of the 35 skeletons exhumed scientifically. Because the greatest desire of family members is to carry the remains of their loved ones in the burial procession, we give them an opportunity to look at the artifacts to fulfil their desire to identify their lost loved one – ‘*par sentir bien en el corazón*’, to feel good in the heart (what we might call closure). Although not considered ‘scientific’ identifications, when a survivor recognises artifacts, we mark the coffin so that they may carry it in the burial procession. Sometimes there is nothing concrete in the identification, but at other times it is emotionally overwhelming.

One elderly man had passed nearly half of the coffins. He passed those with women’s clothing and stopped at each that had men’s boots. He would pick up the boots and swiftly review the instep. In front of one of the coffins, as those in line pushed forward to look at the next set of artifacts, he remained frozen in place, gripping the heel of a plastic boot. I walked over to him. He said, ‘This is my son. These are his boots. Look here. See that stitching? That is my stitching. I sewed his boot together the morning before he was killed. This is my son.’ As other survivors reached the end of the row of coffins without immediately recognising anything, they would return and start over again. During the second round, they began to stand

by different coffins. When I approached them to find out what they had identified, each said, 'Si no tiene dueño, entonces es mío.'

Witnessing is necessary not simply to reconstruct the past, but as an active part of community recovery, the regeneration of agency and a political project of seeking redress through the accretion of truth. The very issues that had met with such violent repression when first brought up were not silenced by the violence. Rather, they were held in suspension until the community could reconstruct memory in a public space. Reburial following the exhumation did not draw a process to an end; it reinvigorated community mobilisation for social justice – mobilisation which had been suspended by fear. Just as institutionalised forgetting could not end community desires for justice, forgetting could not end fear. As Veena Das (2000) writes, 'if one's way of being-with-others was brutally injured, then the past enters the present not necessarily as traumatic memory but as poisonous knowledge' (221). Das' theorising of 'poisonous knowledge' advances work on trauma and memory. Pierre Janet wrote that memory 'is an action', but that when an individual is unable to liquidate an experience through the action of recounting it, the experience is retained as a 'fixed idea' lacking incorporation into 'the chapters of our personal history' (cf. Herman 1992:37). The experience, then, 'cannot be said to have a "memory"... it is only for convenience that we speak of it as "traumatic memory"' (37). Further, Janet believed that the successful assimilation or liquidation of traumatic experience produces a 'feeling of triumph' (41).

My research indicates that collective recovery of community memory of experiences of extreme violence can begin to break through fear and create new public spaces for community mobilisation – perhaps by recasting this individual 'poisonous knowledge', when collectively enacted and remembered, as a discourse of empowerment. Further, I suggest that these discourses are often local appropriations and reformulations of global human rights discourse (Sanford 2000, 2001).

#### 'YOU ARE SEEING THE TRUTH'

After all the graves had been exhumed in Plan de Sánchez, there were 18 large holes in the earth. The sizes of the graves ranged from 8 x 10 feet to 15 x 20 feet. Each was about four to five feet deep. Because July falls in the rainy season, the holes quickly filled with water. As I looked at the gaping holes in the earth, they seemed to be many things. They

looked like miniature versions of the wounds left in the earth by nickel mines or gravel pits. They also looked like muddy ponds. The area, which had always been filled with people, was deserted, and the holes heightened the empty feeling of absence. My thoughts were broken by the laughter of children who trailed Juan Manuel, Erazmo, Pablo and José. We sat on a grassy knoll and looked at the empty spaces, the valley below and the mountain range beyond.

'It looks sad here', said Don Erazmo.<sup>5</sup> 'But when we have a proper burial, everyone will live with tranquillity.' He said this with the knowledge that it was unlikely he would receive the remains of his family members because it appeared that they had been among those who were burned beyond recognition. As he spoke, the children played with each other and climbed on their fathers seeking embraces.

By the end of the exhumation, I had interviewed all massacre survivors still living in Plan de Sánchez. I asked them why they wanted the exhumation. In addition to not wanting their relatives buried 'como perros' – like dogs, each person gave me several reasons beyond the proper burial.

The first and most stark reason is that survivors want concrete, real, hard evidence. You can touch the bones of the victims we pulled out of the earth. As Dr Clyde Snow always says, 'The bones don't lie.' The army claimed there had been a battle with the guerrillas in Plan de Sánchez. The exhumation clearly showed that the vast majority of victims were women, children and the elderly. Moreover, the forensic evidence unquestionably demonstrated that the skeletons in the grave were victims of a massacre, not casualties of an armed confrontation and not civilians caught in crossfire as the state had claimed (FAFG 1997: Case 319–93, 5TO).

Don Pablo asked me, 'How could they say these were *guerrilleros*? How can an infant of six months or a child of five, six or seven years be a *guerrillero*? How can a pregnant woman carrying her basket to market be a *guerrillero*?'<sup>6</sup> About the exhumation, Don Erazmo told me, 'Allí, no hay mentira. Allí, estan veviendo la verdad' ('There, there is no lie. There, you are seeing the truth').

In 1994, surrounded by the muddy ponds of the empty graves, I asked them why an already vulnerable community would put itself at greater risk by supporting and actively collaborating with the exhumation. Don Juan Manuel told me that the community supported the exhumation because they wanted

the truth to come out that the victims were natives of the area. Our children who knew nothing, who owed debts to no one. They killed women and the elderly who did not even understand what they were accused of by the army. *Campesinos*, poor people. People who work the fields for the corn we eat.

The community wanted the truth to be known. Don Erazmo said, 'We have worked in the exhumation. We have worked for truth.' I asked what importance truth could have twelve years after the massacre. This is what I was told:

We want peace. We want people to know what happened here so that it does not happen here again, or in some other village in Guatemala, or in some other department, or in some other country.

We strongly support this exhumation and that everything is completely investigated because we do not want this to happen again.

We do this for our children and our children's children.

We want no more massacres of the Maya.

We want justice. We want justice because if there is no justice, the massacres will never end. God willing, we will have peace.

Some said they wanted revenge. All said they wanted justice. There was great hope that someone involved in the massacre would be tried in court and prosecuted.<sup>7</sup> Just as army threats had sent tremors of fear through Plan de Sánchez, and indeed throughout Rabinal, the process of the exhumation restored community beliefs in the right to truth and justice. Rural Maya have a strong community tradition of publicly voicing their objections and seeking redress within the local hierarchy. Moreover, in rural Maya culture the ancestors help the living move into the future and continue to play a role in the life of the community by defining place and its significance as social space, as living space (Personal Communication, Patricia Macanany, 12 April 2000). In this sense the exhumations not only pushed the state and legal system to respond, thereby activating the rule of law, but also resuscitated local Maya cultural practices.

## THE BURIAL

On 4 July 1994, Juan Manuel, Pablo, Erazmo and José asked several of us from the FAFG if we had time to meet with them. They appeared concerned. They explained to us that the mayor of Rabinal was scheduled to visit the site that same day. They asked us if we would help them present a petition to the mayor because they felt our presence would affect the mayor's response. The community had decided that when the remains of their loved ones were returned, they did not want them buried in the cemetery in Rabinal. They wanted the location of the clandestine cemetery declared a legal cemetery. They wanted the proper religious burial in Plan de Sánchez. Juan Manuel explained, 'We want them to rest here because this is where their blood spilled, this is where they suffered, so their spirits are here. We don't want to leave them abandoned. We can't bury them anywhere else. We are prepared to sacrifice this land.' The owner of the land was in agreement with this plan and was willing to sign a document releasing his property rights.

We agreed to assist the community in whatever way we could. We said that we imagined the mayor would have no problem with their plan because there was no dispute regarding land ownership and everyone was in agreement. 'Everyone except the mayor', they responded. They had been to the Rabinal cemetery, the mayor, the health centre and the public ministry. 'They always meet with us', explained Juan Manuel, 'and they always listen to us. But then they say, "It's not possible to have a cemetery there. It will affect the health of everyone in the community. It isn't sanitary. There are microbes that can kill people."' Incredulously, Juan Manuel said, 'How is that going to affect our health? They were buried here for twelve years. No one ever died from microbes.'<sup>8</sup>

So when the mayor arrived with two armed guards, we all stopped our work to greet him. Then Juan Manuel gave a speech for the community. He thanked the mayor for his support and for coming to visit. Then he explained to the mayor that the community wanted to bury their loved ones in Plan de Sánchez and that the owner of the land was in agreement. He publicly requested the mayor's support for their petition. The mayor glanced around at the community members and then at each of us. He said, 'Of course I will help you in any way I can.' Juan Manuel thanked him and said, 'Then, we have your word here before the public that we can have a legal

cemetery here in Plan de Sánchez?' 'I give my word', the mayor firmly responded.

Of course, his word was less steady when Juan Manuel returned to the mayor's office for the paperwork. Again, he was sent from the mayor's office to the cemetery, to the public ministry and to the health centre. Again, they all discussed microbes and claimed a cemetery in the community would be a health hazard. 'I told them we had worked in the exhumation and no one died from microbes. In twelve years, no one died with the clandestine cemetery there', recounted Juan Manuel.

Finally, I told them, and this is the truth, I told them that if they didn't stop sending me from one office to the other and if no one had the courage to sign the legal documents, then we were just going to do it anyway. I told them that we were prepared to carry out the idea we had which was a legal cemetery in Plan de Sánchez.

With satisfaction, he told me:

In the end, they signed the papers and everyone who had watched me being pushed from office to office saw that really, if we stand together, there are possibilities. And, thanks to all the international brothers and sisters who came here to take our declarations, everyone saw that it is possible to speak the truth.

In October 1994, the plaza of Rabinal filled with thousands of Achí from outlying villages and Rabinal to witness the burial procession. After a mass inside the church, the crowd in the plaza listened to the words of the survivors from Plan de Sánchez which were amplified throughout the community. Juan Manuel remembered that moment:

After the exhumation, people had been congratulating me. They would say, 'Congratulations Juan. You really have balls to declare the truth.' But then they would tell me to be careful because everyone knew who I was and there were people who didn't like what I did. I was thinking about this as we carried the coffins to the church. After mass, when I was standing there in front of everyone, I just wasn't afraid. I told the whole truth. I said that the army should be ashamed. 'How shameful for them to say that my wife with a baby on her back was a guerrilla. They dragged her out of my house and killed her. Shameful! They opened the



abdomens of pregnant women. And then they said that they killed guerrillas. Shameful!' I said. I talked about the people in Rabinal who had collaborated with the army and how they walked through the streets with no shame for the killings they had done. In this moment, I had no fear. I declared the truth.

Afterwards, a *licenciado*<sup>9</sup> told me, 'What a shame that you are a poor peasant and not a professional. If you were a professional, there would really be change here.' I thought to myself, 'I may be a sad peasant who can only half-speak, but I wasn't afraid and I spoke the truth.' The entire pueblo was there. The park was completely full. Everyone was listening to what I was saying and I didn't feel embarrassed. I knew that afterwards maybe they would be waiting for me in the street somewhere and that that might be my luck. I said, 'Believe me, the guilty think that with just one finger they can cover the sun. But with what they have done here, they simply can't.'

I suggest that this public speaking of truth is a transformation of 'poisonous knowledge' into a collective 'discourse of empowerment. And truth, as Agamben (1993) suggests, 'cannot be shown except by showing the false, which is not, however, cut off and cast aside somewhere else' (13). Indeed, for Agamben, truth can only be revealed by 'giving space or giving a place to non-truth – that is as a taking-place of the false, as an exposure of its innermost impropriety' (13). Moreover, this transformation is possible because 'truth is a thing of the world: it is produced only by virtue of multiple forms of constraint. And it has regular effects of power' (Foucault 1980:131). In this way, these public events of exhumations, burial, processions and reburials, like the legal cases against perpetrators, represent a public performance of accretion of truth, and thus, the accretion of power. The effects of this power are experienced in the everyday life of the community and directly challenge the spectral presence of the state (the state's production of truth) by establishing a new domain in which Foucault found 'the practice of true and false' to be transformed (Foucault 1980:131–2). These new domains represent the constitution of safe collective spaces for individuals to speak and be heard that enables them, and their communities, to recuperate and redefine collective identity in the aftermath of violence. It is this nascent collective identity which offers hope for the recovery of human dignity and the reconstruction of the social fabric so damaged by political violence. This process of collective recovery of identity

also establishes the community as the conduit from the individual to the nation. It is through this connection that projects of memory also form a bridge between recovery from past violence to future-oriented action.

Following Juan Manuel's speech, the survivors of Plan de Sánchez carried the decorated coffins of their loved ones in a procession throughout Rabinal, then three and a half hours up the mountain to Plan de Sánchez where they reburied the remains of their loved ones at the site of the massacre and clandestine cemetery. Later, a Maya Death House (or *capilla*) was built on the site with marble plaques chronicling the Plan de Sánchez massacre. Residents of Plan de Sánchez regularly visit the *capilla* to pray with their ancestors. Each year a public commemoration with a Catholic mass and Maya *costumbre* mark the anniversary of the massacre. Also following the exhumation, many new community projects were started in Rabinal, including a community healing project and widows' organisation.

In Plan de Sánchez, the local development of these political and social practices began with the community organising and 'standing up' to request an exhumation and ultimately succeeding not only in the exhumation, but also in the retaking of public spaces – the municipal plaza, the church and the clandestine cemetery. As a community, survivors challenged these public spaces as mere reminders of Maya loss and re-made them into sites of popular memory contesting official state stories. Far from eroding agency, these appropriations, re-workings and enactments of global rights discourses created 'a framework within which people [were able to] develop and exercise agency' (Nussbaum 2001:407). Further, these same survivors, widowers and widows seized the space they had created not only to publicly adjudicate collective memory, but also to move forward with legal proceedings against intellectual and material authors of the massacre. I now turn to the Río Negro trial.

## THE RÍO NEGRO TRIAL

Since 1994 the forensic team has conducted more than 120 exhumations and was a major contributor to the report of the Commission for Historical Clarification. Each exhumation has provided forensic evidence to local prosecutors for court proceedings against perpetrators. To date, only the Río Negro case has come to trial, resulting in the conviction of three civil patrollers who were sentenced to death by lethal injection for their participation in a

Guatemalan-army orchestrated massacre in 1982. At first glance, this conviction might suggest that Guatemala's newly reconstructed legal system is finally functioning. However, the conviction raises more questions than it answers. Among them, the chilling effect this conviction will have on the collection of evidence for future prosecutions of military officials; the propensity of the Guatemalan state to exterminate Maya peasants for political expediency; and, the meaning of this prosecution for Maya survivors.

On March 13, 1982, as the army and civil patrol approached Río Negro, the men fled because just a few months earlier 70 men from Río Negro had been massacred by the same army and civil patrol from Xococ. The women and children remained in the village because the army had only ever looked for men, not women and not children. These 70 women and 107 children were gathered into one large group and ordered to climb on foot up a nearby mountain with the armed men. The women were ordered to dance with the soldiers 'like you dance with the guerrilla'. Forensic analysis of the remains showed that the women had been strangled, stabbed, slashed with machetes and shot in the head. Forensic analysis also revealed that many of the women had received severe beatings to the genital area as evidenced by numerous fractured pelvises including that of Marta Julia Chen OsoRío who was nine months pregnant at the time of her death. All the women, including the little girls were buried naked from the waist down.

Fourteen adolescent girls were separated from the group and set aside for mass rape following the killings of their mothers, brothers and sisters. After the mass rape, the girls were stabbed and macheted to death. The majority of children died from having their heads smashed against rocks and tree trunks.

Eighteen children survived because the patrollers from Xococ who had killed their families decided to take these children home in slave-like conditions. The patrollers never imagined that 17 years later these same survivors would testify against them in a court of law. At the time of the massacre, Jesus Tec was ten years old and carrying his two-year-old brother in his arms. During the massacre, one of the defendants in the 1999 court case grabbed the baby by the ankles and pulled him from Jesus. 'I begged him not to kill my brother', Jesus testified during the court proceeding, 'but he broke his head on a rock'. Jesus was one of the survivors of the massacre because the civil patroller who killed his baby brother decided to take him home as a slave.

The Río Negro case was initiated in 1993 when massacre survivors, including Jesus, denounced the massacre to authorities in Salama, the departmental capital of Baja Verapaz. The survivors asked for an investigation of the civil patrollers from Xococ, the platoon of 40 soldiers from the Rabinal army base, and the intellectual authors.

During the 1999 court proceeding prosecutors called military officers to the witness stand. One witness was General Benedicto Lucas Garcia who served as army chief of staff during the reign of his brother General Romeo Lucas Garcia who ushered in the epoch known as *La Violencia*. Trained by the US Army School of the Americas in combat intelligence and high military command and credited with designing the 'scorched earth' campaign, Benedicto testified that the civil patrols were his idea and that he had personally reviewed the patrols in Salama in 1981. (This would be the same year that a US State Department document classified as secret stated that General Romeo Lucas Garcia believed that 'the policy of repression' was 'working' – a conclusion based on a definition of a 'successful' policy of repression as one that led to the 'extermination of the guerrillas, their supporters and sympathizers'.) Entering the courtroom as the grand populist, Benedicto waved and shook hands with everyone including the prosecutors, the defence, the judges and the defendants. When asked about the Río Negro massacre, he pleaded ignorance. When asked if he had ordered it, he gasped as if in shock and said, 'That, that ... would be ... a crime against humanity.'

Another witness was General Otto Erick Ponce, previously a commander of the Rabinal army base and vice-minister of defence in 1994 – the same year that, as we entered our fourth month of the exhumation in Plan de Sánchez, the army gathered 2,000 local Achí peasants from 19 villages in a meeting at the Rabinal army base and declared: 'The anthropologists, journalists and internationals are all guerrilla. You know what happens when you collaborate with the subversives. The violence of the past will return. Leave the dead in peace.' 'Deja los muertos en pas hijo de puta [*sic*]', ('Leave the dead in peace son of a whore'), was a threat received that same week at the Office of the Human Rights Ombudsman. General Ponce refused to provide the court with names of ranking officers at the base and indeed denied that the civil patrols had ever existed.

Witnesses for the defence argued that the defendants 'were not military commissioners', had 'never been in the civil patrol', that 'there had never been a civil patrol in Xococ' and that the defendants 'did not even know what a civil patrol was'. Further, they argued that

the day of the massacre, the defendants 'had been planting trees in a reforestation project'. As for the Río Negro children, they had 'gone voluntarily to Xococ to live'. Amongst the extensive evidence against the defendants were official documents with signatures of the military commissioners with their titles and photographs of the same with other Xococ patrollers carrying army-issue weapons.

During the trial, relatives of the Río Negro victims held marches demanding justice, placing banners in front of the tribunal. These relatives filled the courtroom throughout the trial. Achí from other Rabinal communities (including Plan de Sánchez) also attended the trial – hoping that their massacre case would be the next to be heard in court. Civil patrollers from Xococ demonstrated for the release of the military commissioners.

The criminal court proceeding in Salama was marked by death threats to survivors and witnesses; a military officer defiantly raising his right hand in a salute reminiscent of Nazi Germany as he was sworn in; the relocation of defendants to prevent the possibility of a mob 'liberating' them from jail; and the clearing of the courtroom on several occasions due to threats of violence.

The ambient violence which marked this trial is not unique to legal attempts to prosecute perpetrators of human rights violations in Guatemala. On 7 October 1999, as the trial in Salama proceeded, Calvin Galindo, the prosecutor investigating the murder of Bishop Juan Gerardi, resigned and fled to the United States following numerous death threats. Indeed, in the first six months of 2000 a second judge assigned to the Gerardi case and two key witnesses had also fled the country after receiving death threats.

In 1994 when I first interviewed massacre survivors in Plan de Sánchez and asked them what they wanted from the exhumation, I was told collectively by 24 widowers that they wanted 'revenge'. In 1998, after much community reflection on collective trauma, healing and truth, the same Achí told me they wanted the intellectual authors to be punished, but not their neighbours who participated in the massacres. They did not want their neighbours to go to jail because 'jailing my neighbour will only create more widows and orphans. More widows and orphans will not help anyone.'

As the 1999 court proceedings dragged on with the intellectual authors mocking the legal process and local perpetrators threatening survivors and witnesses, Río Negro survivors did not express the generosity of forgiveness. They demanded the dismantling of the impunity in which the local perpetrators had lived and requested

the application of the death penalty. Taking account of the violent behaviour of the accused, the magnitude of the crime and the feelings of the survivors, the prosecutor, who is personally opposed to the death penalty, requested this maximum sentence. Despite the volatile and tense atmosphere in Salama and elsewhere, the three judges in the Río Negro trial distinguished the court proceeding by demonstrating objectivity and equanimity in their efforts to discover the truth about the massacre. This alone has given many Guatemalans the hope that justice, which has generally been a privilege of the powerful, may now be within the reach of the poor and the indigenous.

#### THE CIVIL PATROLS, IMPUNITY AND THE 'GREY ZONE' OF JUSTICE

Nevertheless, the image of justice emerging from this verdict is skewed, regardless of one's moral position on the death penalty. The massacre was committed by civil patrollers from the neighbouring village of Xococ under army order. The civil patrols themselves constituted an integral part of the army's counter-insurgency campaign. Forced participation in the civil patrols often took the form of torturing, assassinating and massacring innocent people under army orders. Those civil patrollers who refused to comply were always tortured and often killed. It is within this context that civil patrollers from Xococ committed the Río Negro massacre – which was only one of the 626 known massacres committed by the Guatemalan army in the early 1980s. Indeed, the victims of the Xococ civil patrol were not limited to Río Negro, just as Xococ was not the only civil patrol to commit crimes against humanity.

In its comprehensive investigation, the Commission for Historical Clarification (CEH) found that 18 per cent of human rights violations were committed by civil patrols. Further, it noted that 85 per cent of those violations committed by patrollers were carried out under army order (CEH T-II:226–7). It is not insignificant that the CEH found that one in every ten human rights violations was carried out by a military commissioner and that while these commissioners often led patrollers in acts of violence, 87 per cent of the violations committed by commissioners were done in collusion with the army (181).

In 1995, there were 2,643 civil patrols organised and led by the army. In August 1996 when the demobilisation of civil patrols was begun, there were some 270,906, mostly Maya peasants, registered

in civil patrols (234). This is significantly fewer than the 1 million men who were organised into civil patrols in 1981 – one year before the Río Negro massacre. Taking into account the population at the time and adjusting for gender and excluding children and the elderly, this means that in 1981, one in every two adult men in Guatemala was militarised into the army-led civil patrols (226–7).

Like recent genocides in other parts of the world, the systematic incorporation of civilians in murderous army operations complicates the prosecution of perpetrators in many ways because it shifts a seemingly black-and-white crime into what Primo Levi (1988) called the 'grey zone'. One lesson of the recent conviction and sentencing of the patrollers in Guatemala is that if civilians evade certain death under military regimes by acquiescing to army orders to commit acts of violence, the democratic state that follows will kill them, albeit through a civilian court, for following the orders of the previous regime.

This is not to suggest that civilians who participated in crimes against humanity should not be tried for their crimes. The point here is that to focus on the least powerful perpetrators in the military regime ultimately protects the intellectual authors. What civil patroller will now come forward as a material witness to identify army perpetrators in the knowledge of the Río Negro precedent?

As previously mentioned, the desire for local justice appeared to increase as the trial proceeded. Having explored issues of truth, memory, justice and healing in Rabinal communities (including Plan de Sánchez, Río Negro and Xococ) since 1994, I believe this publicly expressed desire for local justice is located in collective and individual memory of experiences during *La Violencia* which reflected the vulnerability of communities to the violence of both the army and the civil patrols. At the local level, during and after *La Violencia*, inter- and intra-community problems and injustices were as often traced to the impunity of military commissioners as they were to army orders. Massacres and other gross violations of human rights in Maya communities were systematically carried out by the army and civil patrollers under order from the army high command. Many of the daily injustices suffered by massacre survivors were, however, enacted by civil patrollers (and especially by military commissioners) who acted with impunity at the local level, confident in the real or perceived support of the army officials who appointed them. I call this 'lateral' impunity – that is, the local expression of structures of impunity, both formal and informal, born out of the national vertical

structure of impunity. This local structure of impunity can take on a life of its own with lateral impunity continuing long after the vertical structure of state repression and the impunity it fomented withdraws from the area, falls into remission, or crumbles.

It was within this lateral impunity that military commissioners used their ill-gotten power to steal the lands of neighbours, plunder livestock, extort money, rape women and commit other crimes – even after their military commissions had officially ended. Though the prosecution of the patrollers might act as a deterrent at the national level to other patrollers coming forward to name army officials who gave them orders, from a local perspective this prosecution may also serve to decrease lateral impunity in other communities where military commissioners fearing prosecution may now think twice before threatening or abusing their neighbours.

## CONCLUSION

An Achí woman who survived an attack by the Xococ civil patrol in her village of Santo Domingo told me 'I complain to god and pray that one day the guilty will pay for what they did.' An Achí man from another village who accompanied me, later commented, 'She isn't demanding that they ask forgiveness. *Perdon* (forgiveness) is not in our linguistica. This idea of forgiveness comes from the NGOs.' He went on, 'The guilty can say, "We did these bad things under someone else's order, forgive me." But this *perdon* has no meaning for me because there is no *perdon* in Achí.'

Where we might use 'forgive' in English or 'perdon' or 'disculpe' in Spanish, the Achí say 'Cu-yu la lu-mac' which in Spanish is translated as 'Aguantame un poco', and in English roughly as 'tolerate me a little'. From ongoing communication with survivors, it is my sense that if the intellectual authors of massacres and other crimes against humanity (as well as those who perpetuated lateral impunity in local communities) are brought to justice, the survivors will again find the generosity and strength to tolerate the guilty among them.

Although I wish I could close this chapter by writing that the intellectual authors have been brought to justice, I cannot. Indeed, General Efraín Ríos Montt (who came to power by military coup in March 1982 and ruled Guatemala for 18 months of genocidal massacres in rural Maya) is now the President of the Guatemalan Congress of Deputies in which his party holds a majority of seats. His party also holds the actual presidency. The other 120-plus



massacre cases sit in courthouses throughout the country awaiting trial. As one forensic anthropologist commented, 'they used to try to stop the exhumations with threats. Now they are more sophisticated, they hold up the proceedings in court.' Several massacre cases have been filed at the Inter-American Court and also await hearings. As I write this in 2002, eleven current and former FAFG forensic anthropologists are under 24-hour protection due to ongoing death threats. On 21 February 2002 they received individually typewritten letters: 'We will finish you off ... you are not the ones to judge us ... your families will be burying your bones and those of your children.' These written threats have been followed up by regular telephone threats to offices, homes and cell phones. After more than 190 exhumations, these continuing threats are intended to intimidate these eleven anthropologists who will be called as expert witnesses in forthcoming cases against current and former high-ranking army officials.

Despite this, Maya survivors, forensic anthropologists and human rights organisations continue to push for justice and the rule of law. As the recent international legal proceedings and debates about General Agosto Pinochet demonstrate, the desire for truth and justice does not end with the dictatorship. I do believe that one day the forensic evidence that has been gathered will be used in Guatemalan courts or the Inter-American Court to prosecute the intellectual and material authors of genocide. In the meantime, these generals no longer travel in Europe and most avoid the United States as well for fear of civil suits by survivors residing in the US.

The ethnography of exhumations in Guatemala demonstrates that: (1) the development and voicing of community memories of surviving genocide can break through fear and create new space for community mobilisation; (2) each testimony creates a new political space for another survivor to come forward and share 'poisonous knowledge', thus incorporating trauma into memory; and that the collection of testimonies gives this memory a community space that is no longer poisonous; (3) individual testimony represents the expansion of potential and real agency which in the collectivity of testimonies creates new space for political action; (4) the exhumation represents a physical re-taking of public spaces which transforms these spaces from symbols of pain and loss to sites of popular memory and action; (5) the exhumation can lead to legal proceedings and even prosecution; (6) Maya appropriation, re-working and enactments of global rights discourses develop new frameworks for the expansion and exercise of agency; and, (7) the exhumations and

collective testimonies create what Foucault called new domains of truth with real power effects.

Some of these power effects have to do with the exhumations, public burials and legal proceedings while others have to do with consequent community mobilisation for land rights, cultural rights, bilingual education, rural health clinics, beneficiary participation in NGO decision making on local projects and the creation of new local Maya political parties which have won office at the local level. Each of these projects builds on political space garnered through the exhumations. Hannah Arendt (1969) asserted that power cannot be equated with violence because, while violence can destroy power, it is unable to create it. These myriad community projects resulting from local mobilisation are the real power effects of truth as well as the hope for the future.

## NOTES

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2. The FAFG was founded in 1993 with support from Dr Clyde Snow and the American Association for the Advancement of Science to conduct forensic investigations of clandestine cemeteries in Guatemala.
3. On 28 May 1978 the Guatemalan army opened fire on a peaceful land rights protest in the plaza of Panzós. Thirty-five men and women were killed in the plaza and several hundred men were killed in the selective violence of death squads in the months that followed (Sanford 1998, 2000, 2001 and FAFG 2000). My work in Panzós is based on testimonies from

some 200 widows. Under order of the Guatemalan army, the Xococ Civil Patrol massacred 70 women and 107 children in Río Negro on March 13, 1982. In Plan de Sánchez, the army massacred 168 women, children and elderly in July of 1982 (FAFG 1997). Narratives from Plan de Sánchez are based on testimonies from each of the 24 widowers whose lives were spared because they were working in the valley below when the soldiers destroyed their village. Río Negro is based on testimonies from child survivors and two Xococ perpetrators of the massacre as well as other local observers.

4. At the request of the FAFG, I developed a research methodology and led the investigation for the historical reconstruction of massacres in Panzós, Alta Verapaz and Acul, Nebaj, El Quiche. The methodology was then replicated in two additional investigations for the CEH in Chel, Chajul, El Quiche and Belen, Sacatepequez. In May and June 1998 I wrote the historical reconstruction of the massacres in Panzós and Acul, and supervised the writing of the reconstructions for Chel and Belen for the FAFG Report to the CEH.
5. All names used in this chapter are pseudonyms except for those of public figures.
6. Rabinal Testimony No. 7-3, 18 July 1994.
7. Rabinal Testimony Nos 7-3, 27 July 1994; 7-5, 20 July 1994; 7-3, 18 July 1994; 7-2, 27 July 1994; 7-1, 18 July 1994; 7-1, 27 July 1994; Plan de Sánchez, collective interview, 25 July 1994.
8. Plan de Sánchez, collective meeting, 4 July 1994.
9. A *licenciado* is someone with a university bachelor's degree.

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