

# Honouring, commemorating, compensating: state and civil society in response to victims of the armed conflict in the Ixil region (Guatemala)

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## Abstract

Established during the Guatemalan Peace Process, the Oslo Accord contemplates the question of compensating the victims of internal armed conflict. Not only was this accord founded on the principles of victims' rights, but it also intends to contribute to the democratic reconstruction of Guatemalan society through a process of recognition of victims' status and memory – intended to have a reconciling function. The article focuses on the work of two organisations implementing the Oslo Accord and aims to analyse the discourses and practices of the local actors and their perception of the application of victims' rights. Civil society actors and members of the National Compensation Programme demonstrate different approaches both in practical work and in representations of what is right. However, revendication of local cultural values is present in all actors' discourse, revealing their ambiguous position in regard to state government.

**Key words:** Guatemala, civil war, human rights, Oslo Accord, mass graves

A number of bodies remain underground in Guatemala, in communal graves or military encampments, where the victims of the internal armed conflict have been buried. The conflict was fought by guerrilla movements against successive dictatorial governments<sup>1</sup> and led to the deaths of more than 200,000 people and the displacement of one million Guatemalans inside or outside of the country's borders.<sup>2</sup> Among the victims, a very large majority (83%) belonged to the indigenous groups that constitute a large part of the population.<sup>3</sup> The violence of the military repression led to an effective drop in guerrilla activities, but also drove guerrillas to shift their mobilisation to a legal standpoint, denouncing the 'genocidal' brutality of the army and demanding the intervention of the international community.<sup>4</sup>

The 1980s saw an intensification in the mobilisations of human rights organisations and international institutions – the UN being at the forefront. Under international pressure, the Guatemalan government organised democratic elections in 1986 and engaged in peace negotiations with guerrilla leaders. These negotiations ended in 1996 with the signing of the 'firm and lasting' peace treaty

and the establishment of the Peace Accords. This peace process was considerably influenced by non-governmental organisations, international organisations and the Catholic Church standing up for the victims. Included in the Accords is recognition of the cultural rights of indigenous populations<sup>5</sup> as well as the right of the victims of the internal armed conflict to be recognised as such and compensated. The compensation is material as well as symbolic; it is a question of honouring<sup>6</sup> the victims and preserving their memory.

The Oslo Accord, signed in 1994, lays the groundwork for what constituted a major concern in twentieth-century post-conflict contexts: the need for the construction of a national historical account that includes the social and symbolic recognition of the victims. The Guatemalan peace process was inspired by similar mechanisms implemented in Latin America, and it reflects the post-conflict action plans circulating in international networks.<sup>7</sup> These fit into an international context of reconfiguring the moral economy, in which the remembrance of victims has a central place.<sup>8</sup> Nevertheless, the affirmation of victims' right to reparations and recognition does not necessarily involve the judicial conviction of the guilty. The post-conflict context creates a singular situation in relation to justice: the conviction of the guilty very often appears to be impossible, or incompatible with the objective of reconciliation. A choice then arises between truth and justice, the latter '[being] replaced by a mechanism that counterbalances the impunity of the executioner with the recognition of the victims, of their moral right to remembrance, to commemoration that constitutes symbolic compensation, reinforced by the payment of material compensation'.<sup>9</sup>

The Oslo Accord followed a global agreement on human rights and preceded the constitutional and judicial reforms that, between 1995 and 1996, drew the outlines of the new Guatemalan nation. It instituted the implementation of the truth commission charged with shedding light on human rights violations and acts of violence,<sup>10</sup> and it provides the basis for compensation accorded to populations that were victims of the conflict<sup>11</sup> (families of the dead and displaced populations). To respond to its injunctions, Guatemala put in place the National Reparations Programme (*Programa Nacional de Resarcimiento* – PNR), the institution responsible for compensating victims. The Guatemalan State was nevertheless very slow to implement the programme, and did so only following the strong mobilisation of victims' associations, almost ten years after the signing of the agreement.<sup>12</sup> Begun in 2003, it was renewed in December 2013 for a period of ten years. The ambiguous position of the State, supposedly responsible for victims' rights, exists within a strongly neoliberal context: the State presence is limited to sovereign functions. The Guatemalan population has very limited confidence in the electoral system that has been in place since the return to democracy in 1986. Public investment is particularly weak and the gap in terms of access to health and education, as well as with regard to income, makes Guatemala one of the most unequal countries in the world.<sup>13</sup> Indigenous populations are almost not represented at all among the ruling class, which remains strongly endogamous in spite of political instability.<sup>14</sup> Many of those who were in power during the conflict are still part of the political landscape. The judicial system is also deeply deficient, as the vast majority of

common law crimes are not subject to criminal proceedings,<sup>15</sup> and those people with sufficient means are turning more towards private security, which has three times the number of agents than the police.<sup>16</sup> Faced with the corruption and inefficiency of the police force, the army occupies the paradoxical position of being designated as the party guilty of past violence and the only really credible state actor.<sup>17</sup>

Faced with the government's delay and reticence, civil society organisations, with the help of the international community, had already stepped in to take over the work of exhumation and support of victims' families. They cannot claim to guarantee financial compensation, which remains the PNR's responsibility; instead, they emphasise the importance of actions aimed at honouring the memory of victims and 'dignifying' them. The historical weakness of national institutions contrasts with the abundance of NGO initiatives and international institutions. They are concerned with promoting associations of 'civil society' that fight for victims' rights. Their approach is in line with the reasoning of the peace agreements and the vision proposed for the new Guatemalan society; it is a question of bringing the past to light – literally understood through the process of exhumation – to *make peace* with it. Exhumations of victims are part of the arsenal of procedures implemented from this perspective. Exhumation exists as an instrument of 'restorative justice', in which the identification of victims and the restitution of their dignity constitute a major concern.

The Oslo Accord presents legal obligations concerning the rights of the victims and the compensation they can claim. It puts victims' rights at the centre of a model of social and cultural reconstruction based on democratic values. However, the way to carry out this legal obligation in practice is still open to interpretation. How is the statement of the victims' right to recognition to be translated into fact? How is 'justice' to be served, and in what ways – economic or symbolic – should the victims be compensated? In this article, based on fieldwork carried out in the Ixil region, one of the emblematic places of the violence of the Guatemalan armed conflict, we will examine the complexity of the relationship to 'justice' by focusing on the work of the actors and the concrete modalities involved in implementing reparations and '*dignificación*' practices,<sup>18</sup> in particular in the context of exhumation processes. Analysing the modalities of action and the discourse of the actors at a local level will shed light on the concrete forms that compensation practices can take as they are carried out by actors on the ground, their divergence from established norms and the representations they uphold. We are concerned here with two organisations whose mission involves the aid and support of victims. The offices of the PNR and Movimiento de Desarraigados (Movement of the Uprooted) are situated a few metres apart, in the town of Nebaj, in the Ixil region. The first is the regional office of the PNR. The second is an association whose actions consist in supporting individuals engaged in the exhumation process. The association was formed at the end of the 1990s, well before the official reparations programme was put in place. While both organisations fall within the modalities established by the Oslo Accord and claim to be based on the injunction to 'honour' or 'dignify' the victims, these ideals are reflected differently in practice. The action of the PNR is

essentially limited to financial reparations, while cultural and symbolic reparations are the responsibility of associations like *Movimiento de Desarraigados* that operate with limited financial means dependent on international cooperation. Their investment in different reparations modalities relates to different conceptions of the place victims should occupy in Guatemalan society and the 'narrative' to be constructed concerning the remembrance of the armed conflict.

Through examples, we will attempt to show the importance for the association of the symbolic treatment of the dead to be honoured, and how this action is also constructed through confrontation between state and civil society actions. This is done by setting the 'civil' approach, anchored locally, in opposition to the action of the State, which is viewed with a great deal of suspicion. Second, we will seek to compare the association's vision with that of the actors of the PNR, who also produce a discourse critical of the central power. There is a double fracture between, on the one hand, the State and 'civil society' (a term popularised by the action of international organisations after the armed conflict) and, on the other hand, the idea of a centralised unifying power and local discourses of cultural validation.

### ***Movimiento de Desarraigados*: giving dignity back to the dead and the living**

The *Movimiento de Desarraigados* association began its action in 1998 in Nebaj.<sup>19</sup> Due to the large number of victims and the fact that it was identified as a hotbed of subversion at the time of the conflict, the Ixil region today is emblematic of the genocidal violence of the armed conflict against indigenous groups. In effect, in light of their inability to overcome the guerrillas, the military leaders applied a policy of terror aimed at uncovering those whom they considered to be the guerrillas' support base: the civil population, especially the rural indigenous populations. This strategy was first manifested in assassinations aimed at local leaders.<sup>20</sup> It ended in the massacre of entire villages and in a process that militarised the hinterland.<sup>21</sup>

With a relatively small staff, mainly made up of young Ixil from the region, the association has sought to inform and frame victims' rights throughout the exhumation process. It works together with the *Fundación de Antropología Forense de Guatemala* (Foundation of Forensic Anthropology of Guatemala – FAFG), which is responsible for excavating and identifying the remains of the deceased – a task that can take many years. These remains are then brought to the offices of the organisation and given to the families, who rebury them. The association does not manage funds for conflict victims and does not give material aid other than that destined for the reburials, including the purchase of coffins and sometimes a minimum amount for the organisation of a funeral ceremony. The name of the association makes reference to the Oslo Accord in the use of the term '*desarraigados*' (uprooted). This is the same term formulated in the Accord to identify the populations who benefit from compensation. Its aid action in the exhumations is in line with the principles formulated by the Historical Clarification Commission, which considers that the exhumation of the remains of victims of armed con-

flict is 'in itself an act of justice and reparation and an important step towards reconciliation'.

The activities of the association include support for legal procedures as well as psychological and social support for victims' families. It thus offers both legal support and assistance throughout the exhumation process, understood as a process to restore the dignity of victims. Here, the implementation of justice relates first to the reburial of the dead in an adequate manner. The association does not consider the gathering of evidence against the guilty to be the primary aim of exhumation – although every effort is made to keep this option open. Legal assistance is mainly limited to the necessary steps to obtain authorisation to open the graves. As emphasised by Ana,<sup>22</sup> an employee of the association responsible for psychological and social support, very few families take the steps to bring the guilty to justice. This is due to both the cumbersome process and the national judicial institution's lack of credibility. Furthermore, the prosecution of those responsible for the massacres is problematic, on the one hand, because those who are truly responsible in the eyes of the association are the 'intellectual perpetrators' and not the executioners and, on the other hand, because of the proximity of the executioners to the victims, who still live together within communities in the 'grey zone' described by Primo Levi.<sup>23</sup>

Prosecuting neighbours who were perpetrators of massacres is not the purpose of the association; it wishes, on the contrary, to promote community cohesion, even concerning exhumations. Although the request for exhumation rests originally with the individual who wishes to find the body of a lost loved one, the association's approach aims to involve, collectively, not only the other members of the family of the disappeared, but also their 'communities'. The support team is thus concerned with the victims and the victims' families (the term 'victim' used by actors sometimes relates to the dead, and sometimes to the families of survivors of the conflict). It also tries to involve local leaders such as religious leaders or teachers, and organises public meetings in the villages.

For the association, the work of uncovering and reburial of the bodies is part of the affirmation of a historical truth: the massacres really did happen and involved the responsibility of the military. Nevertheless, their main concern is the symbolic dimension of the process and its healing function. Ana thus emphasises:

It is not so much a question of [launching this process of exhumation] for what they will give me, but for what I will take from it: for the symbol of the fact of reburial, the wake (*velación*), the fact of having a place for one's dead. That has a lot of meaning. ... Many people say, 'It is not that I don't want justice; but for me, justice is already this. To find them, to lay them to rest.'

### Material and symbolic restitution of human remains

The return of the bodies is an important moment in the support plan put in place by the association. It constitutes an essential element of the dignification process. The first stage consists in giving back an identity to the victims. It involves first

establishing their identity definitively and confirming their fate to their loved ones; this ends the inherent uncertainty of the status of the 'disappeared'. Then, the identity of the disappeared person is reconstructed, symbolically re-establishing the link between the exhumed remains and the individual to be reburied.

I was invited by the members of the association, whom I had met many times in the course of my fieldwork in the Ixil region,<sup>24</sup> to attend a ceremony of returning the bodies of conflict victims. That evening, the bodies of twenty or so persons were returned to their next of kin. It involved the remains of women and children, exhumed a few years earlier, in a community of the region. All of the people present were gathered together at the association's office, in the basement of a house in Nebaj. Two anthropologists from the FAFG had supervised the transport of the bones from the capital after having carried out the forensic examination. They were responsible for taking them from the boxes, labelled with the names of the individuals identified, in which they had been transported, and for placing them in the coffins that awaited them, piled up against the wall. The coffins were then placed in a smaller neighbouring room decorated with candles and pine needles on the ground, where the next of kin were able to keep vigil over the deceased. Later, once all of the remains had been placed in coffins, these would be brought together for a ceremony directed by a Mayan religious leader. For the families, the restitution of the remains of their next of kin marked the end of several years of waiting. Some among the older ones had feared that they would die before being able to bury the child or sister they had lost.

It is difficult to describe the atmosphere that reigned at the moment of restitution of the bodies. The intensity of the moment, the pain and visible emotion of the people come to collect the bodies and called to contemplation, and the febrile activity of the persons there to remove the nails from the coffins all came together as talking and crying filled the room with an incessant hubbub. During the few hours of the process, the activity carried out in this space combined the physical handling of human remains by forensic professionals and the symbolic reconstruction of the presence of the dead, whose status had up to then been uncertain. The room was organised around a young woman responsible for handling the remains. The classified bones in the labelled paper bags: '*pie derecho*', '*pie izquierdo*', '*costillas*', '*cráneo*' ('right leg', 'left leg', 'ribs', 'skull') were placed inside the coffin in anatomical order. Most of the time, the anthropologist did not take the bones out of the bags, instead symbolically reconstructing the skeleton. The families were systematically offered the option to have the bones placed directly in the coffin, but very few chose to do so. The visible emotion of the participants made the technical and precise gestures repeated over and over again by the forensic anthropologist seem a bit surreal: opening the coffin before her, removing the dust, then opening the box containing the remains of the person that the family had come to collect and taking out the paper bags. The next stage consisted in placing a braided mat (*petate*) in the base of the coffin, then arranging the bags. The coffins were finally closed again and brought into the neighbouring room, after the anthropologist had taken out the label indicating the name of the deceased person and stuck it on the coffin to avoid possible confusion. This act

concluded the work of restitution of the human remains, formally identifying them in front of the family.

### **From remains to individuals: identifying, personalising and re-humanising the victims**

The whole process of exhumation and reburial constitutes a way of reaffirming the identity of the deceased, as an individual, as a member of a familial and collective group, as a human being and, finally – although this aspect is less drawn out here – as a victim. The moment of the return of the bodies falls between two other key moments in the search for the victims and the symbolic process of giving them back their dignity: the actual exhumation and reburial. The affixing of the name of the deceased person on the resealed coffin marks the end of the ceremony of returning the bodies, and it seems to synthesise the meaning of the practices that surround the restitution.

The human remains pass through the hands of the forensic anthropologists, whose work consists in formally identifying them (from DNA or material proofs) and in formally determining the cause of their death. The bones have been studied by the researchers as a source of information. Once the ceremony is over, they will be buried by the families, regaining their status as the final traces of individual victims. The stages of the restitution procedure mark this transition and the forensic anthropologist is a central actor. The taking of the remains from a box and placing them in a coffin clearly marks their passage from the status of ‘object’ to that of ‘deceased’. In repositioning them in the form of a human body, the anthropologist demonstrates that the bones are indeed the remains of an individual. Even when they remain inside the bags, making the form of the skeleton much less visible, the placing of the identified elements inside the coffin – which itself suggests the human form – allows the visualisation of this reconstruction of a whole from fragments. The assurance illustrated in the expert gestures of the anthropologist contributes to the process. No material fragment is lost. The next of kin remain extremely attentive, nervously scrutinising the bags that are left to the side. The anthropologist has to reassure them often that no material element has been forgotten. She systematically empties the contents of the bags – after having torn them to ensure that all the debris is indeed inside the coffin.

The transformation of a collection of human remains, identified but scattered, into a ‘body’ belonging to an individual is then reinforced by the dressing of the ‘body’ thus reconstituted. The next of kin actively participate here. As the exhumed bodies were mainly those of indigenous women, the families had brought traditional hand-woven clothing worn by women in Guatemala. The presentation of dressed skeletons is not part of the traditional rites. The fact of dressing the bones – or the paper bags containing the bones – adds to the process of re-humanising and re-personalising the remains presented by the association. Thus, the bags containing the bones of the pelvis and the legs are wrapped in a material skirt (*corte*). The *cinta*, a long strip of material used for women’s hair, is wrapped around the bag containing the head, or directly around the skull; this is sometimes the only

element taken out of the paper bag, when it remains intact. Once dressed, the bodies of adults are covered again with white shrouds over the clothes, while babies are simply wrapped in blankets.

It is during the dressing of the remains, when families participate more directly, that people begin to speak. The next of kin speak audibly concerning the deceased person. They re-place them within the familial genealogy of those present: 'That's my wife', says one of them, 'and here is my grand-daughter'; 'That's her father'; 'That's my son-in-law'. The young people and children present are shown the existence of a grandmother, an aunt or a cousin they never knew. The dead are symbolically reintegrated into their individual dignity as women, mothers and relatives. The process of recognising victims as human beings, as well as identifying the remains placed in the coffins as the individuals they were, also depends on the presentation of material objects (clothing, jewels, belts, etc.) that were collected by FAFG anthropologists. These personal belongings constitute a tangible link to the disappeared person. Contrary to the skeletal remains, which no longer have much to do with the known person and of which the exposition marks the distance created by the death of the individual and the time since passed, the objects remain familiar. Thus, the rings of one of the victims pass from hand to hand among the next of kin, who smile, almost surprised to touch this object that connects the bones and the paper bags to the individual they knew.

The recognition of the deceased as an individual is finalised in the last stage of the process: the restitution of their name. After resealing the coffin, the anthropologist detaches the label carrying the name of the deceased from the box that allows her to be identified, and affixes it onto the coffin. The apposition of the name constitutes the final element that brings together the symbolic effort to restore the identity of the exhumed victims, summed up by the term '*dignification*'. Along with the photographic portrait, the mobilisation of the name (written on monuments or articulated in ceremonies) is a recurring element in the memorial practices for victims, in Latin America and elsewhere. It responds symbolically to the attempt to dehumanise and obliterate the individuals targeted by the perpetrators, who generally use the disappearance of victims as a terror tactic. Uttering a name makes it possible to reaffirm a person's presence (whose death constitutes the end of their existence but no longer their negation) and emphasises each victim's individuality.

The reconstitution of the bodies in the coffins, in the presence of the families, inscribes them anew into a community, a lineage and a shared humanity, which the violence of the armed conflict sought to deny. Nevertheless, it should be noted that, during the effort to reconstitute the identity of the dead, no mention is made of the cause of their death or of those responsible. Their ethnic and gender identity inscribes them within a framework of victim representation that has been constructed and disseminated by the work of truth commissions. Dressing the bodies with the typical woven clothes of the indigenous populations makes characteristics visible that identify the dead as 'innocent victims' of the conflict, that is, outside of all polemical discourse on the responsibilities of armed groups. Women with children are not perceived as members of guerrilla groups, but as unjustly attacked 'civilian populations'. The dignification process is often based on the valorisation



of the 'Mayan' cultural identity, which is intended to respond to the genocidal nature of the conflict's violence. Mayan ceremonies, led by a local religious specialist chosen by the association, take place not only at the reburial but also at the moment of the restitution of the body and, sometimes, at the place of the exhumation. The emphasis on the 'Mayan' dimension does not always correspond to the religious practice of victims' families, which may include members converted to Protestantism. In the Guatemalan context, the practice of Mayan religiosity is associated with belonging to Catholicism, the first functioning in a syncretic association with the second, which Evangelical practices in particular do not authorise. Beyond religious affiliations, a certain political positioning is also in play. The Catholic Church was, in effect, an important actor in the demand for victims' rights and memorialisation. In the churches of the Ixil region, one can find crosses bearing the names and the dates of death of conflict victims, sometimes accompanied by the circumstances of their death. Conversely, Protestant tendencies are often associated with dictatorial power and more specifically with the figure of General Ríos Montt. At the time of the conflict, conversion could serve as a mechanism of protection against suspicion by the military.<sup>25</sup> Today, the gap between the perception of the exhumations by defenders of human rights and Evangelicals is still felt, as shown by the work carried out by J. Philpot-Munsen in Nebaj.<sup>26</sup>

### Positioning in relation to the State: 'We are the civil society!'

The association's focus on support work stems from its conception of the action's objectives, the benefits of which are essentially intangible as they are aimed at psychological and social healing (*sanación*). The importance of the mobilisation of the Mayan heritage corresponds to the reasoning behind the re-appropriation of rituals and 'traditional' forms of justice as mechanisms of reconciliation that are part of the internationalised modalities of the recovery.<sup>27</sup> The process of exhumation and reburial, as well as the accompanying ceremonies, should bring about an appeasement for the victim, on the basis that if they feel better, their children will also be better. Conversely, raising children suffering from the detrimental effects of the armed conflict in daily social relations would impede the development of a 'culture of peace'.

The members of the association have a very critical view of the action of the PNR. 'The work we do, they are the ones who should do it!' emphasises one of the employees. 'We are the civil society!' This last exclamation brings to light the way in which the category of 'civil society' – popularised at the time of the peace process by human rights activists – has been appropriated by the association's actors. It also shows their disillusioned view of the State's ineffectiveness as protector of the peace agreements and actor for reconciliation. They reproach the institution's cumbersome administration that expects the victims to prove the legitimacy of their status, unlike the association, which is committed to supporting the victims in their efforts. But above all, they believe that the PNR does not fully fulfil its mission. Material aid, which only the PNR has the power to grant, occupies an ambivalent place in the mechanisms of compensation:

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People wish for the exhumation. Perhaps at the beginning they see it as a way to obtain compensation, aid. And that's good. Even if we always say: it is not that the life of a person is worth 1,000 or 2,000 quetzals,<sup>28</sup> but it is a way of helping to reconstruct their life. But the people also understand that carrying out the exhumation, doing the research, is really to honour them [*es mucha dignificación*]. For the victims, for them. (Ana)

Association workers are conscious of the importance that the material aid takes on for the poor population to which it is addressed. Nevertheless, they consider that it cannot be an end in itself and insist on the primordial necessity for symbolic compensation. Yet the PNR is weak in their eyes, not only because of the weakness of its means but also because the means it has at its disposal are based on the material and financial compensation of individuals. The association criticises its lack of commitment to funding collective projects that would contribute to inscribing the memory of the victims in the public space:

The [inhabitants of a community where an exhumation has been carried out] asked: 'Why not have a monument? This would help to make sure that this doesn't happen again.' And this, it is part of the PNR's mission, but as I was saying ... They have not even provided the tombstones as they promised they would. (Ana)

Here, the significance of the victim compensation approach is called into question, as well as the view concerning the internal armed conflict and the process of reconstructing the national society. The work of civil society organisations is opposed to that of state institutions, the former making up for the shortfalls of the latter in constructing meaning in an armed post-conflict society.

Nevertheless, even if the practices effectively differ, it is necessary to avoid a Manichean vision of local representations. From the point of view of association actors, the action of PNR actors tends to be presented as homogenous and to reflect the State's hesitation in applying the spirit of the Oslo Accord. It is nevertheless necessary to nuance this vision. The victim compensation programme relies on international funding, but is managed by the State in a centralised manner, via the office in the capital linked with the various regional offices. The employees of the local branches are generally from the region where they work. This trend is encouraged by the plurality of Mayan languages in the Guatemalan territory. Conflict victims, being indigenous in the vast majority of cases, are the first interlocutors of the PNR. The fact that the programme's employees speak and understand the Mayan language of their region is an important criterion in allowing them to work. The relation of locals employed by the PNR to the state institution is different to that of association actors, but it has not, in spite of this, resolved the tensions from or the distance with the modalities involved in applying the Oslo Accord.

## Application of the compensation programme in Nebaj: the appeal of cultural and circumvention strategies

Local PNR actors have a very similar profile to that of association employees. They are mainly from relatively well-off local families who speak Ixil and Spanish and who have had the possibility of pursuing education beyond primary level. The Nebaj office has only thirteen employees, for one of the regions hardest hit by the internal armed conflict. This figure reflects the meagre resources the state has committed to a programme that is theoretically destined to take care of all conflict victims in the diverse modalities of compensation identified in the peace accords. This includes economic and material compensation, as well as the 'recovery of memory' and the 'dignification' of the victims. The PNR regularly collaborates with associations, such as *Movimiento de Desarraigados*, that share its mission. Nevertheless, as has been emphasised, the procedures it manages are limited in large part to providing financial compensation – this constitutes up to 90 per cent of its activities, according to one of the managers. Obtaining this compensation depends on a legal procedure that permits applicants to be recognised as victims of the armed conflict once their testimony and supporting documentation has been received. Applications pass from the local branch to PNR offices in Guatemala City, where they must be approved.

The local integration of employees nevertheless plays an essential role in the way they apply or interpret the directives given by the state institution. They boast a certain distance vis-à-vis the central power, and deplore the strong dependence on authorities in the capital, as underscored here by one of the clerks of the organisation:

Our hands are somewhat tied with the database [that inventories the victims]. We could manage it here, through the internet, but they don't allow it. We have to travel from here to the capital. Sometimes from one week to the next. Once, I spent a month and a half there: one week here, the other there. We would like to have the data here; it would be easier, more practical, technically.

Behind the technical argument, the disapproval of excessive centralisation shows that local actors establish some distance in their response to directives established by the capital. The database involves inventorying the information gathered on the persons who submit claims for compensation. This information definitively determines whether or not they are eligible for financial compensation. As we will see, the application of the directives laid out by the State concerning the beneficiaries of compensation does not always correspond to local categories. In other words, there is a gap between the meaning PNR employees construct regarding their own action and concerning their idea of the way it should be done based on the instructions they have been assigned to follow. In addition, even though they work from within a national institution, PNR employees do not view national institutions as the primary guarantors of justice. Like the association actors, their discourse about what they consider to be the ideal of justice is often linked to locally and culturally

embedded representations of justice, and not limited to the strict application of national laws.

### A 'fair' allocation of compensation: the ambiguity of the case of the ex-PAC

The case of ex-members of the 'civil defence patrols' (*Patrullas de Autodefensa Civil* – PAC) brings to light the way in which national directives can be reinterpreted or partially adapted by local actors. It also shows the complexity of representations of the figure of the victim and the nature of the 'justice' owed to them. Under the dictatorship of General Ríos Montt, the army that occupied certain spaces of the Altiplano organised civilians into 'self-defence' patrols, charged with the surveillance of towns and with supporting military action. These patrols gathered all men between the ages of seventeen and sixty. Serving in the patrols was theoretically voluntary, but actually functioned as a proof of loyalty to the military and enabled it to involve civilians directly in its counter-subversion actions. Thus, a large number of men were required to work for free as *patrulleros* and some committed abuses. The government's decision to offer compensation to *ex-patrulleros* led to indignation on the part of victims' organisations, the more so because it happened a year before the PNR was established.<sup>29</sup> The ex-members of the patrols mobilised and claimed financial indemnity for the free work they had done under the dictatorship. However, since the *patrulleros* have been linked to violence carried out against civilians, compensating them before those who died because of the conflict appeared deeply shocking. The decision to provide a specific payment for the *patrulleros* also formally confirmed their exclusion from the category of 'conflict victims'. While the military's forced enlistment may be considered as a form of violence with regard to civilians (this dimension is, as we will see, regularly put forward in local discourse), the fact of being attributed a specific indemnity definitively associates the ex-patrollers with the military and with the perpetrators of violence. Benefitting from the compensation paid by the State as a *patrullero* makes it impossible for them to receive victim aid paid by the PNR as reparation for the dead or disappeared next of kin, or for the violence suffered.<sup>30</sup>

At the local level, however, this distinction is not as easy to implement or even acknowledge. First, PNR employees, like most Ixils, make the distinction between the PAC and the perpetrators, emphasising the coercion exerted by the army: 'Here in the Ixil region, we have been forced. ... The people have been obliged to help the army [they] had no other choice, and those who did not want to patrol were identified as the enemy,' explains one of the employees of the programme. This is a recurring discourse that brings to light the inhabitants' absence of choice at the time of the conflict. To present the PAC as innocent inhabitants caught 'between a rock and a hard place' thus places them on the side of the victims. Moreover, the actual composition of families in the post-conflict context makes the incompatibility between compensation and indemnity seem both futile and inequitable to those responsible for applying the criteria for allocations. A clerk from the PNR

responsible for processing application admissibility underscores the ambiguity of these criteria:

There is a database where we filter. We verify, and if someone appears there [as an ex-PAC], then they cannot receive compensation for their family. ... It is controversial. Because if I as *patrullero* participated [with PAC] and they have killed my wife, then I cannot receive compensation for her. If I have children, they can receive for her. But if there are no children, it is a lost cause.

In the theoretical case presented here, the presence or absence of living children determines the right to compensation, while the situation (death of a spouse who is victim of the conflict) remains unchanged. The ambivalence of this case illustrates the positions of local actors who consider that the identities of victims and of ex-PAC, rather than being exclusive of one another, can be taken together. This also contributes to the exclusion of the local populations who enlisted in the PAC from responsibility for the violence perpetrated during the conflict. The same representative shows in another example that he is aware of the circumvention strategies implemented by the persons involved – strategies that the actors of the institution do not discourage:

For example: [let's say that] I have lost my father and my mother and I am an ex-PAC. But I have a sister. All of the money is given to my sister, 100 per cent for her. Well, if I had just been a victim, they would give 50 per cent to me and 50 per cent to my sister. But I am ex-PAC, [and] according to the law, the money is hers. In our culture, I go to talk to my sister and my sister, in a fair manner, gives me half. There is no problem. ... These are strategies, mechanisms that guide us too, so that people are satisfied in one way or another.

The claim of principles of equity relevant to the local Mayan culture is a recurring element in local discourse. Local representations refer to values rooted in cultural heritage for re-establishing the balance and fairness lacking in the law.

### Local and 'Mayan' values and identities as a response to violence

This confrontation between institutional state principles, often presented as arbitrary, and local principles that put forward culturally shared values is not limited to the question of financial compensation. Like association actors, PNR employees deplore the lack of symbolic compensation and partially appropriate the discourse of human rights that presents the strengthening of the Mayan culture as a solution to the culture of violence inherited from the war and that calls into question the State's competence in responding to the problem. Thus, one of the employees of the PNR evokes a discussion that took place: 'We were talking about the war, and, finally, we arrived at the conclusion that what we needed was cultural strengthening. It could be that this doesn't come from the state. This has to come from each family.'

While the state does not seem able to fulfil its role in the post-conflict social reconstruction, it also fails to address current violence, namely that involving delinquency. If there is no clear condemnation of government policies with regard to victims in the discourses collected, PNR employees have, in a fairly counter-intuitive way, adopted an even more critical position than association actors, and claim that local 'justice' is much more effective than legal justice: 'The laws are not very good. We have a lot of prisons and we have a lot of crime. ... Our ancestors were abandoned by the state, but they had their own community structure, laws and traditions.' The Mayan past thus reimagined appears to evoke a simpler time, free from the difficulties affecting society today, where local centres of authority exercise their stabilising action. Even though they participate in the victim reparations programme, they do not consider it to be a perfectly 'fair' or a real answer to society's problems.

## Conclusion

Victims' rights, as established by the Oslo Accord, are formulated in the context of the peace process and democratisation of Guatemalan society. Victim reparations are viewed both as an instrument for justice and as an instrument for producing a shared national history, intended to have a reconciliatory function – if the term 'reconciliation' can be used in the Guatemalan case, as this supposes the different parties lived in harmony beforehand.<sup>31</sup> Nevertheless, the weakness of national institutions, especially of the judicial system, makes the application of the law at best uncertain. The question of victims' rights cannot be viewed from outside of the complexity of the relationship between justice, law and the force needed to apply it.<sup>32</sup> Laws are not necessarily synonymous with justice; they are not obeyed because they stem from justice 'in itself', but only when there is the authority required to apply them. The concrete implementation of compensation modalities calls into question notions of justice and reconciliation and the way in which local actors put them into practice.

As the examples developed here show, the idea of 'justice' for victims – obtained primarily through the application of legislation – is not totally absent, but is nonetheless understood in a very ambiguous way by the actors. This justice could involve prosecution of the guilty or the strict application of norms giving access to financial compensation. The local actors in charge of the application of reparations operate within the framework established by the Oslo Accord, embodied in the formal and informal rules produced by their respective organisations. The collective and symbolic dimension of the compensation appears to be the main issue in the discourse of association workers, as well as that of PNR employees, even though the latter primarily deplore its absence. In both cases, they distance themselves from what is perceived as state action: for association actors, the differentiation operates between 'civil society' and national institutions, while PNR actors are affected by the distance between the capital city as the centralised power and their local belonging. The strategies to circumvent the law evoked by PNR employees concerning ex-PAC claims for financial indemnification mark the discrepancy that

exists between the local and legal identifications of ‘victims’ who have a legitimate right to compensation. The statement made in the case of the ex-PAC relates to two aspects: on the one hand, there is a position taken on how to understand the antagonisms of the armed conflict, which refuses to exclude one part of the locals from the category of ‘victim’, emphasising unity within a regional community that is a collective victim of an external act of violence; and, on the other hand, there is an affirmation concerning the current implementation of values of solidarity within this community. It is significant to note that a similar discourse – one that lays claim to cultural valorisation as an instrument for social reconstruction as well as a stop-gap for the shortcomings of state power – is mobilised by all actors encountered. The investment in laying claim to a local Mayan heritage needs to be repositioned within the historical and social context that has marked the path of local youth who are today actors in the implementation of compensation: they grew up in the post-war years, marked by the growth of the Mayan movement<sup>33</sup> and the influence of actions taken by international institutions, notably the UN.<sup>34</sup> These two dimensions are inscribed in the globalised process of disseminating international post-conflict models and claims for indigenous rights.

The importance of international institutions and organisations appears to be an essential point. Exhumation processes are part of ‘transitional justice’ procedures and are inscribed in the dynamic processes articulated at multiple levels (local, national, international). The examination of local representations involves questioning the role of individuals who occupy intermediate positions (between the beneficiary families of victims and national or international bodies, for example) as well as the role of experts circulating between the international and national levels. Furthermore, these local representations call into question the integration of indigenous victim populations into the nation that it is sought to achieve through the dignification processes. The local actors’ lack of trust in national institutions is reflected on many levels, through a distancing from politics, both locally and nationally. However, it does not involve abandoning citizen investment, but perhaps more a distancing from the norms produced and from an overtly political discourse. As for association actors, while the main emphasis placed on reclaiming the victim’s cultural identity is very little ‘politicised’, the meaning of their action is still constructed to play a part in the work of national reconstruction, beyond the local level. Their criticism of insufficient state investment, which should, in their eyes, ensure the legal *and* symbolic implementation of victims’ rights, reveals in the end how important they hold this investment to be.

## Notes

- 1 The internal armed conflict officially lasted thirty-six years in Guatemala, from 1960 to 1996. However, it is above all the period between the end of the 1970s and the beginning of the 1980s that is remembered, under the term *la violencia*, as the time when the conflict was at its most virulent. It was also at the beginning of the 1980s that the four principal guerrilla movements joined to form a united movement, the URNG.

- 2 According to the conclusions of the Truth Commission mandated by the UN in 1994 (Historical Clarity Commission), which was itself based on data collection led by the Catholic Church a few months earlier. The REHMI (Recuperation of Historical Memory) report, entitled *Guatemala, nunca más* and produced by the commission of Bishops of Guatemala, was presented to Monseigneur Gérardi, Bishop of El Quiché and officially in charge of the commission, on 24 April 1998. He was assassinated two days later.
- 3 Statistics that take account of the ethnic divisions within a population should always be analysed with caution. In the case of Guatemala, in addition to the difficulty in establishing precise criteria for ‘indigeneity’ is the fact that the numerical importance of these populations allows the statistics to be used a political tool as soon as they confirm that indigenous people constitute the majority of the Guatemalan population and are not a ‘minority’. According to sources, the figures show that the indigenous population makes up between 40 and 60 per cent of the population in Guatemala.
- 4 The ex-dictator, Efraín Rísó Montt, accused of genocide against the Ixil Mayan populations through the repressive policies he implemented between 1982 and 1983, was sentenced to eighty years in prison on 10 May 2013; subsequently this sentence was annulled and the process postponed.
- 5 The Peace Accords stipulate, among other things, the strengthening of civil powers and the reform of the electoral regime, the recognition of human rights and the affirmation of the identity of indigenous populations and specific rights being accorded to them.
- 6 The term ‘dignification’ (*dignificación*) is used in the texts by the organisations, and constitutes an essential element in the rhetoric of the actors.
- 7 S. Lefranc, ‘Les commissions de la vérité: une alternative au droit?’, *Droit et Cultures*, 56 (2008), 129–43.
- 8 D. Fassin and R. Rechtman, *L’Empire du traumatisme. Enquête sur la condition de victime* (Paris, Flammarion, 2011).
- 9 F. Dreyfus, ‘L’ingénierie de la réconciliation. Usages locaux des standards internationaux’, in S. Lefranc (ed.), *Après le conflit, la réconciliation?* (Paris, Michel Houdiard, 2006), p. 198.
- 10 ‘Acuerdo sobre el establecimiento de la comisión para el esclarecimiento histórico de las violaciones a los derechos humanos y los hechos de violencia que han causado sufrimiento a la población guatemalteca.’
- 11 ‘Acuerdo para el resarcimiento de las poblaciones desarraigadas por en frentamiento armado.’
- 12 S. Bastos, ‘La movilización maya en Guatemala: exigiendo derechos y construyendo multiculturalidad en un contexto postconflicto’, *Cahiers des Amériques Latines*, 60–1 (2009), 41–57.
- 13 According to World Bank figures, in 2011 Guatemala’s GINI coefficient (measuring inequality in terms of income) was among the highest in the world (0.52), while the level of the population under the poverty line was 53 per cent.
- 14 W. Sonnleitner, ‘Aux marges de la démocratie: 22 ans de processus électoraux au Guatemala’, *Problèmes d’Amérique Latine*, 73 (2009), 37–72.



- 15 R. Sieder, 'Rethinking Citizenship, Reforming the Law in Postwar Guatemala', in T. Blom Hansen and F. Stepputat (eds), *States of Imagination: Ethnographic Exploration of the Postcolonial State* (London, Durham, Duke University Press, 2001), pp. 203–20.
- 16 R. Sieder, 'Renegociando "la ley y el orden": reforma judicial y respuesta ciudadana en la Guatemala de posguerra', *América Latina Hoy*, 35 (2003), 61–86.
- 17 F. Stepputat, 'Urbanizing the Countryside. Armed Conflict, State Formation, and the Politics of Place in Contemporary Guatemala', in T. Hansen and F. Stepputat (eds), *States of Imagination: Ethnographic Explorations of the Postcolonial State* (London, Durham, Duke University Press, 2001), pp. 284–312.
- 18 Here I retain the term '*dignificación*' in Spanish because it constitutes an essential element in the rhetoric of the actors of the peace process, which does not have a satisfactory equivalent in the original French. Material or immaterial, individual or collective, the modalities of compensation can take diverse forms: from an economic development project intended for a community, to the construction of houses, to symbolic actions such as the attribution of the name of a victim to a public establishment or the reburials.
- 19 The town of Nebaj is the commercial and touristic gateway to the region. The town hosts the head offices of the majority of the non-governmental organisations and associations that operate in the region.
- 20 This term includes all responsible collective organisations (Stepputat, 'Urbanizing the Countryside'), such as directors of cooperatives or associations, but also certain Catholic religious leaders.
- 21 R. Brett, *Una guerra sin batallas: del odio, la violencia y el miedo en el Ixcán y el Ixil, 1972–1983* (Guatemala, F&G Editores, 2007); V. Sanford, *Violencia y genocidio en Guatemala* (Guatemala, F&G Editores, 2003); R. Falla, *Masacres de la Selva* (Guatemala, Universidad de San Carlos Editor, 1992).
- 22 This is a pseudonym.
- 23 P. Levi, *La zone grise. Entretiens avec Anna Bravo et Frederico Cereja* (Paris, Payot, 2014).
- 24 I was carrying out a field study in this region as part of my doctoral research, which was concerned with the accounts of the internal armed conflict in the context of alternative forms of tourism.
- 25 S. Pédrón Colombani, *Le pentecôtisme au Guatemala, conversions et identités* (Paris, CNRS editions, 1998).
- 26 J. Philpot-Munson, 'Peace under Fire: Understanding Evangelical Resistance to the Peace Process in a Postwar Guatemalan Town', in W. Little and T. Smith (eds), *Mayas in Postwar Guatemala* (Tuscaloosa, University of Alabama Press, 2009), pp. 42–53.
- 27 Dreyfus, 'L'ingénierie de la réconciliation'.
- 28 The quetzal is the currency of Guatemala: at the time the fieldwork was undertaken, 1,000 quetzals were equivalent to around 100 euros. The speaker uses a symbolic figure, which does not reflect the amounts allocated to the victims.
- 29 R. Saenz De Tejada, *¿Víctimas o vencedores? Una aproximación al movimiento de los ex PAC* (Guatemala, FLACSO, 2004).

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- 30 Here I use distinct terms for more clarity. It should nevertheless be noted that the term *resarcimento* is in reality used to evoke the compensation of both the ex-PAC and the victims.
- 31 B. Manz, 'The Continuum of Violence in Post-war Guatemala', *Social Analysis*, 52:2 (2008), 151–64.
- 32 J. Derrida, *Force de loi* (Paris, Galilée, 1994).
- 33 E. Fischer & R. McKenna Brown (eds), *Activismo cultural Maya* (Guatemala, Cholsamaj, 1999).
- 34 K. Vanthuyne, *La présence d'un passé de violences: mémoires et identités autochtones dans le Guatemala de l'après-génocide* (Laval, Presses de l'Université de Laval, 2014).