

THE HISTORICAL CLARIFICATION COMMISSION

A BACKGROUNDER



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**“KNOWING THE TRUTH OF
WHAT HAPPENED WILL MAKE
IT EASIER TO ACHIEVE
NATIONAL RECONCILIATION,
SO THAT IN THE FUTURE
GUATEMALANS MAY LIVE IN
AN AUTHENTIC
DEMOCRACY.”**

- Historical Clarification Commission
Guatemala, 1994

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HISTORICAL BACKGROUND

Guatemala became a fully independent country in 1841, after the Federal Republic of Central America dissolved. The country's economy was based on coffee cultivation and coffee plantations. After gaining its independence, Guatemala's elite acquired vast amounts of land for these plantations and hired Mayans from highland communities for cheap labor.[1] As the state accommodated the elite at the expense of the indigenous population, the end of the nineteenth century saw the intensification of "colonial exploitation, racism, and authoritarianism" in Guatemala.[2] These plantations were the site of torture, rape, and, in many cases, death of Mayan people at the hands of plantation owners. The Commission for Historical Clarification (CEH) established that the economic exploitation as a result of these plantations was one of three historical causes of the state violence that led to genocide, alongside racism against the Mayan population, and political authoritarianism.[3]

At the start of the twentieth century, marginalized groups like rural activists began to engage more directly with the state in response to the government's abuses calling on the government to temper planter authority.[4] After a democratic revolution in 1944, Juan José Arévalo, leading a reformist administration, began to curtail many of the privileges of the coffee oligarchy. His work was continued by Jacobo Arbenz until 1954 when a CIA-backed operation overthrew Arbenz's government, ending the period known as the Reform Decade.[5]



Figure 1

From website: "Santa Catalina Arch and the Aqua Volcano"

In the aftermath of the 1954 coup, Guatemalan elites turned to the United States "in order to crush domestic threats to their power",[6] threats which they believed formed part of the 'radical left'. In the tense environment created by the Cold War, anti-communism allowed nationalist racism against Mayan indigenous to be brought back in the form of government-sponsored violence where "repression gave way to full-scale terror." [7] As the 50s gave way to the 60s and the 70s, the violence in Guatemala only increased. Within the state forces, led by the Movimiento de Liberación Nacional (National Liberation Movement of Guatemala or MLN), military commissioners, planters, and paramilitary groups created and used a network of rural power throughout the country to mobilize the counterrevolution.⁸ Meanwhile, various leftist groups engaged in guerrilla warfare, taking part in armed resistance against the oppressive government. The worst of the violence would take place in the 1980s, and the war wouldn't end until 1994.

HISTORICAL BACKGROUND CONT'D



Figure 2

From the New York Times: "Local residents listening to a Guatemalan Army officer speak about forming civil defense patrols to secure their villages against leftist guerrilla attacks near Huehuetenango, Guatemala, in 1982."

Beyond the internal conflict, there were external forces that influenced the developments in Guatemala. The United States was responsible for teaching the Guatemalan military "new repressive technologies to nationalize violence."^[9] Many of the security forces in Guatemala employed tactics imported for its northern neighbor. At the same time, leftist groups were influenced by Cuban forces. The Guatemalan insurgency, faced with violence, discrimination, and poverty, "proclaimed the need to take power by force in order to build a new social, political and economic order."^[10] To help the left achieve this, the Cuban government provided "political, logistic, instructional and training support."^[11]

In the 1990s, the United Nations brokered a peace between the government of Guatemala and the insurgent forces, and its role in ending the conflict is considered a "great success story for the organization."^[12] The Guatemalan peace treaty, known as the Accord of Oslo, was signed in Norway on June 23rd, 1994. Part of these Accords was the mandate that created the Commission for Historical Clarification or the CEH.

KEY PARTIES INVOLVED

THE VICTIMS

The victims of the human rights violations that took place during Guatemala's 'Dirty War' included innocent men, women, and children, a great majority of who were Mayan indigenous, and some who were members of leftist organizations. The CEH concluded that the Guatemalan crisis ended with the confirmation of "42,275 victims, including men, women and children" out of which "23,671 were victims of arbitrary execution and 6,159 were victims of forced disappearance."^[13] Within these numbers, 83% of identified victims were Mayan and 17% were Ladino.^[14] Along with this data, the CEH also released estimates that there are over 200,000 people who were killed or disappeared as a result of the conflict, but the Commission was unable to confirm their status.^[15]

But to fully understand the damage caused during this conflict, one has to look beyond the numbers. The CEH investigated the extent to which women and children were part of the conflict and confirmed that "approximately a quarter of the direct victims of human rights violations and acts of violence were women. They were killed, tortured and raped, sometimes because of their ideals and political or social participation, sometimes in massacres or other indiscriminate actions."^[16] Alongside this violence against women, the CEH also determined that children were victims of "arbitrary execution, forced disappearance, torture, rape and other violations of their fundamental rights."^[17]

Despite the state's attempt to justify their actions by citing that all of the violence was committed under the impression of a threat against the government, the CEH asserts that the state's violence was indiscriminate and "directed against communities independent of their actual involvement in the guerrilla movement and with a clear indifference to their status as a non-combatant civilian population."^[18] Particularly targeted with Mayan communities. During the worst years of the Guatemalan civil war, there were "massacres, scorched earth operations, forced disappearances and executions of Mayan authorities, leaders and spiritual guides" by state forces to "destroy the cultural values that ensured cohesion and collective action in Mayan communities."^[19] Those who were not killed, fled to safety. The CEH estimates that 500,000 to a million and a half people were displaced between 1981 and 1983.^[20]

THE PERPETRATORS

The violence in Guatemala was not limited to one faction or other, just like the victims were not limited to one demographic of the population. In its report, the CEH concluded that it "cannot be reduced to the sole logic of two armed parties. Such an interpretation fails to explain or to establish the basis for the persistence and significance of the participation of the political parties and economic forces in the initiation, development and continuation of the violence."^[21] When it comes to perpetrators, there were many organizations in play.

That said, the CEH also determined that the government

THE PERPETRATORS CONT'D

(including state forces and related paramilitary groups) were responsible for 93% of the human rights violations documented by the CEH including over 90% of arbitrary executions and forced disappearances.[22] While the vast majority of the state's victims were Mayans, the CEH notes that the victims were from all social strata (from workers to church members to academics and politicians). From 1963 to the 1970s, the army conducted selective killings and developed some of the first death squads, "all while receiving support and training from the United States." [23] Between 1981 and 1983, state forces and other paramilitary apparatuses committed massacres in some 626 villages and displaced thousands of people.[25]

Along with state forces, leftist organizations also committed human rights violations, although on a lesser scale. The CEH concluded that, amongst its registered cases, "insurgent actions produced 3% of the human rights violations and acts of violence perpetrated against men, women and children, including 5% of the arbitrary executions and 2% of forced disappearances." [26]

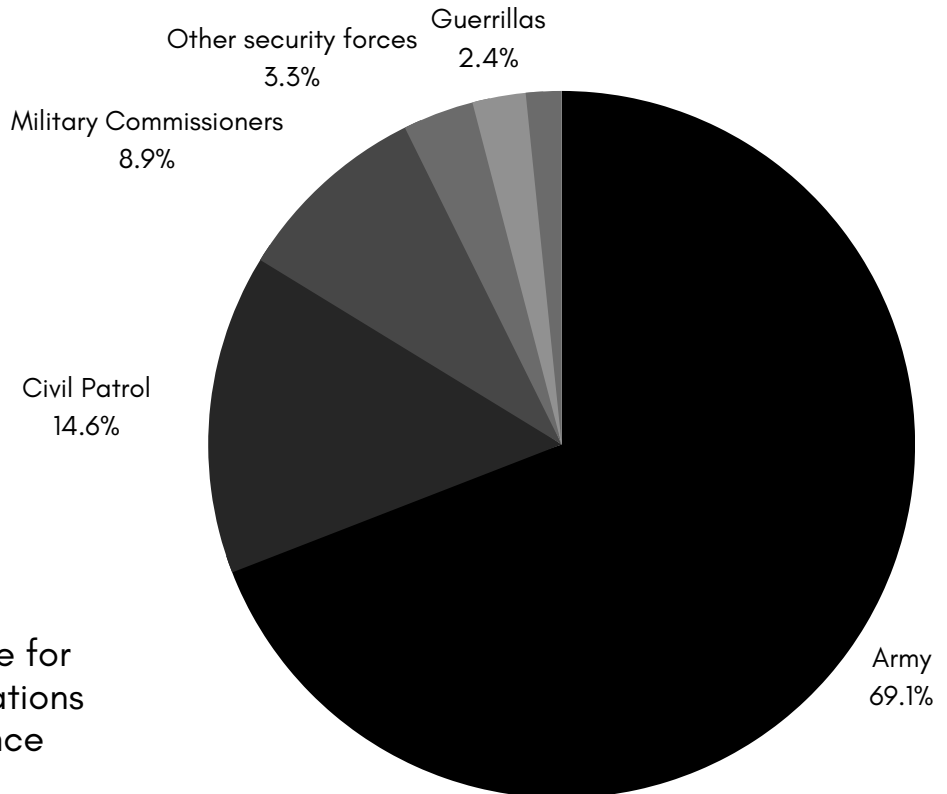


Figure 3

Forces responsible for human rights violations and acts of violence

HUMAN RIGHTS VIOLATIONS

During the Guatemalan civil war, both sides committed human rights violations which the CEH uncovered and documented during its investigation. The state, which includes the government, the military, and any and all paramilitary organizations and/or individuals the state gave power to act on its behalf, committed most of the atrocities. The CEH declared that the violations done by the state were done for the purposes of repression, intimidation, and spreading terror. 91% of the total atrocities documented by the CEH were committed by the state between 1978 and 1984, a period of only six years. [26] Out of these, 85% were found to have been committed by the Army (as opposed to other state forces).[27] Some violations, like kidnapping and assassinations of political activists, were done not only for the purposes of repression, but as part of a greater anti-communist effort in the form of the National Security Doctrine.[28]

One of the most common violations of human rights during the civil war was torture. As the CEH discovered, there was a systematic use of illegal detention centres where victims were held and then "almost always subjected to interrogation, accompanied by torture and cruel, inhuman or degrading treatment. In the majority of cases, the detainees were disappeared or executed." [29] In many cases, people were forced to work for the state forces as a way to earn back their freedom. This was part of a larger effort by the state to force sectors of the population into becoming accomplices in the violence for the purpose of causing social disintegration. One of these efforts was the participation in the Civil Patrols (PAC) which were created by the Army in 1981 as paramilitary structures.

The CEH determined that hundreds of civilians who were forced to join these PACs were held at gun point by the Army and forced to "rape women, torture, mutilate corpses and kill." [30] Those who did not die were often forcibly disappeared which the CEH classified as "the most pernicious practise", particularly for the grieving process, "due to the uncertainty regarding the whereabouts or fate of the victim". [31]

Amongst all this violence, there was the genocide of Mayan people. [32] As the Army perceived Mayans to be "natural allies of the guerrillas" the human rights violations against the Mayans were systematic and demonstrated an "aggressive racist component of extreme cruelty that led to extermination en masse". [33] The CEH attributed more than 626 massacres and scorched-earth operations to the Army against the Mayan people and noted how "in the majority of massacres there is evidence of multiple acts of savagery, which preceded, accompanied or occurred after the deaths of the victims." [34] The atrocities committed against the Mayan people by the Army are some of the worst to take place during the Guatemalan civil war. Some of the violations committed as cited by the CEH are as follows:

"the killing of defenceless children, often by beating them against walls or throwing them alive into pits where the corpses of adults were later thrown; the amputation of limbs; the impaling of victims; the killing of persons by covering them in petrol and burning them alive; the extraction, in the presence of others, of the viscera of victims who were still alive; the confinement of people who had been mortally tortured, in agony for days; the opening of the wombs of pregnant women, and other similarly atrocious acts". [35]

HUMAN RIGHTS VIOLATIONS CONT'D

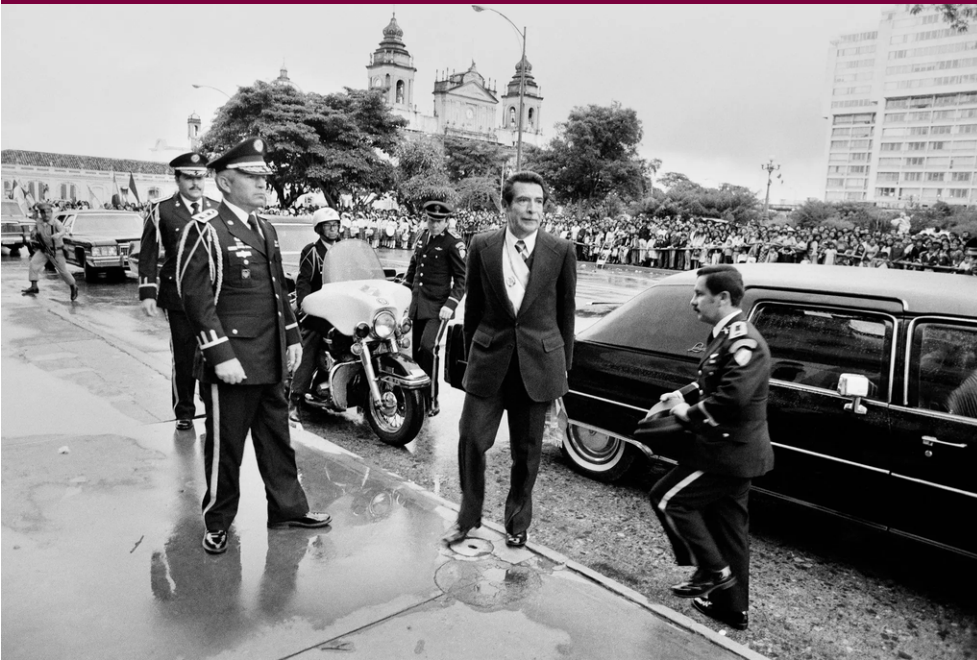


Figure 4

From the New York Times: President Efraín Ríos Montt arriving for a ceremony at the presidential palace in Guatemala City, October 1982.

Beyond the physical human rights violations, the CEH states that state forces also violated Mayan people's cultural rights. By targeting their language and ways of dressing for repression, destroying ceremonial centres, sacred places, and cultural symbols, and the militarization of their communities including the forceful participation in PACs, state forces made a systematic effort to disappear all forms of Mayan culture as it was within its reach.[36]

Besides the state's extensive violations of human rights, guerrillas also engaged in violence investigated by the CEH. These included arbitrary executions which "violated the right to life",[37] about 32 massacres registered by the CEH,[38] forced disappearances and kidnappings, and forced recruitment.[39] Alongside the state and guerrillas, there were individuals who engaged in violence, usually those the CEH described as "economically powerful people at either the national or local level." [40]

THE HISTORICAL CLARIFICATION COMMISSION

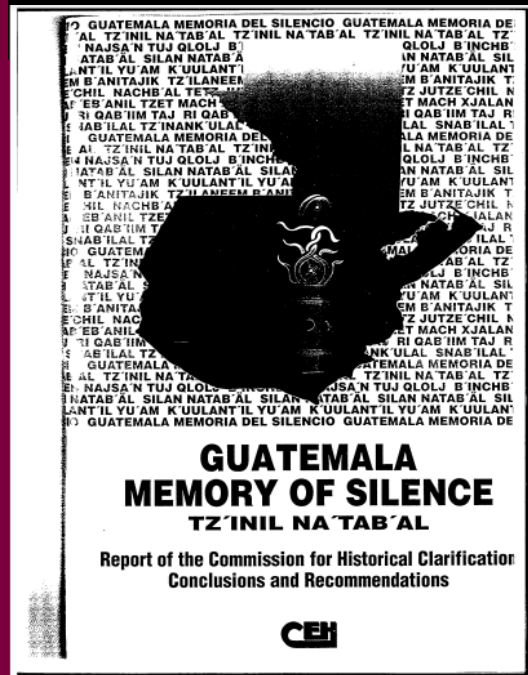
The Accord of Oslo, the peace accords for the Guatemalan civil war, included the mandate to create the Commission for Historical Clarification (La Comisión para el Esclarecimiento Histórico or CEH). Its purpose, as written on the commission itself, was to “clarify with objectivity, equity and impartiality, the human rights violations and acts of violence connected with the armed confrontation that caused suffering among the Guatemalan people.”[41] Investigating the reality of what took place in Guatemala, the commission argued, was necessary because while many knew that there was death and destruction as a result of Guatemala’s armed confrontation, “the gravity of the abuses suffered repeatedly by its people has yet to become part of the national consciousness.”[42]

To fulfill its role, the commission accompanied survivors to exhumations of their loved ones, gathered testimonies from civilians, victims, bystanders, and perpetrators, and conducted extensive research on documents presented by human rights organizations operating in Guatemala during and after the civil war.[43] The CEH combined the above with “a wealth of information from the Parties to the confrontation, other governments and a variety of secondary sources.”[44] The commission was, however, limited to investigative purposes. As it states in its report, the CEH “was not established to judge - that is the function of the courts of law - but rather to clarify the history of the events of more than three decades of fratricidal war.”[45] The CEH was chaired by Professor Christian Tomuschat of Germany, an eminent jurist of world renown, and two

Guatemalan citizens with “impeccable reputations” and who “enjoyed the respect of the whole Guatemalan society, including its indigenous majority.”[46]

The commission presented its findings in a report titled *Memory of Silence* released in 1999. The report which was released to the public outlined the conclusions at which the CEH arrived, the human rights violations the CEH uncovered, the extent of the damage done (as well as who did the damage), and the recommendations the CEH was empowered to provide. It also includes recommendations as they relate to reparations for the victims and the efforts to preserve the memories of the victims.

Figure 5 CEH Commission cover page



OUTCOMES OF THE CLARIFICATION

CONCLUSIONS

The conclusions outlined in the CEH were divided into three sections: general conclusions, conclusions about human rights violations, and those conclusions related to the peace and reconciliation process.[47]

Many of the conclusions published by the CEH included details on the human rights violations and the forms of repression established by the state forces. But along with these, the CEH also concluded other costs Guatemala suffered, beyond its human rights crisis. The CEH estimates that in the 10 years between 1980 and 1989, "the total direct quantifiable costs were equivalent to zero production in Guatemala for almost 15 months, equal to 121 % of the 1990 Gross Domestic Product (GDP)" which put economic pressures in a country already in crisis.[48]

In its conclusions, the CEH traces the beginning of the violence to 1962 when, it states, "Guatemala entered a tragic and devastating stage of its history, with enormous human, material and moral cost." [49] In these conclusions, the CEH also addresses the historical roots of the conflict, citing the "structures of economic, cultural and social relations in Guatemala" as undeniable influencing forces in the conflict.[50] Many of the initial forms of repression that were present at the beginning of the Guatemalan crisis have roots in the historical repression of the country. The CEH concluded that this repression was possible due to an "illegal and underground punitive system was established, managed and directed by military intelligence." [51]

Part of the conflict, the CEH concluded, was the ineffectiveness of the judicial body. By failing to "guarantee the application of the law, tolerating, and even facilitating, violence" the country's judicial system formed part of the repressive forces and served to continue to permeate impunity.[52] Remarkably, the CEH also cites the Cold War, the National Security Doctrine, and the United States influence as underlying causes of the armed confrontation that took place in Guatemala. It highlights the tense environment of the Cold War and how that heightened the aggression between factions, the role of the National Security Doctrine to justify the state's repressive and violent actions, and the training provided for the Army by the United States which included many dehumanizing tactics which contributed to the human rights violations that went on to take place.[53] The CEH also mentions the role of the Catholic Church and how in the late 1960s, it abandoned its conservative stance for the first time in Guatemalan history, and how these changes led to the "large number of catechists, lay activists, priests, and missionaries" who became victims of violence.[54] Perhaps one of the most important conclusions reached by the CEH is on the disproportionately repressive response by the armed forces responding to insurgency. In its report, the CEH declares that "at no time during the internal armed confrontation did the guerrilla groups have the military potential necessary to pose an imminent threat to the State." [55] This directly discredits the state's assertion that the violence committed was for the purpose of fighting against insurgent forces that posed a threat to the state. Even more relevant is the determination by the CEH that the Army was knowledgeable of the combatants' numbers and level of

RECOMMENDATIONS CONT'D

of peace and national harmony, the CEH recommended further investigation and analysis of the past, the encouragement of political participation for indigenous people, and the elimination of racism (starting with the implementation of the Agreement on Identity and Rights of Indigenous Peoples).[69] In order to achieve all of the recommendations set forth by the CEH, the Commission also recommended "the establishment of a follow-up body in which both State and civil society are represented, to aid, promote and monitor the implementation of the recommendations."[70] This body would be comprised of representatives from the government, congress, Guatemalan NGOs, Mayan organizations, and an "independent person, of recognised democratic trajectory and commitment to the peace process."[71] The CEH calls this body 'the Foundation' and it recommends that it be in charge of the direct implementation, the backing, assistance, and the monitoring of said implementation, the seeking of financial assistance for projects taking place during this implementation, and the "promotion of and support for historical research."[72]

LEGACY OF THE COMMISSION

The importance of the CEH for the process of reconciliation is evident in the aftermath and legacy of the Commission. In days immediately following the release of the report, the government rejected some of the CEH recommendations, for instance, "the establishment of a follow-up commission and a commission to investigate army officers," arguing that "most or all of the recommendations had already been implemented."[73] It denied the CEH's suggestions of demilitarization, particularly because in the eyes of the government, the military had already undergone internal transformations. It also refused to make any statements regarding its culpability, citing that "it had already asked forgiveness on the second anniversary of the peace accords" so there was no need for further statements.[74] Perhaps the most important of these declarations by the government is President Arzu's rejection of "the CEH finding that genocide had occurred."[75]

In contrast to the government's response, two weeks after the report was released, President Bill Clinton acknowledged "responsibility for U.S. actions and complicity with human rights crimes and pledged that the United States should never again repeat such errors" and, on March 12th, the UNRG (which functioned as an umbrella organization for the leftist parties in Guatemala) "unconditionally sought forgiveness for atrocities it had committed and pledged to follow the commission's recommendations."[76] The CEH report's most important finding, one could argue, was the determination of genocide. This conclusion "left the door open to prosecutions of responsible individuals through the normal legal mechanisms."[77]

The CEH also became one of the most reliable authoritative interpretations of the war. It had international repercussions, not just by the USA's acknowledgment of its role in the Guatemalan civil war, but also by influencing other peace-keeping processes, like those taking place in Chile regarding General Pinochet.[78] Finally, in response to the government's lack of response, several civil society organizations formed a multisectoral coalition or an *Instancia Multi-Institucional*, for the purpose of maintaining "public pressure on the government and to insist that the report's recommendations were binding."[79]

ASSESSING THE COMMISSION

THE SCHOLAR'S VIEW

Every truth and reconciliation commission is judged on its aftermath by scholars. The CEH has been praised by some scholars because of its fulfillment of the mandate set out for it, the investigation and conclusions, and its legacy. However, it has also been criticized for its limitations and aftermath.

The CEH mandate had many limitations that impeded the extent of its investigation. It did not include judicial powers so there could be no subpoenas or the naming of the specific perpetrators. The latter was in direct response to the release of around 40 of the higher-level operatives charged with responsibility over El Salvador's human rights violations not long before Guatemala's CEH was established. Hector Rosada, who was the former chief of the government's negotiating team, said "We didn't want what they did in El Salvador."^[80] As a result, the final language of the CEH mandate limited the CEH's powers in that respect, prohibiting the CEH from attributing "responsibility to any individual in its work, recommendations and report."^[81] However, despite this limitation, the commission decided to "state that the massive human rights violations" had taken place with "the knowledge or by order of the highest authorities of the State."^[82] In fact, Susanne Jonas, in *Of Centaurs and Doves: Guatemala's Peace Process*, notes that some scholars have argued "that the restriction of not naming names actually enabled the commission to be more devastating in its analysis and more forceful in its institutional recommendations."^[83]

That said, some scholars, like Roddy Brett, also argue that the CEH report, while important, did not have much success in changing the social and political landscape of Guatemala. In his article, "In the aftermath of Genocide: Guatemala's failed reconciliation", he argues that while the CEH and other peace documents "contemplated a broad range of political, economic, social and legal reforms... in practice, peace in Guatemala means very little... [as] Political and criminal violence have remained acute."^[84] Particularly, Brett points out, that despite the intentions and recommendations of the CEH, Mayan communities "continue today to be affected disproportionately by poverty and structural violence and to be fiercely stigmatised and subject to systematic racism."^[85] The CEH conclusion of genocide opened a window for prosecution of some of the guilty parties, and some were prosecuted (the most famous case being Rios Montt), but the systematic racism and inequalities that allowed for the Guatemalan human rights violations to take place still exist.

**MAYAN COMMUNITIES
"CONTINUE TODAY TO BE
AFFECTED DISPROPORTIONATELY
BY POVERTY AND STRUCTURAL
VIOLENCE AND TO BE FIERCELY
STIGMATISED AND SUBJECT TO
SYSTEMATIC RACISM."^[85]**



Figure 6 From website: "500,000 to 1.5 million Mayan civilians fled to other regions within the country or became refugees abroad"

THE AUTHOR'S TAKE

The CEH was mandated to "clarify with objectivity, equity and impartiality, the human rights violations and acts of violence connected with the armed confrontation that caused suffering among the Guatemalan people." [86] Taking into consideration the limitations placed by the government and the peace agreements leading up to its establishment, the CEH was able to do a thorough investigation in a short period of time that revealed a fairly complete and accessible picture of what took place in Guatemala during its dirty war. It included conclusions that clarified many important details for the purposes of historical clarification, like the organizations responsible for the human rights violations, the levels of terror and repression orchestrated by the government, and the conclusion of genocide. Its recommendations were detailed and viable, and despite the government's refusal to implement them all, they were still partially used by the authorities. It led to serious repercussions for many of those involved and it created a historical record of what happened, so there would be no ambiguity or vague ideas of what took place, who was involved, where and when the atrocities were committed, and how and why all of it happened. It allowed for understanding, which is an important step toward healing. Despite the continuation of some of the long-term systematic issues, Guatemala is no longer in a state of war, and the CEH did its job of investigating, documenting, and presenting all of the information.

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