



SCL Lecture

Prosecuting Genocide and Other International Crimes in Guatemala: Lessons from the Bench

On 20 September 2016, the T.M.C. Asser Instituut hosted a lecture on the prosecution of genocide and other international crimes in Guatemala as part of the Supranational Criminal Law Lecture Series. The lecture was organised in conjunction with the Coalition for the International Criminal Court (CICC), the Grotius Centre for International Legal Studies of Leiden University, the International Federation for Human Rights and Impunity Watch. Moreover, the lecture took place in the context of two of the three new research strands of the Asser Institute, namely Strand A (Human Dignity and Human Security in International and European Law) and Strand C (Adequate Dispute Settlement and Adjudication in International and European Law). The speakers for the evening were Judge Yassmin Barrios, President of Guatemalan High Risk Tribunal 'A' and Judge Miguel Ángel Gálvez, President of High Risk Tribunal 'B'. As both speakers spoke in Spanish, consecutive translation was provided. Dr Christophe Paulussen welcomed and introduced the speakers for the evening.

Judge Yassmin Barrios spoke first, focusing upon the genocide case which took place in 2013 in Guatemala against the former de facto head of State Efraín Ríos Montt and other senior officials. This case was conducted to deal with atrocities which had taken place against indigenous populations during the Guatemala civil war (1960-1996). Judge Barrios described the difficulties faced in bringing those responsible to trial and the lack of access to justice which the victims had faced. Efraín Ríos Montt was charged and convicted of genocide and crimes against humanity against the Mayan indigenous population, especially the Ixil people, for 50 years and 30 years respectively. Judge Barrios described the role of various expert witnesses in court used to establish genocidal intent, as well as evidence presented before the court by survivors of the attacks. She discussed briefly the two truth and reconciliation commissions that had written reports on violations of human rights during the civil war period in Guatemala, one by the Church and the other with the help of the UN. Finally, Judge Barrios outlined the positive impact of the trial on the victims, as they were able to break their silence regarding the crimes committed. Although the conviction was later overturned by another court, the trial served as a contribution to peace and justice to enable Guatemala to recover from the lasting effects of the atrocities.

Following on from Judge Barrios, Judge Gálvez started by describing the difficult political situation and geographical location of Guatemala. In his speech he focused upon the 2015 corruption case known as 'La Línea', against the acting President Otto Pérez Molina and vice-President Roxana Baldetti at the time.

He explained how the case had come about from investigation surrounding an isolated customs case, which exposed large scale corruption in the government. Increasing public awareness of this corruption led to protests and student uprisings, resulting in the lifting of prosecution immunity by the congress for the President and eventually also to the resignation of the President. Judge Gálvez discussed the state system which made independence difficult as Supreme Court and Appeal Court magistrates are elected directly by congresses, while the prosecutor in chief is elected by the President. He further discussed the increased security issues faced by the judges involved in the cases and the attempts to prevent prosecution. This case has led to a number of subsequent cases as further investigations revealed more corruption, including the issuing of arrest warrants for various individuals from outside of Guatemala, who received favourable treatment in importing goods into the country. This case has also led to calls for legal and constitutional reforms to sever the link between public officials and the President to prevent such corruption arising again. Finally, he also talked about reforms that would disconnect the appointment of public officials from both executive and legislative branches of the government.

After the presentations had been concluded the floor was opened for a question and answer session. This led to some detailed questioning on procedural aspects of the case, as members of the audience had experience with the Guatemalan legal system. The judges were also asked to elaborate upon their personal experiences given the safety concerns which arose surrounding their involvement in the case and the effects of the case on the future of Guatemala, as well as the public responses to the case.