

CHANGING THE FACE OF JUSTICE

Keys to the Strategic Litigation of the
Sepur Zarco Case



Impunity Watch
Alliance to Break the Silence and Impunity
ECAP MTM UNAMG

Community Studies and Psychosocial Action Team -ECAP-

ECAP is a non-governmental organization that works in favor of building a just and egalitarian society, beginning with the defense of human rights and the psychosocial approach to social, cultural and psychological damages provoked by the historical and present violence in the country. In particular, we search to contribute to the strengthening of capacities and abilities of political subjects that advocate for justice, the recovery of memory and dignity, as well as to the prevention of violence against women, youth, indigenous peoples, human rights defenders and excluded sectors.

Women Transforming the World –MTM-

MTM has as its Mission to engage in strategic litigation to reduce all forms of violence and discrimination that nationally threaten the life and security of girls, and female adolescents and adults. Thus it contributes to their transition from victims to subjects with rights, using a feminist approach implemented by a multidisciplinary team that puts at the service of Guatemalan society its experience and technical capabilities. Its Vision is: we will be a national reference point for the implementation of the strategic litigation approach in the attention to women (girls, adolescents and adults) who are survivors of violence and discrimination. In addition, we emphasize the promotion of laws and public policies that contribute to eradicate violence against women.

The National Union of Guatemalan Women -UNAMG-

UNAMG is a feminist organization founded on March 8th 1980, consisting of women of diverse ethnicities and ages, committed to social, political and cultural transformation towards a just, equitable and democratic society. In particular, it is committed to the search for justice for women, and has specialized in training for the empowerment and organization of women, communication for awareness-raising and the construction of citizenship, giving follow-up to the peace agenda. It is a member of the International Democratic Federation of Women, the Convergence for Human Rights of Guatemala, and The Mesoamerican Network of Human Rights Advocates.

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ECAP, MTM, UNAMG

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First Edition

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ACRONYMS

ASF	Lawyers without borders
AVEMILGUA	Military Veterans' Association of Guatemala
AVIDESMI	Polochic Valley Victims' Association
CALDH	Center for Human Rights Legal Action
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEH	The Historical Clarification Commission
CEJIL	Center for Justice and International Law
CREOMPAZ	Regional Training Command for Peacekeeping Operations
DICRI	Criminal Investigations Office
DPLF	Due Process of Law Foundation
ECAP	Community Studies and Psychosocial Action Team
FAFG	Guatemalan Forensic Anthropology Foundation
GHRC	Guatemala Human Rights Commission
INTA	National Institute for Agrarian Transformation
MP	Office of Public Prosecution
MTM	Women Transforming the World
OACNUDH	Office of the High Commissioner for Human Rights
ODHAG	Human Rights Office of the Archbishop of Guatemala
PAC	Civil Defense Patrollers
PAJUST	Program to Accompany Transitional Justice
PNC	National Civilian Police
PNR	National Reparations Program
PNUD	United Nations Development Program
TJ	Transitional justice
UDEFEGUA	Guatemala Human Rights Defenders' Unit
UNAMG	National Union of Guatemalan Women
UN	United Nations
URL	Rafael Landivar University
WOLA	Washington Office on Latin America

Executive Summary

In February 2016, a Guatemalan court convicted a military officer and a military commissioner of sexual violence and sexual and domestic slavery, as forms of crimes against humanity, committed against fifteen Q'eqchi' indigenous women from the community of Sepur Zarco in the Northeast of Guatemala. This verdict set an important national and international precedent in demonstrating how the State of Guatemala used slavery and sexual violence as weapons of war against women during the internal armed conflict (1960-1996).

The Jalok U Collective, composed of the victims, and the Alliance to Break the Silence and Impunity, comprised of three Guatemalan civil society organizations – ECAP, MTM, and UNAMG – together pursued a comprehensive, multi-disciplinary litigation strategy “in order to set a conceptual and legal precedent that opens the possibility of an official and public acknowledgement of sexual and domestic slavery as a pattern within military strategy, which should be prosecuted and eliminated from military practice. And that a State policy of justice for women be promoted... based on the non-repetition of these crimes and endeavoring to break the continuum of sexual violence against women” (Alliance to Break the Silence and Impunity, n.d., p. 4).

This report analyzes the litigation strategy in the Sepur Zarco case and its five constituent components: legal, psychosocial, political, communications, and security-related, as well as the main accomplishments and lessons learned from the process. The verdict is undoubtedly a result of the resistance, resilience, and courage of the Q'eqchi' women who decided to undertake the pursuit of criminal justice in spite of the numerous difficulties that it entailed. They achieved the conviction of the culprits of the crimes and a dignified reparations sentence for victims; moreover, a precedent was set for future cases involving sexual violence. During the process, important national and international alliances were formed and strengthened with other women's and human rights groups, including support from the Nobel Women's Initiative, which were paramount.

This case marked a watershed in developing transitional justice cases because it charted a litigation methodology for cases of sexual violence against women; moreover, it forged crucial alliances between different types of organizations: feminist, human rights, and those comprised of victims of the internal armed conflict. The litigation in this case set important precedents in the use of evidentiary material, the validity of the victims' testimonies, and the innovative expert witness reports that counteracted the lack of official information, in order to prove that these crimes were committed over 30 years after the fact. The verdict achieved significant national impact and allowed a questioning of the use and normalization of sexual violence against women in times of war and peace. It has paved the way for investigating and criminally prosecuting other cases dating to the internal armed conflict in Guatemala that include crimes of sexual violence.

Some of the lessons learned of the process of the Sepur Zarco case that are relevant to mention are, one that this case highlights the fundamental importance of sustained regard for the societal impact of judicial processes, their pedagogical value and poignant communications strategies to advance the non-repetition of violence against women, including through an engagement with children and youth.

Secondly, it points to the importance of combining accountability through the courts with broader approaches able to respond to individual and community needs as regards justice and redress for conflict-related gender-based and racialized violence in Guatemala, enshrined in local and indigenous priorities.

Also, the psychological preparation and the human rights training that the women of Sepur Zarco participated in, ensured that their participation in the case was active. For the victims of sexual violence, this case above all shows that it is possible to move forward, not only in terms of lawsuits but also by appropriating the actual justice process itself in which they can be plaintiffs and circumvent the confining role of victimhood. They are women who have changed from victims to survivors. It has been critical that at each stage in the process, the women have been the protagonists and that the work center on their demands and needs.

This qualitative study is meant to serve as a source of inspiration for replicating the litigation methodology in other cases entailing violence against women in conflictive contexts within and outside of Guatemala.



Human Rights Prosecutors and co-plaintiffs of the Sepur Zarco Case

Introduction

The February 26, 2016 verdict in the Sepur Zarco trial represents a historic milestone for women's struggles against sexual violence in armed conflicts and post-conflict contexts. For the first time, a national court penalized rape and sexual and domestic servitude as crimes against humanity, thus upholding the dignity of Q'eqchi' indigenous women who endured grave human rights violations during the 1980s at a military post in a small indigenous community in northern Guatemala.

The Sepur Zarco case illustrates how the State of Guatemala utilized violence and sexual slavery as a weapon of war against women and as a strategy for controlling the civilian population. The Guatemalan army not only disappeared and murdered women in the small community of Sepur Zarco; it also subjected women to acts of servitude and sexual slavery on the community's military post for several years. The women were forced to go to the base to do laundry, cook, and serve the soldiers; in addition, they suffered humiliation and physical and sexual abuse, which were committed with complete impunity.

In 2010, 15 Q'eqchi' women who had survived this abuse decided to pursue justice, and in 2014 they formed the *Jalok U Collective*, "jalok u" meaning transformation or change in the Q'eqchi' Mayan language. The Alliance to Break the Silence and Impunity supported the women. After a drawn-out period, they achieved victory in 2016 when a Guatemalan court convicted the army official who had directed the military post and his primary collaborator, a former military commissioner who conducted control and surveillance tasks in the community.

The Alliance to Break the Silence and Impunity, heretofore referred to as the Alliance, is comprised of three civil society organizations: the Community Studies and Psychosocial Action Team -ECAP-, Women Transforming the World -MTM-, and the National Union of Guatemalan Women -UNAMG-. Since 2010, the Alliance has helped the women of Sepur Zarco overcome fear, organize, and design a strategic litigation strategy to impel criminal proceedings in the official justice system. Additionally, the women received backing from other national and international women's organizations and human rights groups. During the different stages of the process, the Alliance maintained constant dialogue with the women and provided comprehensive support, considering that the majority of the women are over 60 years old, are illiterate, and do not speak Spanish. The Alliance's efforts were primarily focused on empowering women to be protagonists of their own struggle and to achieve justice, reparations, and the recognition of their rights.

This report presents a brief analysis of the strategic litigation in the Sepur Zarco case and the political and social impacts of the verdict, since the experience caused significant political and social impacts within and outside Guatemala. The analysis is crafted within the framework of United Nations resolutions on women, peace, security, and sexual violence in conflicts and the application of international humanitarian law in cases of sexual violence against women. This study is developed in the context of the project "Addressing Violence Against Women Beyond Borders: Burundi, Guatemala, and Liberia," implemented in partnership between Oxfam Ibis and Impunity Watch, that seeks to encourage good practices internationally in the struggle against impunity for sexual violence in conflict and post-conflict periods.

This report was developed by Impunity Watch in coordination with the Alliance to Break the Silence and Impunity. It is a qualitative study substantiated by a legal analysis of the verdict and a review of the work undertaken as well as bibliographic and journalistic documentation and interviews with protagonists and key players.

The report is organized into four sections. The introduction presents the study, contextualizes the use of sexual violence as a weapon of war, and describes the incidents surrounding the Sepur Zarco case. The first chapter analyzes the strategic litigation behind the case and the five components implemented by the Alliance and the Jalok U Collective. The second chapter examines the impact of the verdict, including its political, social, and media impacts nationally and internationally. The report finalizes with reflections and lessons learned from the process with the aim of serving as a source of inspiration for replicating strategic litigation in other cases of violence against women within and outside Guatemala.

Sexual violence during the armed conflict

Guatemala's armed conflict (1960-1996) was one of the bloodiest in Latin America. The Historical Clarification Commission -CEH- determined that over 200,000 people were killed, 45,000 were disappeared, and over a million were internally displaced. An estimated 75% of the direct victims were men and 25% were women: for example, 23% of the victims of arbitrary executions were women, compared to 77% men; 23% of torture victims were women and 77%, men; 21% of people deprived of liberty were women and 79%, men; 22% of victims of other violations were women and 78%, men. The percentage of those who were forcibly displaced is even higher for men: 88% compared to 12% women (CEH, 1999b, p. 19).

However, 99% of the victims of sexual violence were women; this crime was systematically committed during massacres and was also used in numerous acts of selective and public repression. The CEH acknowledged that sexual violence was constitutive of genocide; this was confirmed by the ruling in the Ixil genocide case, delivered on May 10, 2013. Meanwhile, 88.7% of the victims of sexual violence were Maya women. The CEH report also determined that the bulk of sexual violence was perpetrated by State agents, particularly the army, military commissioners, and civil defense patrollers -PAC- (CEH, 1999b, pp. 27-39).

The popular consciousness of a masculinity based on domination and women's oppression is a construct that has been present throughout history, but it intensified in the context of the armed conflict and communities' militarization and has permeated culture to this day. In this way, the crimes of rape, femicide, and other acts of violence against women are to this day seen as "natural" and are tolerated with impunity. In situations of armed conflict, the exercise of power by the State or armed groups is characterized as masculine, within a concept of domination, control, and power. Sexual violence is in fact exacerbated during conflicts, becoming such a recurring mechanism used by the dominant patriarchal and colonial systems to the extent that it constitutes a weapon of war (Impunity Watch, 2015a).

Sexual violence differs from other crimes because it crosses into a space that is considered intimate and not associated with war crimes or other crimes against humanity, which makes it difficult for many to grasp that its application and use make it a weapon of war because it is a mechanism with different objectives (Impunity Watch, 2015a, pp. 11 and 13). The Sepur Zarco case is a clear example of the severe violations committed against women on military bases, practices that occurred in numerous places across the

country, as demonstrated in the Emma Molina Theissen case and the case of Military Base Number 21, known as the Regional Training Command for Peacekeeping Operations -CREOMPAZ-, among others.

Sexual violence has numerous personal and social consequences for women. When it goes unpunished, it reinforces misogyny, exclusion, and racism. For this reason, justice can have a dissuasive effect by reducing sexual violence and promoting respect and recognition of women's and girls' rights.

The community of Sepur Zarco

Sepur Zarco is a small indigenous community located in El Estor, Izabal (southeast of Lake Izabal); because it originally formed part of Panzós, Alta Verapaz, its sociopolitical dynamics are linked to that municipality (Méndez & Carrera, 2014). Its population is majority Q'eqchi' and historically has resisted the takeovers of its land by plantation owners and powerful local groups, which have been the focus of numerous social and political conflicts.

The land takeovers and appropriation began during the colonial period through economic, political, and spiritual control (Percheron, 1990). Policies to benefit the region's landowners were implemented at numerous times in history, except during the 1944 Revolution, when social organizing was promoted and 2,300 hectares were granted to indigenous communities; later, these communities were once again ousted and the agrarian committees were dissolved (Paredes, 2006). Nevertheless, farming committees continued to demand land regularization and titling through the National Institute for Agrarian Transformation -INTA-. Faced with this threat, plantation owners requested that military control be established in the area (Paredes, 2006).

On May 29, 1978, the Panzós massacre was committed against farmworkers requesting that lands be regulated and titled (Méndez & Carrera, 2014) (Sandford, 2010). From that time forward, the area was militarized, with eight military posts instituted, in Panzós, Telemán, Tinajas Plantation, Sa'quiha' Plantation, Sepur Zarco, Panacté Plantation, Pataxte Plantation, and El Estor (Paredes, 2006) (ECAP-UNAMG, n.d.).

The militarization of the community and abuses against women.

In 1982, the army raided some of the houses in Sepur Zarco and disappeared and murdered young and adult men who were members of the organized Land Committee. They were tortured on site, later on military bases, and then murdered. Most of their bodies were never found.

The women of the community and neighboring villages were gang-raped in front of their children in their homes and in the churches or schools. Other women were raped when they sought out their husbands or when they were kidnapped and taken to the military bases with their husbands. Some girls were also raped. These rapes, according to witness testimonies and expert reports presented to the First Circuit Court on Criminal Offenses, Drug-trafficking, and Crimes Against the Environment, were committed in an organized way consistent with military structure.

The survivors were forced to uproot to Sepur Zarco, around a military post, to be subjected to greater control. Other women fled to the wilderness. Those whose husbands were kidnapped were dubbed *the*

widows and were forced to move to the military post to “serve.” Some women exiled in the wilderness had to return to the community out of hunger and illness; they, too, were forcibly transferred to the military post. They lived in *huts* next to the base; some were taken to houses in the village that were known as *widows’ homes* (Méndez & Carrera, 2014).

The women were secluded and forced to provide domestic and sexual services to the army, regardless of their conditions or whether it meant abandoning the care of their children. This happened over a period of 6 months to 6 years. They had to pay for the food that they cooked for the army and the soap that they used to wash their uniforms; this meant that they had to sell the few material belongings that they had left, thus exacerbating their poverty.

The Sepur Zarco base served as a center for rest and a center for raping women, as the soldiers constantly rotated in and out. However, rapes were not confined to that space but also occurred on the banks of the Roquepur River where women washed the soldiers’ clothing. Moreover, women were forced to take pills and were given birth control shots whenever it was their turn to serve. The *Victory 82* military campaign plan stipulated that after completing certain tasks, soldiers were allowed access or exchanges with members of the opposite sex (Méndez & Carrera, 2014). The practice of bringing prostitutes to military bases was common, yet was never done in Sepur Zarco.

The pursuit of justice.

After the signing of the Peace Accords in 1996, numerous women began to speak about what had happened during the internal armed conflict and began participating in processes involving psychosocial support services provided by ECAP, but it took years for the women to speak about the sexual violence. They continued to participate in the comprehensive processes of psychosocial services and women’s empowerment with UNAMG and ECAP, thereby recovering their joy, dignity, and strength, as well as furthering the exercise of their rights, including the right to pursue justice for the crimes committed against them. In 2009, MTM enriched the work involved in achieving justice, first in a symbolic way and later through the criminal justice system. The group of 15 Q’eqchi’ women decided to pursue criminal justice proceedings and, together with other women in the region, organized to form the Jalok U Collective and joined the legal case as co-plaintiffs. In so doing, no longer were they solely the victims in the case but rather were taking on an additional role, strengthening and empowering themselves further as human beings who reclaim and struggle for justice.

In that way, thirty years after the fact, Esteelmer Francisco Reyes Girón, second lieutenant of the military post, and Heriberto Valdez “Blondie” Asig, area military commissioner, were accused of these crimes against humanity. Esteelmer Reyes Girón arrived in the Izabal department in 1982 and that same year was in charge of the Sepur Zarco post, a rest spot for several military posts in Izabal and Alta Verapaz; he would stay there for 8 months. “Blondie” Asig, meanwhile, was a known ally of the army, a former municipal police officer whom testimonies also link to the Panzós massacre and who in 1982 was recruited as a military commissioner.

The criminal suit against them was presented in 2011 to the First Circuit Court on Criminal Offenses, Drug-Trafficking, and Crimes against the Environment in the Puerto Barrios, Izabal municipality, charging them

with genocide and crimes against humanity because of the rapes, sexual and domestic slavery, and other crimes committed during the internal armed conflict. Given the type of lawsuit and the socio-political context in the region, the Supreme Court's criminal chamber was asked to grant an "extension of jurisdiction," and the case was transferred to the High-Risk Court¹ "A" in Guatemala City.

In 2012, the testimonies of the 15 women and 4 men were presented as pre-trial evidence to the presiding judge Miguel Ángel Gálvez of the High-Risk Court; at that point no arrests had yet been made. The two defendants were not arrested until June 2014.

In 2014, Judge Miguel Ángel Gálvez accepted the evidence and ordered an oral public trial. The trial began on February 1, 2016 in the High-Risk Court "A," presided by Judge Yassmín Barrios and with additional judges Patricia Bustamante and Gerbi Sical. On February 26, 2016, after 20 days of trial, Esteelmer Reyes Girón and Heriberto Valdez Asig were convicted to 120 and 240 years in prison, respectively.

Esteelmer Francisco Reyes Girón was convicted of crimes against humanity, conceptualized by doctrine in the forms of rape, sexual and domestic slavery, and humiliating and degrading treatment. He was also cited with the murder of Mrs. Dominga Coc and her daughters, Anita and Hermelinda Seb Coc. Heriberto Valdez Asig was convicted of crimes against humanity, doctrinally conceived in its forms of rape and humiliating and degrading treatment; he was also considered the perpetrator of the forced disappearance of seven men.

The second chapter will delve further into the political and social impacts of the verdict and the case.

¹ The High-Risk Courts originated in the Criminal Jurisdiction Law for High-Risk Proceedings (National Congressional Decree 21-2009) and were created to hear cases that present "a high degree of risk to the personal security of judges, magistrates, prosecutors, and justice system adjuncts, as well as that of defendants, witnesses, and others involved in the legal process" (Article 1) and that involve such crimes as genocide, crimes against people and property protected through International Humanitarian Law, forced disappearance, torture, and murder, among others.

I. Strategic Litigation in the Sepur Zarco Case

Strategic litigation entails a combination of legal, political, and social measures that are applied in a concrete, high-profile case that seeks to transform society. It refers to a way of litigating socially or politically significant cases that cannot move forward using traditional litigation. According to Leonardo (2012), “Strategic litigation is centered and aims to change policies and other patterns of behavior”; and according to the Humanas Corporation of Colombia that has litigated cases of sexual violence in conflict contexts, “strategic litigation seeks to modify structural situations” such as a context of discrimination and impunity for crimes committed against women (2015, p. 92). Strategic litigation pursues various objectives:

- To modify legislation that violates human rights or constitutional rights.
- To define criteria for jurisprudence, interpretation, and application of norms and rights. In cases of crimes against women, it seeks to change gender prejudice among justice workers.
- To identify legal loopholes.
- To determine public policies.
- To promote public debate and educate society about particular issues.
- To empower marginalized groups and social movements.
- To generate a culture of human rights and construct the rule of law (OHCHR, Maya Program at the URL, n.d.)

Strategic litigation is a useful strategy for transitional justice cases, particularly cases involving sexual violence against women, because it seeks to raise consciousness and effect transformation in society. The aim is to transform the causes of the conflict and to prevent a recurrence of the crimes. As the 2010 United Nations Special Rapporteur on Violence against Women, Rashida Manjoo, explains,

“Guarantees of non-repetition, if duly implemented, have the potential to detect the enabling conditions and long-term legacies of gender violence, and can therefore be a suitable platform for broader structural reforms for all women, not just victims, and hence for the construction of a more inclusive and gender-just political order. Furthermore, guarantees of non-repetition can help victims in the rehabilitation process, especially when they are involved and consulted in the process of formulating those guarantees.” (Manjoo, 2010, para. 64)

Strategic litigation in transitional justice cases seeks accountability for perpetrators, reparations for victims, the pursuit of truth, institutional reform, cultural transformation, and reconciliation. As the Humanas Corporation of Colombia explains, strategic litigation for cases of transitional justice should be focused on the right to memory and truth, justice and reparations (2015, pp. 92-93).

a) The strategy of the Alliance to Break the Silence and Impunity

The women of Sepur Zarco and the Alliance worked, and continue to work, using a comprehensive approach that includes psychosocial accompaniment, training in women’s rights, recovery of historic memory, social sensitivity raising, political lobbying for justice and reparations, and legal actions (Mendia &

Guzmán, 2012, p. 15). Moreover, in parallel fashion, they have supported the demands for justice and reparations for women survivors of sexual violence in other regions of the country: Chimaltenango, Huehuetenango, Alta Verapaz, and Izabal.

In 2010, they organized the *First Tribunal of Conscience against Sexual Violence towards Women during the Internal Armed Conflict in Guatemala*, as a symbolic act to provide justice to women victims of the internal armed conflict. The legal strategy chosen for the event sought to bolster access to justice, reparations, and non-repetition guarantees for women victims of sexual violence perpetrated during the internal armed conflict, through a political exercise with deep pedagogical significance that would demonstrate a possible way to bring the crimes to trial (Mendia & Guzmán, 2012, p. 17).

The Tribunal of Conscience event played an important role in bringing the Sepur Zarco case to criminal justice. The women and the organizations followed the same organizing format as the Tribunal: they organized according to each organization and person's experience and expertise. In 2012, they discovered the strategic litigation approach, and MTM proposed that the Alliance apply this model in accompanying the Sepur Zarco case (Interview, Paula Barrios and Jennifer Bravo, 2016).

For the Alliance, strategic litigation was an integrated process for accessing the formal justice system and involving society as a whole, as well as State entities, in guaranteeing justice, non-repetition, and comprehensive reparations for women survivors of the internal armed conflict in Guatemala. Moreover, it focused on the aim of empowering the women of Sepur Zarco and making them the protagonists. All of the decisions regarding all of the elements of strategic litigation were made jointly by the Jalok U Collective and the Alliance members.

With this approach, they sought to “establish a conceptual and legal precedent that opens the possibility for official and public acknowledgement of sexual and domestic slavery as a pattern within the military strategy that should be prosecuted and eliminated from military practices. And that a State policy be promoted in terms of justice for women, specifically for women victims of sexual violence, according to criminal and international human rights, humanitarian law, and women's rights. The non-repetition of the crimes seeks to break the continuum of violence against women” (Alliance to Break the Silence and Impunity, n.d., p. 4).

In developing the Sepur Zarco strategic litigation, five components were established with the following objectives (Alliance to Break the Silence and Impunity, n.d, p. 4):

1. Legal Strategy: To influence the justice sector using a critical and strategic perspective on criminal and international human rights, humanitarian law, and women's rights.
2. Political Strategy: To promote feminist perspectives and reflection on transitional justice, through cases of violence and sexual and domestic slavery committed against women by the armed forces.
3. Communications Strategy: To position sexual violence perpetrated by the armed forces against women as a crime of international significance.
4. Psychosocial Strategy: To build capacity for confronting the psychological and social effects of the violence and to strengthen leadership and women's community-based actions in defending their human rights.

5. Security Strategy: To develop mechanisms to mitigate the risks and vulnerabilities related to the strategic litigation of cases involving sexual violence against women.

Once the legal case was underway and progressing, the other strategic components were implemented. As the legal representative of the plaintiffs, MTM was in charge of driving the legal strategy; ECAP, the psychosocial strategy; and UNAMG, the communications strategy. All three promoted the political and security strategies. Strategic decisions about the case were undertaken with the Jalok U Collective, and other local leaders were approached. The women became point people in their communities as sources of clear and reliable information. Additionally, work commissions were formed, comprised of members of the three organizations in the Alliance. Educational actions were also conducted with justice workers, primarily in the Office of Public Prosecution (MP).

This study delves into the legal, psychosocial, political, and communication strategies implemented. For methodological reasons and as a way to present the experience, this chapter is subdivided by strategy.

b) Legal strategy

As previously explained, the strategic litigation approach seeks to contribute to changes in the State and society by addressing a political or structural problem. Therefore, those who implement it tend to face a justice system that has to little or no extent addressed such issues from a structural and political viewpoint. For that reason, the legal strategy bears significant weight in terms of contributing to the justice system at every stage of the criminal process.

As part of the legal strategy, it is crucial to identify the violated rights precisely; to stipulate the legal basis that underpins the claim or lawsuit, the evidence, doctrinal analysis, comparative law, and related jurisprudence; and to determine the substantive procedural actions to be undertaken (OHCHR, n.d.) (Leonardo, 2012). In cases involving sexual violence and violence against women, it is also important to use international human rights law, international criminal law, and the jurisprudence that stipulates and develops women's human rights in order to face an androcentric system that has excluded women's interests since its inception and in its application (Humanas Corporation Colombia, 2015, p. 92). The same dynamic occurs in cases involving racism and discrimination against other vulnerable groups.

Guatemalan legislation provides for the role of co-plaintiff to allow victims or others affected by a crime to participate in the criminal process; and human rights organizations have used the role of co-plaintiff to propel nationally significant cases involving strategic litigation. MTM and UNAMG used this very role to join the case as co-plaintiffs in November 2011, and the Jalok U Collective joined in May 2014. MTM undertook primary responsibility in directing the legal strategy since it is an association of lawyers specialized in litigating cases defending girls and women in the justice system.

Legal litigation seeks to embolden the "subject of rights" through the legal process and in strategic decision-making. The creation of the Jalok U Collective reflects this construction: the subjects of rights strengthened their role within the legal process by becoming co-plaintiffs, with their voice heard and their members represented at every court hearing.

This section will examine certain key aspects of the Sepur Zarco case litigation, related to determining the crimes included in the lawsuit; the doctrine, jurisprudence, and international regulations; the elements of proof and the expert evidence; and the participation by women from the Jalok U Collective.

Filing the lawsuit and determining the crimes.

The co-plaintiffs filed the claim for genocide and crimes against humanity at the First Circuit Court on Criminal Offenses, Drug-Trafficking, and Crimes against the Environment in Puerto Barrios, but later the case was transferred to the Human Rights Prosecuting Unit at the Office of Public Prosecution (MP). Prosecutors in the specialized unit that investigates crimes committed during Guatemala's internal armed conflict took on responsibility for the case. The MP and the co-plaintiffs requested extended jurisdiction to allow the case to be moved to the High-Risk Courts. As Human Rights Prosecutor Hilda Pineda explained, this request was made to guarantee victims' safety due to the risks inherent in litigating the case in Puerto Barrios and because specialized judges were needed to interpret and apply international norms regarding crimes from an armed conflict. Hence the case was sent to High-Risk Court B, presided by Judge Miguel Ángel Gálvez.

One of the co-plaintiffs' first actions was to request that the Sepur Zarco victims' testimony be procured as pre-trial evidence. The Criminal Procedural Code, in its article 348, allows such an action in situations in which the evidence will not be able to be presented during the trial. This measure is generally used to reduce the level of re-victimization of the victims of gender-based or sexual violence, particularly girls and boys. In the Sepur Zarco case this measure was taken because the women were victims of sexual violence, because of their advanced age, because some were ill, and because of the uncertainty in knowing how long the legal process would last. In 2012, fifteen women as well as four men gave their testimonies as pre-trial evidence. One of the women, Magdalena Pop, died four months later of cervical cancer at the approximate age of 56.

This measure seeks to minimize the impact on victims because of the level of emotion that affects them when they recount what happened to them. It was therefore important to have the support and accompaniment of psychologists from ECAP and the MP's Victims' Services Office before, during, and after they gave testimony.

According to Prosecutor Pineda, the judge showed sensitivity and allowed the witnesses to have Q'eqchi' interpreters. In addition, he interpreted the crimes using international standards. In 2014, at the opening stage of the trial, Judge Miguel Ángel Gálvez dismissed from the case three women who had not directly been at the military post. However, they, like other women from the region, continued to feel connected to the case as their own.

It was challenging for the co-plaintiffs to determine which crimes to include in the accusation because it was the first time a case involving sexual violence and sexual and domestic slavery in the context of the internal armed conflict would be litigated in Guatemalan courts. The co-plaintiffs substantiated their doctrine on international instruments that oblige the State to prosecute such crimes.

The Alliance considered that sexual violence and sexual and domestic slavery should be prosecuted, but as the MTM lawyers explained, the crimes of sexual and domestic slavery in conflict situations are not defined and named as such in national legislation. It was thereby important to define and substantiate the way in which these crimes would be presented and linked to international standards and jurisprudence. These crimes could not be addressed within Guatemala's existing legislation but rather as internationally significant crimes.

The lawsuit that was filed in 2011 in Puerto Barrios charged genocide and crimes against humanity, considering sexual violence as constitutive of genocide and sexual and domestic slavery as crimes against humanity. However, as MTM lawyer Jennifer Bravo explains, in the indictment phase of the case they deemed it necessary to reform the bill of indictment of the two defendants to detail the crimes that had occurred, that is, to elaborate on the crimes against humanity by naming and explaining sexual violence and sexual and domestic slavery. MTM considered it strategic to propose this reform at that moment, requesting the expansion and modification of the accusation.

For political reasons and considering the context of the recent Ixil genocide trial, the organizations in the Alliance had different visions about including the crime of genocide in the case. For its part, the MP felt that:

"It was not prudent to prosecute it as a genocide case, because the legal definition of that crime includes the mass killing of people and stipulates the scenarios for it to be considered a genocide, and in this specific case we only had the 3 deaths of the 3 women - the 2 girls and the adult woman – and in my perspective as a prosecutor we could not frame it as genocide, right. It was difficult to qualify it legally and uphold it in that way. So it was more viable to present the case based on crimes against humanity because that legal concept does entail physical aggression and all kinds of inhumane and degrading treatment against women, which is what I perceive occurred, right, as relates to international humanitarian law and conventions." (Interview, Prosecutor Hilda Pineda, 2017).

Eventually they agreed to handle the case as one of crimes against humanity, but the co-plaintiffs considered it necessary to broaden the scope to name the types of sexual violence and sexual and domestic slavery that were referenced. Proposing the reform to the bill of indictment also involved differences of opinion with the MP and within the Alliance itself. As Prosecutor Hilda Pineda noted: "The prosecuting office did not share that criteria because we felt that the legal classification of the crime could not be modified since from the outset the case was made known to the defendants as one of crimes against humanity." However, article 337 of the Criminal Code grants co-plaintiffs the opportunity to accede to the MP's accusation in whole or in part. MTM, as the plaintiffs' legal representative, acceded to the MP's accusation with the crimes it posited, but proposed to the judge that it was necessary to broaden and modify the accusation.

In this way the crimes committed to each of the 11 women were detailed and determined in order to broach and develop the causal relationships. For each of them "who had been victims of sexual violence, who had been victims of sexual slavery, at what time, where, and how" was explained, thus setting forth

the factual basis of the case. Meanwhile, the legal basis – the laws that the lawyers considered to have been violated and the substantiation of each of the crimes – was broadened.

Judge Miguel Ángel Gálvez, in arguing to prosecute the case, analyzed the crimes as war crimes, and sexual violence in this context as constitutive of torture. However, this legal concept would entail a different type of strategy and evidence. For MTM, considering the case in terms of crimes against humanity allowed deeper insights and better visibility of the sexual violence and sexual and domestic slavery, which were the central points to be, highlighted politically (Interview, Paula Barrios and Jennifer Bravo, 2016). Eventually the judge took the plaintiffs' request into account, and the trial opened for crimes against humanity as manifested through sexual crimes and sexual and domestic slavery, for the murder of a woman and two girls, and for the forced disappearance of seven men.

Jurisprudence and international standards.

The case was primarily based on international tools for international humanitarian law and internationally significant crimes, particularly regarding violence against women. Since the attributed offence was crimes against humanity, a strong basis existed in international humanitarian law and international criminal law, and it was necessary “to do an extensive analysis of the application of the Geneva Conventions, especially the Third Convention” (Interview, Paula Barrios and Jennifer Bravo, 2016). Although the Convention does not explicitly address sexual violence, it is considered within the attacks on personal dignity, especially humiliating and degrading treatment (Impunity Watch, 2016, p. 18), and it stipulates that the noncombatant population should not be attacked, as happened to the 11 Q'eqchi' women (Interview, Prosecutor Hilda Pineda, 2017).

Because the Rome Statute was not ratified by the State of Guatemala until 2012, the references to explain sexual violence were primarily based in doctrine. As Paula Barrios of MTM explains, “it was necessary to establish that the ways in which sexual slavery, domestic violence, and sexual violence were committed were crimes against humanity, as the Rome Statute stipulates...and to rescue all of the jurisprudence and legal arguments established in the Tribunals for the former Yugoslavia and Rwanda” (Interview, Paula Barrios and Jennifer Bravo, 2016). These Tribunals represented important progress in conceptualizing sexual violence as constitutive of other crimes that were prosecuted.

Other elements used to substantiate the case were the Universal Declaration of Human Rights; the American Convention on Human Rights; the Basic International Principles, Guidelines, and Standards; the recommendations of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); and the UN Security Council Resolution 1325 and related resolutions on women, peace, and security. Resolution 1325 acknowledges the use of sexual violence as a weapon of war and calls for justice processes to be pursued for these crimes.

In order to present further elements and regulatory foundations to the Court, a specialized expert report was included on international law and jurisprudence, titled “The Women of Sepur Zarco: An Analysis of Gender-based Crimes that Occurred During the Armed Conflict,” that aimed to provide analytical elements for examining and evaluating gender-based crimes committed during the internal armed conflict.

The Alliance also presented *amicus curiae* to the court; these briefs to national or international legal entities contribute doctrinal dissertations to reinforce an interpretation of the crimes.

The investigative process and evidence-gathering.

In cases involving armed conflict that have more than one victim and that occur within a military policy framework, evidence becomes much more complex. In such cases, historical context is an example of fundamental proof in reconstructing the events and explaining the motives that led to the committing of crimes.

In the Sepur Zarco case, it was important to contextualize the sexual violence and sexual and domestic slavery in the framework of the army's *modus operandi* in the region and in the framework of the historic land struggle by communities in Alta Verapaz; it was not enough to demonstrate that forced disappearances, torture, murder, and forced displacement were committed.

"The priority was sexual violence and what the women endured, but including everything that happened in the region; the women never leave that out. They would always say, 'Where's my husband?' as one of their most important petitions for justice. So we would talk about the seven military posts, we would talk about the counterinsurgency strategy in the region, we would talk about all of the disappeared victims, the women, the crimes in the wilderness, the crimes at the base. We went for the broader view, and for that reason we weren't just confining the evidence [to sexual violence] because that would have meant decontextualizing it." (Interview, Paula Barrios and Jennifer Bravo, 2016)

It is important to emphasize that the women victims' testimonies provided the core evidence. The case emanates from the credibility of the women's testimonies, which formed the basis for reconstructing the events and constructing the standards for evidence. The testimonies relate and depict a coherent story about the different forms of violence to which the women were subjected, the places, the assigning of turns, the medicines that were injected into them, as well as the sexual and domestic slavery.

Historically, women's testimonies about crimes of sexual violence have been doubted. It is the only crime in which the victim is questioned, even when it occurs in the context of war; that is, she is questioned even though it happens during massacres, forced displacement, and other mass crimes. The patriarchal popular consciousness of suspicion continues to dominate in the justice system and society. Women are blamed and accused of provoking or even enjoying such crimes. One segment of the population in Sepur Zarco referred to the women who were victims of sexual violence as "the soldiers' wives" (Interview, Prosecutor Hilda Pineda, 2017).

Suspicion also exists in relation to the idea of the "absence of witnesses" to the consummation of the crime. For the purposes of the justice system other witnesses should exist (Caxaj, 2016, p. 66). That is why the International Criminal Court in the Rome Statute established the validity of the testimony of a victim of sexual violence as a central precept. The Statute has established a set of criteria for evaluating evidence that reduce victimization and do not question the victim's sexuality. These criteria are: it is not necessary to

corroborate the testimony; the victim's consent cannot be used as an argument by the defense; and the use of the victim's sexual conduct as evidence is forbidden (Rome Statute, 1998). In spite of this, the defendants' lawyers tried to question the testimonies, insinuating victims' consent and calling them "prostitutes" during the trial by saying that "due to the coffee crisis, many communities lost economic income, and many women were obliged to become prostitutes" (Medinilla, 2016).

For cases involving the internal armed conflict and crimes perpetrated by the army or the State, recovering accurate information is challenging due to the time that has passed and State institutions' denial of information. Currently, the Sepur Zarco military post does not exist. According to the Defense Ministry, there was no information about that military post; it was therefore necessary to demonstrate to the court that said post did indeed exist. The reconstruction of the crime was conducted with the testimonies of victims and witnesses and through visual inspections by the MP and the plaintiffs. All of the expert reports were conceived to complement the victims' and eyewitnesses' testimonies and to contribute analytical elements to allow the court a comprehensive understanding of the crimes and the regional context. Faced with the lack of official recognition of the military post, the testimonies of witnesses who were at the Sepur Zarco military post were key and provided information about how the post functioned and the presence of the defendants in the region (Interview, Prosecutor Hilda Pineda, 2017).

Expert Testimonies²

In all, 18 expert testimony reports were presented, written by a total of 26 experts in different scientific fields who provided context, depth, and authenticity to survivors' testimonies. The expert reports were: the Anthropology of Gender, Forensic Psychiatry, the Military, International Credibility Standards in Cases of Human Rights Violations, Psychosocial, Gender-based Crimes Occurred During the Guatemalan Conflict, Culture, Linguistic Anthropology, Military Sociology, Historical Registry, Forensic Architecture, Economics, Ballistics – conducted by two experts, a photographic survey conducted by three experts from the Criminal Investigations Office -DICRI- at the MP, and Forensic Anthropology reports conducted by a seven-person multi-disciplinary team at the Guatemalan Forensic Anthropology Foundation -FAFG-. Two expert reports were included as documentary evidence: one on racism and the other on reparations from a gender perspective.

The Alliance and the MP worked very closely with the experts, holding several meetings so that all involved would have a comprehensive view of the process, and the majority of the experts were able to work directly with the Q'eqchi' women. This resulted in high quality expert reports, though it also presented challenges. "Each of them faced a challenge because that is not the traditional way of doing the expert reports but rather the debriefing. I think that the work was intense. We worked well together to ensure that they achieve their impact" (Interview, Paula Barrios and Jennifer Bravo, 2016). The plaintiffs proposed that the expert reports be presented in a particular logical order at the trial, viewing it as an educational exercise for the population and the media. However, the court itself determined the order in which the expert reports were presented.

² To delve further into the contributions made by expert witness reports, see the section that analyzes the verdict in chapter II.

Several pioneering reports were included in the case to back the victims' testimonies and comprehend the crimes. All of the expert reports contributed to an integrated and logical demonstration to prove the case hypothesis. For Prosecutor Hilda Pineda, the expert reports were impactful and enlightening: "Even though I was there on behalf of the public prosecutor's office, I was impressed by the engagement by the expert witnesses because of their level of understanding of the topics and particularly the major contribution that they made, not only to the case but also to themes of sexual violence against women internationally."

Empowerment and involvement by the women of Sepur Zarco

The litigation also contributed to women's empowerment and their understanding of the formal justice system. One of the most significant effects entailed creating an association in order to enter the case as co-plaintiffs and to participate in the criminal process beyond their role of victims in the justice system. The creation of the Jalok U Collective gave them the ability to have representatives and a presence at hearings. It entailed various challenges in terms of language and operating logic. The women faced a western system that functions in Spanish, which meant that interpreters needed to intervene. However, each stage of the process was discussed with the women, and the lawyers explained the legal proceedings to them. For the lawyers, this meant a systematic presence in the region and constant trips to Sepur Zarco. For the victims it was crucial to make decisions collectively:

"What enabled this work is the Maya world-view. The women believe strongly indeed in collectivity; they do not see with an individual lens like our regular victims do... With these spaces, these circles of dialogue that we had, everything, the process was long, and so was the decision-making. We would see one another and say everything to one another, but in a good way, right. The Maya women do have that sense, even though there are differences within the group... Over these six years we have never fought with the women. And they don't fight with anyone either, but they can tell you what they like and what they don't like, without any problems." (Interview, Paula Barrios and Jennifer Bravo, 2016)

As co-plaintiffs, the women participated in every stage of the process, in the hearings during the trial, and they presented their conclusions at the final stage of the process, when they reaffirmed that what happened to them was the truth and that what they wanted from the court was justice.

For the women, the sense of justice is linked to truth, to the worth that words have in Maya culture. The fact that a court of law listened to them meant that their words and their truth were validated (Caxaj, 2016, p. 45). At a gathering of numerous survivors of sexual violence from different regions of the country, one of them affirmed, referring to giving pre-trial testimony, *"I feel happy because we are telling the truth, we are not lying. We suffered. And here are pictures of us telling the truth..."* Another witness also emphasized the truth in her testimony: *"It is the truth. What we went to say was not a lie. After giving testimony I feel at peace because we made the truth be known."* Another one added, *"I won't be at peace until I see the soldiers in jail, because they made us suffer so much... What we want is that justice be done for all of the damage that they did to us"* (ACOGUATE, 2013).

The conviction gave the women of Sepur Zarco certainty and security, while also contributing to their process of honoring their worth and building their leadership in their community. Now they are focused on

ensuring that the reparations measures be fulfilled. As Prosecutor Pineda notes, “It’s as though the dynamic of their life has changed... Their role has completely changed, and their community acknowledges them, too.” These women have become role models in the struggle and pursuit of justice for victims of sexual violence. They are retelling and sharing their experience with many women who want to follow their example.

c) Psychosocial Support³

In the framework of strategic litigation, psychosocial services provide key capacity-building to enable victims to face the lengthy process of pursuing justice. The goal is to accompany the actors in the case to avoid revictimizing them and to grant them tools and capacities to overcome the negative effects caused by the long criminal process.

ECAP took charge of the psychosocial strategy for the Sepur Zarco case. The organization has more than 15 years’ worth of experience providing psychological and social accompaniment to victims of cases from the internal armed conflict and had worked previously in the Alta Verapaz region with Q’eqchi’ communities. ECAP’s work was key for the Sepur Zarco women’s empowerment and exercise of autonomy.

The methodological design was adapted to the Q’eqchi’ women’s reality, taking into account cultural elements and their own coping mechanisms that had given them the strength to survive inhumane living conditions, the result of the rapes that they suffered and that had abruptly curtailed their life projects and those of their families and community.

For ECAP, psychosocial support entails a series of actions in a process that allows women to work through the pain they have endured, drawing from tools available to them in their own everyday lives. This enables them to value and recognize themselves as social subjects, and to retake their lives without denying, forgetting, or repressing the past. In this case the psychosocial services addressed sexual violence, based on an analysis of unequal gender relationships and the historical exclusion of indigenous women who are targeted by the racism and discrimination enacted by the State of Guatemala.

The fact that women’s experiences took place in a community context was taken into account; the actions promoted needed to integrate the environment where women live, as a way to repair Guatemala’s social fabric that had been torn by State strategy. From the outset, therefore, a process was developed to broach women’s history, work through their pain, and lift their history out of the purely personal sphere, thereby deactivating the fear, anguish, and fright caused by the crimes.

Rehabilitation of psychosocial impacts and previously implemented methodology.

As previously mentioned, the psychosocial work was comprehensive: the psychosocial aspect was not handled in isolation; rather, considering its effects on women’s bodies, it was crucial to address women’s physical health and provide them with medical care. Psychosocial work with victims of grave human rights

³ This section was developed by drawing on the document “Systematic Analysis of the Sepur Zarco Case: Psycho-social Services” written by Paula Martínez Velásquez, Débora Yancoba, Eunice Yancoba, and Maudi Liseth Tzay Patal of ECAP.

violations aims to center its efforts on psychological services around the effects caused by the crimes that they experienced, thus strengthening them in terms of their human rights, empowering them to demand such rights and to pursue improved living conditions, and together with them, articulating key actors who can enable changes in their community.

Upon initiating this work with the women, one of the effects identified at a community level was the social stigmatization, a painful practice that marks and follows women through life. It is expressed through strong-worded epithets such as “the soldiers’ wives” or accusations such as “they wanted it.” This situation allowed silence and isolation to prevail and created fear among the women regarding the perpetrators’ presence and control over the community. In response to this context, the fundamental pillar of the psychosocial strategy for addressing sexual violence was to build and strengthen the women’s confidence.

“The human rights violations damaged people’s relationships and trust in one another, and especially towards strangers and public officials. This distrust has been deepened by the context of impunity and exclusion, since both State and non-State institutions have been expected to generate change and improved structural conditions for people, families, and communities, and these expectations are not fulfilled.” (ECAP, 2010, p. 40)

To address this issue, strengthening actions were developed in both individual and group settings. This work allowed women to integrate their private sphere and share it with other women who had lived through the same experience. The individual work led to confidence-building, an essential element in building the groundwork for outreach with each of the women. The staff who accompanied them were eminently community-based women who knew the context and community dynamics. In addition, the staff had been intensely trained in community mental health with a gender-based perspective.

Personal confidence was built through home visits, which primarily allowed for private and secure spaces for women to express their feelings. In these spaces women were able to speak for the first time about what they had experienced. The home visits also contributed to shaping self-help actions and creating networks among the women. “Later, the women themselves began visiting other women. They would talk about how they wanted to set up a meeting to talk about what had happened during the violence. Since they knew each other, there was trust...” (Interview, Amalia Sub, ECAP promoter).

The group work consisted of forming a self-help group. In the working experience developed by ECAP, the most appropriate way to set up a psychosocial process was considered to be a group space. This allowed the women to acknowledge one another, use and value their words and testimonies, share respectfully, listen responsibly, and establish committed bonds. A gender-sensitive approach understands that “group work serves as a space to re-socialize women, value the support that they receive from other women, distinguish the personal from the political, gain a sense of self-control, and gain power” (Gioconda, 1997).

The group work provided a space for women to share and reflect on three important points. First, the analysis of the socio-historical and cultural context allowed them to interpret their suffering and experiences as “normal reactions to an abnormal situation.” Second, they verbalized their thoughts, feelings, and coping mechanisms. Third, forming the group as a support and solidarity network for the process broke down the idea that they could not meet to speak or share ideas and experiences.

The methodology for this work considered three important aspects:

1. Cultural Focus: considering that the group is comprised of Q'eqchi' women with a history of struggle in defense of their territory, a struggle that is evident to this day through their resistance in defending their rights, territory, and identity.
2. Psychosocial services based on Gender Sensitive Therapy (Batres, 1997) with the aim of acknowledging women in the midst of a sexist and patriarchal society. Recognizing that gender oppression was also evidenced in the context of war in which women were victims.
3. Human Rights Focus: seeking women's empowerment in knowing and demanding their rights, considering that they were victims of grave violations.

Psychological-legal design for the Sepur Zarco case.

The psychological-legal approach entails pedagogical actions for working with victims to provide information and develop joint actions with specialists. In this case, "specialists" refers to lawyers, social workers, psychologists, mental health promoters, doctors, and experts involved in developing the process together with witnesses during each stage of the legal process. This process is characterized by constant communication that allows comprehensive coverage from different disciplines. This design allows victims to approach the pursuit of justice with the least amount of anxiety and stress possible. It requires adapting the terminology for particular cultural and social contexts.

Discourse articulated in the fields of law and psychology allows bridges to be built between the legal sphere and victims' needs and/or expectations. It facilitates the formation of objectives based on empowerment and the construction of social and political actors. Victims of human rights violations join in the struggle against impunity and in acts promoting human rights, and their coping mechanisms are strengthened as well (COFAVIC, 2015).

Within this understanding, a strategy was developed to handle the accompaniment in the Sepur Zarco case. The approach posited working with the 15 women witnesses and the 4 men witnesses, as well as the additional 22 witnesses who joined the process as a result of the investigations; their family members, community authorities, men and women leaders, women survivors of sexual violence in the region and other regions, and young people. All of these people formed part of networks designed to support the witnesses and were intensely activated during the hearings and in the trial's aftermath.

The psychological-legal work is visualized through three stages that involve the methodological design for before, during, and after the stages of the legal process. In the context of the hearings in this process, the work intensifies and develops through the same stages for each person who gives their testimony, thus becoming a focused process that centers on each person as they are accompanied on their process of development.

Psychosocial and psycho-legal services during the three stages of the hearings.

Work by multi-disciplinary teams.

Preparation work with the three organizations comprising the Alliance was developed to share the central elements of strategic litigation. At the same time, it was critical for the mental health promoters to be familiar with legal terminology in order to provide translations into witnesses' native language, thus ensuring comprehension of courtroom language and the way that the national justice system operates. This piece was important because within the community it is the Maya and community justice system that operates. The psychosocial strategy was shared in terms of the physical and psychological effects generated among victims upon facing the court and the perpetrators.

The psycho-legal strategy values the importance of the staff who accompany witnesses, since they endure long work shifts, providing responses according to the needs presented and constantly listening and supporting victims. This means that staff are fully present at the hearings, preparing people with mental exercises before they enter the courtroom to give testimony, and then during the testimony itself and afterwards. These actions can trigger psychosocial risks from working with pain. Therefore, spaces were created for staff self-care throughout the entire process as a way to safeguard the team's own mental health.

Work with the Q'eqchi' women.

Throughout the different phases of the legal process, dialogue was constantly held with the victim-survivors of sexual violence, the protagonists and principal witnesses in the case. The meanings of justice, their expectations, and the ramifications of being witnesses were discussed with them. The process was primarily focused on empowering the women's prominence in their struggle for justice and building spaces for decision-making at every step along the way. This facilitated their understanding of what a court is and who is present there. Conducting courtroom simulations, the women themselves enacted scenes envisioning the pretrial evidence and the oral public trial between 2012 and 2016.

Group cohesion was critical as the trial unfolded, due to the risk of triggering destabilizing factors that would have prevented harmonious relationships between women. Different leisure activities were promoted that fulfilled the goal of building trust, group cohesion, and reducing stress.

In parallel fashion, spaces were developed for self-help groups and women's rights with 45 other women victims of sexual violence in the Polochic region who comprised a basic support network to strengthen women's organizing at the community level. Women trained to become Community Energizers, allowing them to accompany and lodge complaints with community authorities on cases of violence against women and girls. They are also involved in pursuing justice, with a case underway at the Inter-American Commission on Human Rights, which strengthens their political practice in the communities. During the Sepur Zarco trial, the women became a point of reference for clear and reliable information in the communities; this helped prevent rumor mills in the communities. They were in-person participants at the hearings and shared exchanges with other women.

Work with other witnesses.

The initial psychosocial outreach involved accompanying the witnesses when they gave their testimony to the Office of Public Prosecution (MP). For many of them this meant speaking of what they had experienced over 30 years after the fact. This symbolic and significant session entailed stirring up a past that had caused pain and transforming it in order to begin their healing process, while turning their testimony into a significant restorative element for enacting justice itself. Their testimonies primarily highlighted the context in which women were attacked and used. A joint reflection with the women discussed the importance of pursuing justice for the violence and the sexual violence against women, emphasizing that these crimes should never recur.

As preparation for the legal process, the witnesses were given tools to maintain their calm while giving their testimonies and facing the perpetrators, which can trigger a series of symptoms that can affect witnesses. Guided breathing was used as a method to ensure oxygen for the nervous system, to lower their tension levels, and to calm them down. Elements of their culture were also drawn upon as tools for protection.

Witnesses rehearsed their testimonies prior to presenting them at the MP. They also practiced responding to questioning by the plaintiffs' lawyers and the MP. The scene of the trial and the important role that each player would take was constructed with witnesses ahead of time.

Work with community authorities.

Once the pre-trial testimonies had been presented, people were sought out in the community who could serve as trustworthy and safe point people to strengthen, accompany, and support the women's struggle for justice. Consciousness raising work was done with 28 men and women leaders who form a local support network; they consistently attend trainings, context analysis sessions, and conflict resolution spaces, in addition to exchanges with State entities charged with safeguarding human rights. These leaders play a crucial role in the community; they were the ones who communicated reliable information about the status of the trial.

The work with this group was conceived as a process that would allow broaching the topic of justice with the women from a human rights standpoint. Initially, because of security concerns, conversations with the women addressed such topics as the context, conflict resolution around land problems in the region, human rights, women's rights, the role of community leaders, analysis of violence, historical memory, and access to justice among indigenous peoples. Coordination was undertaken with the National Civilian Police - PNC- in the region to understand legal proceedings and the ways to file complaints. This work allowed the leaders to be familiar with the tools available, in some cases to apply rights, and to understand the women's history.

Work with the youth.

It was deemed important to work with youth to activate a process of consciousness raising, as they are community subjects and carriers of history for the upcoming generations. In 2013, the work began in the middle schools and with young women and men from the communities where the women involved in the case live. Topics addressed were knowledge of historical memory and an in-depth identification of sexist

practices. They developed scripts for radio spots that were later taped in Spanish and Q'eqchi' and broadcast on local radio stations.

After the work in the schools, a group of 25 youth was formed and they created a network called AWINELEB. They participated in training circles for their empowerment, took part in awareness raising sessions, and accompanied the women to trial hearings. They now educate the population through improvisational theater and puppet theater. They also strengthen community leadership structures to act on analysis, prevent gender-based violence, and spread knowledge of human rights. This work had been received positively. Young people from different communities are involved, including some of the women's children and grandchildren and young members of the Catholic Church.

Work with relatives, daughters, and sons.

In 2015, upon appreciating with the women the importance of involving their family members, the daughters and sons of the 14 women and the 4 witnesses who led the case were invited, with the goal that they would become a primary trustworthy support network to accompany the legal process. The witnesses invited their children or another relative, not necessarily from the nuclear family, to participate in the process. Forty-one of the women's relatives, primarily sons and daughters, formed the primary security support network, thus named because they are networks created through emotional and family bonds. This work generated self-help groups with the women's daughters and sons, allowing for the subject of intergenerational trauma and its effects to be broached, recognizing that such trauma is further perpetuated when the traumatic experiences endured by families during war are not processed.

d) Security measures

Because strategic litigation is primarily applied in high-impact cases, it is necessary to undertake security measures for those involved in the legal case – victims, witnesses, psychologists, organizations, and other parties – as well as for pieces of evidence and information. For the URL's Maya Program, the specific goal of a security strategy in strategic litigation is to contribute to guaranteeing the physical integrity of the legal subjects and parties involved in the case, the organizational support networks and allies, and material components of the case (OHCHR, n.d., 20). In terms of the MP's procedures, certain security provisions are implemented; however, they are not sufficient in a case like this, and the plaintiffs had to complement them with additional measures.

Starting with the investigative stage of the Sepur Zarco case, especially in identifying defendants, the MP implemented security measures to prevent the information from leaking. The prosecutor's unit filed a petition requesting that the investigation and all the actions be kept secret. The monitoring, siting, and identification of the accused persons was done by staff from the MP's Criminal Investigations Office, which is considered reputable. Based on the experience of the MP's prosecuting unit for cases involving the internal armed conflict, relying on the PNC to enforce arrest warrants or sharing information with security forces is risky; in cases being handled by the Human Rights Prosecuting Unit, former police officers and former members of State security structures have been involved (Interview, Prosecutor Hilda Pineda, 2017).

The witnesses' security and protection was coordinated through the Criminal Policy Secretariat and staff designated by the Attorney General herself. Safe routes and accompaniment were coordinated with the plaintiffs for transporting the witnesses and women to hearings and other legal proceedings (Interview, Prosecutor Hilda Pineda, 2017).

Security was also necessary in handling information among the working teams and the Alliance's organizational members. This aspect was implemented by all three organizations. It was necessary to train and bolster the teams with security knowledge. "Security scenarios were discussed, as well as the ramifications and preventative actions to ensure the security of both the witnesses and the technical teams, communications and the safe spaces for housing and transport" (ECAP, 2017, p. 6).

One of Q'eqchi' women's greatest security concerns was what might happen within the community, on behalf of the family members or others with close ties to the perpetrators. Given this situation, the Alliance continuously sought spaces outside of Sepur Zarco to work with the women so that they could feel more secure. However, as explained in the section on the psychosocial strategy, it was important to work with community leaders, relatives, and youth, one of the goals being to bolster a support and security network for the women.

It was challenging for the Alliance and the Collective to grapple with security from a community understanding. When the Military Veterans' Association of Guatemala -AVEMILGUA- started recruiting in the community, concern and fear circulated among the women; this was the main reason that some of them started covering their faces with shawls. According to Luz Méndez of UNAMG, "Some of the women did not want to use [the shawls], while others felt more secure using them... In the end, when the ruling was issued, some of them showed their faces upon leaving the courtroom... They want to stop using the shawls [on their faces]; they are very brave and committed to achieving justice. But most of the group decided to wait a bit longer before showing their faces." (Leuthard and Shetterly, 2016).

During the trial, certain incidents occurred in the courtroom or outside the Tribunal Tower building. For example, sectors close to the military officers took photographs of members of the Alliance organizations. A person outside the building with a megaphone intimidated the people who came to accompany or hear the proceedings, yelling messages attacking the Q'eqchi' women and calling them prostitutes. Therefore, the accompaniment and presence of a broad range of people and of human rights organizations was important, both as an expression of solidarity and a measure of security for the women so that they would feel supported (Interview, Ada Valenzuela, 2016).

e) Women's alliances and political strategy

In strategic litigation, the political component aims to ensure that the solution to the legal case helps transform certain institutional deficiencies, State policies, or social problems that gave rise to the lawsuit. It is therefore necessary to act to raise awareness and do lobbying with political actors and justice workers (OHCHR, n.d.). While all of the strategies are interrelated, a particular link or relationship exists between the political and the communications strategies, since media coverage of messages and stances helps raise awareness and facilitates advocacy in the political realm.

In the Sepur Zarco case, the political component was jointly managed by UNAMG, MTM, and ECAP. According to Ada Valenzuela, UNAMG's Executive Director, the political strategy focused on guaranteeing support for the case from women's, feminist, and human rights organizations nationally and internationally to achieve advocacy and accompaniment during the different stages of the legal process. The security of the Jalok U Collective was consistently safeguarded, and its members were positioned as the primary actors in the process.

In terms of the outcome of the case, the hope was that a conviction would be issued that would include comprehensive reparations to serve the victims as a tool in demanding public policies to respond to the women's needs, particularly regarding land, health care, education, and guarantees of non-repetition of sexual violence.

In this sense, one of the survivors' main demands was that the crimes not be repeated, that their daughters, granddaughters, great-granddaughters, and other women in their families and communities never have to experience what they suffered. This was a political commitment shared by the survivors and the Alliance. As Ada Valenzuela stated, "Sexual violence should stop being part of women's lives in this country. That means changing attitudes, changing stereotypes, changing the educational system, beyond the Sepur Zarco sentence." This, perhaps, is the structural change that women crave most.

The political strategy also included actions to raise awareness and support among public officials and society as a whole. The quest for alliances was key in achieving a significant impact for the case. Alliances with other actors were fundamental in generating greater debate, conscientiousness, and advocacy with the State. In this realm, "greater results are obtained when there are strategic and flexible alliances based on the expertise of those who participate in common interests, as well as processes of political mobilization and activism that accompany different moments" (Leonardo, 2012).

Gatherings between survivors of sexual violence and other victims

One of the most important connections was built between women survivors of sexual violence in different parts of the country. The Q'eqchi' women involved in the case experienced about 13 years' worth of psychosocial support work and human right trainings, together with some 50 other Q'eqchi' women from the same region, and participated in numerous gatherings with Kaqchikel, Mam, and Chuj survivors from Chimaltenango and Huehuetenango.

The women of Sepur Zarco gave their pre-trial testimonies in 2012; then, in 2013, they were able to hear the Ixil women give their testimonies in the Ixil genocide trial. In coordination with organizations accompanying the Ixil case, the Alliance held a gathering between Q'eqchi' and Ixil women in which the former shared their experience of giving testimony before a judge and motivated the Ixil women to continue to pursue justice.

During the hearings in both cases, survivors from Chimaltenango, Huehuetenango, and Alta Verapaz were present, showing their support and encouragement. This reflects one of the most important aspects of alliances among women: how they motivate one another and see in each other role models and examples to follow. Survivors from different regions felt that the case was theirs, too.

“For us Kaqchikel women it is an honor, I’d say a triumph, because finally justice was achieved for a group of women. The same thing happened in other places, other communities, but justice has not been done; so for us, this struggle that was won...helps us and motivates other women who are in the same process but who have not gotten justice. We know that the justice system is very slow. All of the people who are there as part of a State strategy, I don’t know, they’ve stagnated other women’s justice processes. But this case is cause for reflection and motivates women who are in an ongoing process.” (E07, 2016)

The Sepur Zarco case also garnered support from other victims of the conflict in the region, from nearby communities, who identified Esteelmer Francisco Reyes Girón and especially Heriberto Valdez “Blondie” Asig as the culprits of grave human rights violations during the armed conflict. When Asig was arrested, victims from Panzós lit firecrackers to celebrate the arrest. As Paula Barrios, Executive Director of MTM, explains, this reaction was not necessarily because of his role in the Sepur case; “ultimately, for the community, he was the figurehead who represented nepotism and all the crimes.” In the same way, once the ruling was announced, when the women in the case were returning to their communities, a group of victims of the conflict in the region welcomed them home with a celebration. A Jalok U member relates, “People from Panzós, from the plantation, came, too, because they found out about the verdict. When the massacre in Panzós happened, it was the same man, so they came up to us and said: *how great that you all organized, how great that you had the strength to go and ask for justice, how great that those men are in jail now*” (Interview, Demecia Yat, 2016).

The creation of the Jalok U Collective by Q’eqchi’ survivors of sexual violence and its subsequent growth in membership and political leadership are also a result of the alliances among women and other victims of the internal armed conflict.

Alliances with women’s, human rights, and conflict victims’ organizations.

The alliances with women’s, feminist, and human rights organizations were crucial in achieving broad-based political support for the case. ECAP, MTM, and UNAMG leveraged the alliances and coordinated efforts that they already had and held a series of meetings to provide updates on the case and stress the importance of political support.

In the women’s movement, it was important to emphasize the continuum of violence and the relationship between violence of the past and that of the present. Women’s and feminist organizations, as well as individual women, consistently and intensely supported the trial. The November 25 and March 8 Coordinating Committees⁴ carried out actions to support the case. The March 8, 2016 activities celebrated the conviction achieved in the trial and demanded that the State comply with the reparations measures.

Other alliances and coordination endeavors were established with the Human Rights Convergence, of which UNAMG and ECAP are members. The Convergence was entirely supportive. According to Ada Valenzuela, its

⁴ The March 8 and November 25 Coordinating Committees are spaces for political coordination and activities by women’s and feminist organizations around two commemorative dates: March 8, International Women’s Day; and November 25, International Day for the Elimination of Violence Against Women.

member organizations' experience and track record helped greatly. For example, the Center for Human Rights Legal Action -CALDH- has experience with the Ixil genocide case, the Guatemala Human Rights Defenders' Unit -UDEFEGUA- has experience with security topics and the protection of defenders, and the Human Rights Office of the Archbishop of Guatemala -ODHAG- accompanies other cases related to the internal armed conflict. Their support took the form of political backing at different points during the legal process and also exchanges of experiences to bolster the strategic litigation approach.

The impact of the work with human rights organizations that accompany or litigate other cases involving the internal armed conflict was to highlight, include, and not minimize the crimes of sexual violence that took place in the conflict. That is, awareness was raised around sexual violence and sexual and domestic slavery with other social actors that promote transitional justice.

Locally, it was essential to engage in outreach with community leaders and with the Polochic Valley Victims' Association -AVIDESMI- in which some of the Q'eqchi' women's family members have participated. This association supports local work, primarily through accompaniment and security measures. Before the Jalok U Collective was formed, this association was an important mainstay at the community level.

Support and encouragement from the international community.

Internationally, alliances, political coordination, and donor relationships were achieved with women's and feminist organizations, human rights organizations, international entities, and agencies from other States. The fact that grave human rights violations like sexual violence occur across the world and in international conflicts meant that the trial received international spotlight and support, especially because this case became the first trial in the world in which crimes of sexual violence committed in the context of war or conflict were prosecuted in a national court.

The Alliance conducted a series of visits and meetings with international organizations and the diplomatic corps to advise them of the opening of the trial and the historic importance of the case. Different forms of support, political backing, and donations were made from outside of Guatemala. In the words of Ada Valenzuela, "International monitoring was important and very valuable. We did a ton of advocacy work with them, for meetings, visits, and they did stay involved." With the mere fact that the international community kept its gaze on the case, pressure was exerted on the justice system and the State of Guatemala to implement a transparent process with due process.

The support received from the Nobel Women's Initiative was important. Nobel laureates Jody Williams from the United States and Guatemalan Rigoberta Menchú were present at the courtroom hearings. Towards the end of the trial, days before the verdict was delivered, both considered the trial to be a "victory for all survivors of sexual violence in the world."

Meanwhile, two United Nations Special Rapporteurs visited the country while the trial was underway. One of them, Dr. Dubravka Šimonović, Special Rapporteur on Violence against Women, its Causes and Consequences, stated that it is important for recommendations issued by international entities regarding violence against women "be truly implemented by States and in this way set needed precedents so that impunity no longer exist" (Lawyers without Borders, 2016, p. 9).

Victoria Tauli Corpuz, United Nations Special Rapporteur on the Rights of Indigenous Peoples and an indigenous leader from the Philippines, made an unofficial but symbolic visit in support of the case. She and the Nobel laureates met with the women's movement, with the women involved in the case, and with the diplomatic corps. Tauli indicated:

"In the Philippines as well there are cases of sexual slavery, similar to the Sepur Zarco case in Guatemala. In the Sepur Zarco case people are reclaiming their right to property, a right that is theirs since time immemorial. It must be taken into account that the women in the Sepur Zarco case are not part of an isolated case but rather a case related to the history and socio-cultural aspects of the country. Women need multi-faceted, comprehensive policies and programs to be implemented. A conviction in the Sepur Zarco case would be very satisfactory for the country as a whole and would greatly contribute to justice issues and the struggle against impunity." (ASF, 2016, p. 10)

Rigoberta Menchú also emphasized the importance of the case in that it revolves around Maya women who suffered grave violations of their rights. She affirmed that "Violence against women, particularly sexual violence, is still being used as a tool against indigenous women in Guatemala and all of Latin America. When women do denounce a crime of sexual violence, they are called liars. A victory in this case would show the world that these women not only are telling the truth but also are bravely defending human rights" (Nobel Women's Initiative, 2016). The presence and voice of these women heightened the profile of the trial and supported the women's testimonies.

Other United Nations agencies provided support and accompaniment to the legal process and served as international observers in the courtroom. These included the Program to Accompany Transitional Justice - PAJUST-, UN Women, and the Office of the High Commissioner for Human Rights -OHCHR- that maintained a constant presence at the trial despite limitations of time and personnel. The Resident Coordinator of the United Nations System for Guatemala and Resident Representative of the United Nations Development Programme -UNDP- Valerie Julliard demonstrated her support throughout the entire proceedings for the Sepur Zarco case. According to her,

"The Sepur Zarco case, supported by the UNDP throughout the past five years, serves as an example for the world by applying a model of promoting justice for women survivors of sexual violence, which includes comprehensive assistance – legal and psychosocial – for empowerment, in order to break the silence and end the impunity that accompanies sexual violence. We hope that the example of resilience and courage by these Q'eqchi' Maya women provides hope and shows the way for many other women, both in Guatemala and around the world." (UNDP, n.d.)

The diplomatic corps likewise made its presence known with a wide range of representatives from embassies and international agencies. Their presence was important since the crimes on trial are of international significance. The diplomatic corps consistently and firmly demonstrated support to the case and recognized the historic and important progress that this case signifies for women's struggles.

In a complementary way, accompaniment and solidarity by international social and human rights organizations were important. Numerous groups provided guidance and timely political and communications support, among other types of support.

f) The communications strategy

According to Ada Valenzuela, “a communications strategy integrates the strategies that enable social themes to be leveraged as processes develop. In the Sepur Zarco case, the strategy envisioned placing and positioning topics as the case unfolded and confronting the series of criticisms and hate campaigns against women.”

A critical element in terms of the communications strategy was to avoid exposing or endangering the survivors. The decision was made to not expose them to situations that could provoke or cause additional pain. During the entire time, the women only offered two or three interviews, in situations where they felt the most comfortable.

The actions were centered on removing the stigma of being victims of sexual violence, removing the blame from the women and returning it to the perpetrators. This was also a way of lifting up the image of survivors as central subjects in the process. In Valenzuela’s words, “We’d say that there are guilty parties, that there are culprits, that it was not the women’s fault, but rather a crime. Justice is precisely returning the blame to those truly guilty of sexual violence and crimes against humanity.” The communications and political actions were conducted as the case moved through the justice system, since it was not possible to disseminate or publicize what had not yet been released in the legal system.

The communications strategy also sought to inform society as a whole. In this case, the goal was that society would understand what was happening, explain what the case was, how the crimes were being tried, what the women had suffered, and what was meant by sexual violence. Actions were also undertaken, particularly in communications, related to the need to respond when there were smear campaigns.

Case positioning and key messaging

Before the trial started, UNAMG had implemented campaigns against sexual violence and violence against women and in favor of access to justice. This served to raise the profile of the case prior to the trial, “even from the first criminal complaint. This means that we have spent quite a while placing topics in the media, the topic of Sepur Zarco and the struggle for justice, for some time now... Many of the messages came out of the work being done with the Alliance, in the framework of how the trial was progressing. Just as the legal process was moving forward, likewise, the campaign was moving forward as well” (Interview, Ada Valenzuela, 2016).

The communications strategy included producing numerous visual materials, posters, buttons, radio spots in various languages, and billboards. The case was also presented at press conferences; at visits to editors and directors of television channels, radio stations, and newspapers; in traditional, alternative, and electronic media. The response was positive, with openness to learning about the case and what it was about. Meanwhile, opinion columnists were approached, particularly those who had shown a positive view of transitional justice or who had written against violence against women, for example. To accommodate

the media's interview requests, be it radio, TV, electronic, or print media, spokeswomen were chosen to leverage strategic elements, and also as a safety precaution for the survivors.

To publicize trial updates, the Alliance reported daily on what was happening in the courtroom and sent the information to women's and human rights organizations, the diplomatic corps and the international community. They wrote newsletters that featured the progress made in the case, important incidents, aspects of the defense team's malicious litigation, and highlights from the testimonies or expert witness reports presented each day. They were translated with solidarity support to English and French for the international community. UNAMG broadcast the trial live, directly from the courtroom. The use of social networks was key in publicizing and informing about the case. UNAMG, MTM, and ECAP all posted case updates to their Facebook and Twitter accounts.

The press conferences a day before the trial started, with participation by Nobel Peace Prize laureate Jody Williams, represented an important show of political support for the case and were widely covered in the media. It is noteworthy that many national and international media outlets covered the trial, especially the opening day and the delivery of the verdict.

The Alliance created the slogan "Our Gaze is on Justice," referring to the monitoring of the Sepur Zarco case proceedings by human rights and women's organizations and by society as well. The logo appeared on all of the publications and materials developed during the process. Hashtags such as #WeAreAllSepurZarco, #SepurZarcoTrial, #IAmSepurZarco, #SepurZarcoWomen, and #SepurZarcoCase were trending both nationally and internationally during the trial.

The defense team and pro-military conservative groups attempted to discredit the women in media and public opinion, constantly repeating three ideas. They said, first, that the case was fabricated to gain money; second, that the women were lying and for that reason covered their faces with shawls; and third, that the women were prostitutes who went to the military post of their own volition. They made this last assertion even within the courtroom itself. The Alliance's main stance, in responding to these accusations by the defense, was that "There is nothing in this world that can repay the women for the pain that was done to them, nothing...and the reparations that the women seek are not monetary but rather of their dignity, dignity for them and dignity for their communities."

One of the matters that unsettled the media the most was why the women covered their faces. After the verdict, one of the survivors said:

"One of the reasons for using the shawl, for covering our faces, is for our safety. When we arrive back in our community, we do not know who will be there around us. When we are here in the city, we know that the organizations are here, supporting us. But when we get back home, the organizations are not there. We will be alone in our houses. We come from the communities, and I have the right to decide whether to cover my face." (Interview, Demecia Yat, 2016)



The courtroom during the public and oral debate of the Sepur Zarco Case



*Judges Yassmin Barrios Aguilar, Patricia Isabel Bustamante García and Gervi Hionardo Sical Guerra
First Circuit Court on Criminal Offenses, Drug-Trafficking, and Crimes against the Environment*

II. Justice was Done!

The Political, Legal, and Social Impacts of the Case

The Sepur Zarco case constitutes the first case to collectively prosecute in a national court crimes of sexual violence and sexual and domestic slavery committed during the internal armed conflict. Cases from the internal armed conflict that had previously been tried did not include reports of sexual violence committed against women even though such crimes were among the atrocities committed against women (Impunity Watch, 2015a, p. 20).

This case managed to achieve one of the most important objectives of strategic litigation: a political, legal, and social impact, as well as the recognition of the courage and dignity of the women survivors. In this sense, the strategic litigation was positive because it resulted in a conviction of the culprits, a dignified reparations sentence for the victims, and the establishment of jurisprudence for future cases of sexual violence; moreover, it garnered broad-based support, both nationally and internationally, as well as media coverage of the case.

On February 26, 2016, after 20 days of oral and public trial hearings, the High-Risk Court A concluded that the two defendants, Esteelmer Reyes Girón and Heriberto Valdez Asig, were guilty of committing crimes against humanity in the form of “sexual violence,” “sexual and domestic servitude,” and “humiliating and degrading treatment”; murder; and forced disappearance. They were sentenced to 120 and 240 years, respectively. Described below are the central points of the sentence that the Court used to substantiate its verdict.

a) Facts supported by evidence

According to the Sentencing Court, the central facts were:

1. That the defendant ESTEELMER FRANCISCO REYES GIRÓN, as second-lieutenant of artillery in the army, acted as the commanding officer of the platoon;
2. That he was appointed to the military post located in the community of Sepur Zarco, exercising military control over the region’s inhabitants;
3. That he authorized and consented to the fact that army soldiers under his command committed **crimes against humanity** against at least 12 Q’eqchi’ Maya women and two girls;
4. That the woman Dominga Coc and her daughters Anita and Hermelinda were under military control by the soldiers under his command when they were **murdered** (Sentence C-01076-2012-00021, 2016, pp. 13-15).

In terms of defendant HERIBERTO VALDEZ ASIG, the proven facts were:

1. That he was a military commissioner;
2. That he guided soldiers to the communities for them to conduct their military operations;
3. That he participated in committing **crimes against humanity** against at least 12 Q’eqchi’ Maya women and two girls;

4. That, in his capacity of commissioner and in the company of members of the national army, he participated in the **forced disappearance** of men Antonio Sub Coc, Manuel Can and his two minor children Santiago Cac Bá and Pedro Cac Bá, Abelardo Coc, Heriberto Choc Tzi, and Juan Choc, who have not been seen or heard from since (Sentence C-01076-2012-00021, 2016, pp. 16-20).

Probative value of the evidence provided and facts that were proven.

The Court's analysis of the evidence officially presented during the trial highlighted the contributions provided by the elements of proof in clarifying the facts of the case and noted the reasons for accepting them as proof. Following is a list of the evidence that was considered to have probative value and the most relevant elements that each piece of evidence proved:

Evidence	Facts Proven
Expert Report on the Anthropology of Gender by Rita Laura Segato	• The destruction of indigenous women was meant to punish their husbands for requesting land. • The rapes: – were not spontaneous but rather a strategic war objective. – were planned, premeditated, and even followed a schedule. – affected and harmed the individual and collective life of Sepur Zarco's inhabitants. • The women were stigmatized. • The women who were raped were subjected to internal exile, as their own community rejected them. • Among the women's other sufferings were the breakdowns of their marriages and their inability to provide for their children with any guarantee. • The war introduced access to forced sex. • The population was not exterminated, but they were managed to be dominated and terrorized. (Sentence C-01076-2012-00021, 2016, pp. 38-41)
Expert Report on Forensic Psychiatry by Karen Denisse Peña Juárez	• The victims were the objects of violent acts: torture, violence, and persecution. • The victims show physical and psychosomatic scars. • There is a relationship between the clinical symptomology and victims' ailments. • The victims were raped, and the damage that this caused extends beyond the physical effects, since it deprived them of elements and values that are essential in a human being's life. • The victims' stories are consistent and credible. (Sentence C-01076-2012-00021, 2016, pp. 51-53)
Expert Report on the Military by Prudencio García Martínez de Murguía	• The defendants cannot allege that they were following orders because they were not obligated to follow blatantly illegal orders. • Obedience does not preclude responsibility. • Both the lieutenant and the commissioner were aware of what was happening at the Sepur Zarco post. • People who thought or acted differently than the status quo were erroneously considered "internal enemies."

Evidence	Facts Proven
	• Violence was used so that the population would be afraid and not participate in anything. • In Guatemala, people were disappeared silently. • Sexual violence against women constitutes a tool or weapon to attack the country. • In Guatemala, military commissioners were part of the army. • The commanding officer of the military post cannot refrain from exercising control. (Sentence C-01076-2012-00021, 2016, pp. 67-69)
Expert Report on International Credibility Standards in Cases of Human Rights Violations by Arsenio García Cores	• The victims' testimonies are consistent with one another. • Criteria for coherence, congruence, consistency, and plausibility should be taken into account when evaluating the evidence. • The women were victims of sexual slavery. • The modus operandi used with the women in Sepur Zarco was that the soldiers would first detain the men and then rape the women, subjecting them to sexual slavery and slave labor. • The women's testimonies associate the defendants with the place and the positions that they held; the perpetrators were identified without any contradictions. The expert witness enumerated the times in which the defendants were identified in the course of the testimonies. (Sentence C-01076-2012-00021, 2016, p. 78 and 79)
Psychosocial Expert Report by Mónica Esmeralda Pinzón González	• The women suffered harm to their physical and mental integrity. • The aftermath is long-lasting; the damage done to the victims is atrocious and so great that it harms the next generation. (Sentence C-01076-2012-00021, 2016, pp. 90 and 91)
Expert Report on Gender-based Crimes by Paloma Soria Montañez	• The case of the women of Sepur Zarco was conducted massively and systematically. • The inhabitants of Sepur Zarco were civilian noncombatants and therefore were protected by the Geneva Convention. (Sentence C-01076-2012-00021, 2016, pp. 97 and 98)
Expert Report on Culture by Irma Alicia Velásquez Nimatuj	• The crimes of sexual violence committed in Sepur Zarco altered women's worldview and daily life. • Cultural breakdowns occurred in the community of Sepur Zarco. • When the crimes happened, the women were relegated to the lowest level of society and were scorned and stigmatized. • A process of devaluation occurred that targeted the women who had been raped. • The Sepur Zarco community has a patriarchal structure, which meant that when the men were disappeared, the women were unprotected. (Sentence C-01076-2012-00021, 2016, pp. 106-109)
Expert Report on Linguistic Anthropology by Mayra Nineth Barrios Torres	• The women were violated and breached in all of their spaces, which indicates that not only in a physical sense but their entire integrity was affected. • Within the Q'eqchi' terminology related to the testimonies by the women who were raped, a salient term is <i>mukuk</i> which means "to desecrate." • Women's bodies are sacred; this encompasses physical, emotional, moral, and cultural aspects. (Sentence C-01076-2012-00021, 2016, pp. 11 and 112)

Evidence	Facts Proven
Expert Report on Military Sociology by Héctor Roberto Rosada Granados	• The rapes of the women occurred in the context of land claims. • There is a relationship between the army officials, the troops, and the collaborators or informants. • A chain of command existed in the army across the country's territory. • At the time that the crimes took place, a military counterinsurgency State existed in Guatemala, with the army as active agent. • The motive was the fear of the landholding elite that felt threatened by the land requests being made by the peasants in Sepur Zarco. • The Sepur Zarco case is an example of what happened in the Polochic region in which the economic interests of the State and the landholding elite wanted to grow their capital. • The report verifies that there were civilians who were complicit in the Sepur Zarco military post. • The Sepur Zarco post was established as a preventative measure based on the possibility of insurgency presence. (Sentence C-01076-2012-00021, 2016, pp. 128-132)
Expert Report on Historical Records by Juan Carlos Peláez Villalobos	• There is a relationship between land dispossessions and the practice of slavery, degrading treatment, and rapes of women. • Some landowners consider themselves to be the owners of the people and objects on those lands, as in the feudal period. • The conflict over land tenure was the reason why the victims' husbands were petitioning for lands. (Sentence C-01076-2012-00021, 2016, pp. 142-143)
Expert Report on Forensic Architecture by Elis Gabriela Mendoza Mejía	• The report ascertained the location of the Sepur Zarco military post and each of its sections. • The report provides a view of the places where the victims indicated that they had been raped. • The kitchen and the latrine are very visible and frequented places from whose vantage point people could realize what was happening on the post. • It is difficult to imagine that no one would have known what was happening on the post, since the buildings, the kitchen and latrine, are close to one another. (Sentence C-01076-2012-00021, 2016, pp. 157-159)
7 Expert Reports on Forensic Anthropology by FAFG ⁵	• Skeletal remains were uncovered. • There are skeletal remains that present: injuries due to firearm projectiles; exposure to fire; and restraints on hands and feet. • Due to the position in which Dominga Coc's remains were found, it was determined that she was subjected to violence; the two pairs of underwear found next to the woman's body belonged to the girls Anita and Hermelinda. The other remains of clothes found there are those of an adult woman and two girls. • Due to the position and way in which the skeletal remains were found, it was

⁵ The expert witnesses were: Daniel Alonzo Jiménez Gaytan, Mynor Adan Silvestre Aroche, Jaime Enrique Ruiz Castellanos, Juan Carlos Gática Pérez, Renaldo Leonel Acevedo Álvarez, Jorge Luis Romero de Paz, and Oscar Ariel Ixpatá.

Evidence	Facts Proven
	ascertained that they were not buried by their family members. (Sentence C-01076-2012-00021, 2016, pp. 163, 166, and 178-180)

Proven facts	Evidence: Witness and victim testimonies (Sentence C-01076-2012-00021, 2016, pp. 204-263)	
• Their husbands were disappeared	Margarita Chub Choc Manuela Bá Carmen Xol Ical	Felisa Cuc Magdalena Pop
• Their husbands were taken to the military post in Tinajas	Rosa Tiul Candelaria Maas Sacul Cecilia Caal	Demecia Yat Vicenta Col Pop María Bá Caal
• Their husbands were filing for or requesting land	Margarita Chub Choc Candelaria Maas Sacul Cecilia Caal	Demecia Yat Felisa Cuc
• They were raped in one or more of the following places: at the Sepur Zarco military post, when it was their turn, at the river when they went to wash the military's clothes, and/or in their homes.	Manuela Bá Vicenta Col Pop Carmen Xol Ical Demecia Yat Felisa Cuc Magdalena Pop	Candelaria Maas Sacul Rosa Tiul María Bá Caal Cecilia Caal Margarita Chub Choc
• The military forced them to do the soldiers' laundry, cook food and make tortillas; several of them continued to do so even after leaving the military post.	Manuela Bá Rosa Tiul Vicenta Col Pop Carmen Xol Ical María Bá Caal	Cecilia Caal Demecia Yat Felisa Cuc Magdalena Pop
• The soldiers gave the victims contraceptive injections or pills to prevent pregnancies.	Manuela Bá Vicenta Col Pop	Carmen Xol Ical Demecia Yat
• The soldiers raped Dominga Coc, killed her and her two daughters, and then buried them on a riverbank.	Margarita Chub Choc Carmen Xol Ical	Demecia Yat Felisa Cuc
• The lieutenant Esteelmer Francisco Reyes Girón was the one who commanded the soldiers at the Sepur Zarco military post. • The commissioner Heriberto Valdez Asig was a municipal worker and had the power to command the National Police. He associated with the military.	Margarita Chub Choc	Carmen Xol Ical

With the witness testimonies by 11 victims and the 18 expert witness reports detailed in the charts above, in addition to two ballistic reports developed by Helder Romelio Ajquiy Carillo and Josué Benjamin López León, three photographic reports by Klaus Wilhelm Hengstenberg Morales, Luis Renato Mauricio Figueroa,

and Oskar Eduardo Aragón de Paz of the DICIRI, an economic expert report written by Rafael Eduardo Bran Paz, an expert opinion on reparations from a gender perspective by Dosia Calderon Maydon, an expert opinion on racism by Marta Elena Casaus Arzú, testimonies by 28 witnesses that confirm the facts stated by the victims, and a series of documents that include military plans and manuals, certifications issued by the National Defense Ministry and the General Archives of Central America, excerpts from the truth commission reports, and other indicators, the Sentencing Court considered it proven that the following crimes had been committed: crimes against humanity, in its forms of “sexual violence,” “sexual and domestic servitude,” and “humiliating and degrading treatment”; murder; and forced disappearance.

Anticipating that the defense might question the testimonies, the plaintiffs included the expert report “Analysis of International Credibility Standards in Cases of Human Rights Violations.” With this type of expert report and the historical events that occurred at the time of the crimes, it was shown that there was coherence among the testimonies and that the stories were not fabricated.

Regarding the crimes against humanity in the form of sexual violence against Rosa Tiul, Candelaria Maas Sacul, María Bá Caal, Manuela Bá, Felisa Cuc, Vicenta Col Pop, Margarita Chub Choc, Cecilia Caal, Magdalena Pop, Carmen Xol Ical, Demecia Yat, and Dominga Coc (who was later murdered), the Court considered that the Military Sociology Expert Study “is important in determining the context in which sexual violence occurred against the women of Sepur Zarco” (Sentence C-01076-2012-00021, 2016, p. 475).

The forensic architecture expert study was key, given the lack of official information from the Defense Ministry regarding the existence of the military post in Sepur Zarco. The expert created a computerized architectural model of the post based on reconnaissance and an understanding of the space through field visits, a compilation and analysis of the testimonies, the use of GPS technology, satellite images, photographic records, and documents. This model allowed the witnesses to virtually tour the area to facilitate their memories of relevant incidents, thereby reconstructing their testimonies in space. In this way, the specific places where the women were subjected to sexual violence and forced labor were pinpointed.

As the Court concluded, the reconstruction of the military post and the identification of the places where the violent crimes occurred against the women reveals that the systematic sexual violence to which they were subjected could not have happened without the public knowledge of the military officer in charge of the area, considering in addition that the measures and materials used to make the building amplified and reproduced sounds and allowed complete visibility of what was happening inside (Sentence C-01076-2012-00021, 2016, pp. 156-157). The Court noted that the Forensic Architecture Expert Report is “a scientific tool to demonstrate that, given the military post’s setup, it would have been ‘difficult for no one to be aware of the rapes of the women’” (Sentence C-01076-2012-00021, 2016, p. 475).

The Expert Report on Culture established that the systematic rapes against the women of Sepur Zarco “produced cultural breakdowns in the communities; this means that the rape and the forced servitude harmed the women themselves, their nuclear families...but also affected the entire community...” (Sentence C-01076-2012-00021, 2016, p. 476). The cultural expert worked with the survivors using a dream approach; according to Paula Barrios, this was opportune because “it gave another nuance to the cultural and linguistic issues” (Interview, Paula Barrios, 2016).

In analyzing the victims' testimonies, the Court established with certainty that they were indeed raped by soldiers from the Sepur Zarco post. The judges noted that they found common denominators in the women victims' testimonies: "They all began their stories indicating how their husbands were taken; then they indicated how the soldiers began to rape them... Their testimonies were consistent in noting that they were raped in their homes, at the post, and also at the river when they went to wash clothes" (Sentence C-01076-2012-00021, 2016, p. 485). Moreover, most of the victims testified that they received birth-control injections to prevent pregnancy.

Regarding the collaboration between the army and the military commissioners, based on the Expert Reports on Culture, Anthropology of Gender, and Military Sociology, the Court credited the assertion that: "In an eminently patriarchal society, in an isolated agricultural community such as Sepur Zarco was... the military authorities and the commissioners were entitled to have people at their disposal, especially women, as if they were objects" (Sentence C-01076-2012-00021, 2016, pp. 485 and 486).

With the Expert Reports on Historical Records and Military Sociology, the Court considered it to be proven that the majority of the disappeared men from Sepur Zarco were requesting legal land titles from the National Land Transformation Institute -INTA- (Sentence C-01076-2012-00021, 2016, pp. 486 and 488). The expert analyzed documents from the Property Registry, General Archives of Central America, and Agrarian Institutional Archives. Farmlands were concentrated in a few hands through legal fraud, with moves to divide up properties that ended up enlarging their holdings. Between 1960 and 1980, the State should have conducted a review of the files and land legalization processes. Inhabitants and representatives of each community decided to do just this. By doing this review, it would become clear that these lands were owned illegitimately, so the large landholders appealed to administrative and military powers in the area to demonstrate their dominion over the land, and over the men and women that they also considered to be their property, resorting to the already existing racism and sexual violence. Land lists thus emerged of representatives in every community who were involved in filing for land titles with the INTA; these were the people who were disappeared.

With the absence of men, who traditionally fulfilled the role of family protectors, the soldiers raped the women with total liberty, desecrating their bodies, as the Expert Report on Linguistic Anthropology explains, which caused moral damage to all of the victims, according to the Psychosocial and Forensic Psychiatry Expert Reports (Sentence C-01076-2012-00021, 2016, p. 486). The judges therefore concluded that the goal behind the rapes of the women was to "put a stop to the land requests" (Sentence C-01076-2012-00021, 2016, p. 489).

The judges considered that the victims', eyewitnesses', and expert witnesses' testimonies proved that the women were also "subjected to domestic slavery because during the time that they were forced to stay at the Sepur Zarco post, they were forced to cook and wash against their will. And even afterwards, when they were allowed to return to their homes, they had to take turns to go to the post to carry out those same activities, and there they continued to receive humiliating treatment and continued to be raped" (Sentence C-01076-2012-00021, 2016, p. 488). For the Court, these acts constituted crimes against humanity in the form of humiliating and degrading treatment.

In terms of the defendants' criminal guilt, the Court determined that Lieutenant Reyes Girón, as commanding officer of the military post, was aware of the suffering caused to the women of Sepur Zarco (Sentence C-01076-2012-00021, 2016, p. 490); this was proven through the Expert Reports on the Military and Military Sociology and through the testimonies of several witnesses and the victims themselves. Meanwhile, in terms of the women being subjected to rape and domestic slavery, neither Lieutenant Reyes Girón nor commissioner Valdez Asig can allege that such acts occurred outside of their control and command, because the lieutenant as head of the military post was responsible for his soldiers' acts, and the commissioner was aware of them (Sentence C-01076-2012-00021, 2016, pp. 491 and 492). Therefore, the conduct of both individuals fits within the criminal concept of crimes against humanity, whose doctrine encompasses **sexual violence, sexual and domestic servitude, and humiliating and degrading treatment** (Sentence C-01076-2012-00021, 2016, p. 492). To reach this conclusion, the Court considered national legislation and various international treaties, especially common article 3 of the Geneva Conventions that forbid war crimes during armed conflicts.

In terms of Lieutenant Reyes Girón's degree of guilt, the Court determined that he was a guilty as a perpetrator according to article 36 of the Criminal Code, sections 1 and 3; this is as a direct perpetrator (intellectual author) and as a necessary cooperator (participant). The same degree of guilt was assigned to commissioner Valdez Asig (Sentence C-01076-2012-00021, 2016, pp. 492 and 493), and each of them was sentenced to 30 years without parole. Although the Public Prosecutor's Office and the co-plaintiffs had requested that the defendants be assigned a jail sentence for each crime committed against each victim, the Court did not accept that, arguing that the object of the crime was the "civilian population" (Sentence C-01076-2012-00021, 2016, p. 494); this demonstrates the continuing need to overcome the criteria that the criminal concept of "crimes against humanity" is one sole crime, and not a "blank criminal law"⁶ that forbids war crimes and crimes against humanity in Guatemala.

The court accepted as proven the murder of Dominga Coc and her daughters Anita and Hermelinda, through two Forensic Anthropology Expert Reports, a photo album, and the remains that were found at the site where the mother's bones were exhumed, corroborated by several witness testimonies that indicated that the three people were killed by the military (Sentence C-01076-2012-00021, 2016, p. 497). Because the Sepur Zarco post was under the command of Lieutenant Reyes Girón, he was aware of what had happened, and therefore bears guilt as a perpetrator of the murder of the three people, as stipulated by section 3, article 36 of the Criminal Code. He was sentenced to 30 years in prison without parole for each murder, for a total of 90 years.

Regarding the crime of forced disappearance, through several witness testimonies and several expert studies, the Court credited as proven that it was a recurring practice in 1982 and 1983 at the military posts of Sepur Zarco and Tinajas (Sentence C-01076-2012-00021, 2016, p. 502).

Since the commissioner Valdez Asig was placed by several witnesses and the women victims at the time and place where the forced disappearances occurred against five adult men and two minors, the judges

⁶ This term was coined by Karl Binding in 1872; he defined it as "incomplete laws limited to setting a particular sanction, leaving to a different legal regulation the mission of complementing it by determining the precept, that is, a specific description of the penalized conduct" (Cited by Delgado A., 2012, p. 277).

determined that Heriberto Valdez Asig was the perpetrator of the forced disappearance of these seven people, in accordance with article 36, sections 1 and 3 of the Criminal Code. He was given a sentence of 30 years without parole for each crime, for a total of 210 years.

Although sexual violence, sexual and domestic slavery, and humiliating and degrading treatment as forms of crimes committed against humanity are not specified by the Court in the ruling part of their verdict, the explicit mention of these forbidden acts in the preamble of the verdict is an important breakthrough in terms of national jurisprudence, since they had never before been mentioned in a ruling issued in the framework of transitional justice.

b) Reparations measures

The ruling ordered series of reparations measures, the most important of which relate to land access for the Q'eqchi' women and the building of a health care center for the women and community of Sepur Zarco.

Reparations for grave human rights violations committed during the internal armed conflict have limits and challenges. Victims' organizations' movements have affirmed that the damage cannot be repaired (Impunity Watch, 2015b). It is impossible to "repair the irreparable" (Hamber in Crosby, & Lykes, 2011, p. 2). Thus, reparations measures are essentially symbolic or material. Hamber defines reparations as the psychological state in which victims feel that adequate actions have been taken to redress a wrongdoing that was committed (in Crosby, Lykes, & Caxaj, 2016, p. 269).

Victims of the internal armed conflict in general have made ongoing and regular demands for reparations. Since the National Reparations Program -PNR- was created, survivors of sexual violence have requested that the State grant them reparations measures. In a context of impunity for these crimes, this was a viable way for the State to acknowledge what had happened to them (Fulchiron, Paz, & López, 2009, p. 417). However, reparations measures for women in general have been limited (Impunity Watch, 2016, pp. 91-94).

According to previous investigations with survivors of sexual violence from the three regions where the Alliance works, one of the primary notions that they hold about reparations is linked to their leadership in processes that seek justice. Two other notions are linked to: their experience of loss and physical, psychological, and material damages that they suffered, as well as the loss of their husbands, houses, and harvests; and the recognition of the State's duplicity in having committed the crimes and then implementing integral reparations for them and for their communities (Crosby et al. 2016, p. 267).

To a certain extent, then, the trial process itself is healing, mainly by honoring and acknowledging their testimonies, their words, and their truth. The reparations measures requested in the Sepur Zarco case are the minimum that could contribute to a better quality of life for the women. According to Paula Barrios of MTM, "women's feelings were gleaned... [The reparations requests come from] a combination of direct victims and the analysis of women's living conditions since the armed conflict and currently."

According to the previous Special Rapporteur on Violence Against Women, its Causes and Consequences, Rashida Manjoo, "in many real-case scenarios, the dire poverty and destitution of victims implies that those basic services are what victims will inevitably prioritize, especially when they have no good reason – judging

by their experience – to expect that they will be able to access them on any other grounds” (Manjoo, R., 2010, para. 55).

On March 2, 2016, High-Risk Court A held a hearing for dignified reparations: “the reparations to which the victims are entitled involve restoring the rights affected by the crimes, which begins by acknowledging the victim as a person with all of their circumstances as a subject of rights against whom the crime befell” (Record of the Hearing on Dignified Reparations C-01076-2012-00021, 2016, p. 3).

The reparations include 16 measures that the State must fulfill in terms of health care, education, land, memory, and the training of security forces. Additionally, the defendants were ordered to provide economic compensation.

1. The Office of Public Prosecution -MP- must continue its investigations to determine the whereabouts of the people disappeared in Sepur Zarco and the surrounding area.

In terms of land and housing:

2. The State must continue the land titling process initiated by the disappeared people, via the institution that currently handles it;
3. Through the development committees in the communities of Sepur Zarco, San Marcos, Poombaac, and La Esperanza, projects should be granted to provide basic needed services to the communities and housing for the victims.

In health care:

4. The Public Health and Social Assistance Ministry must, in the medium term, build a health care center in the community of Sepur Zarco, supplied with all necessary medicines.

In terms of education, the Ministry of Education must:

5. Improve the infrastructure of the schools in the communities of Sepur Zarco, San Marcos, Poombaac, and La Esperanza;
 6. Build a bilingual middle school that guarantees the right to education to girls, adolescents, and women;
 7. Grant scholarships for the three schooling levels for the population of Sepur Zarco;
 8. Include textbooks on the Sepur Zarco women’s case in school curriculum.
9. The Ministry of Culture and Sports should develop cultural programs aimed at women in Sepur Zarco and their collective.

In terms of recovering historic memory:

- a) The Ministries of Education and of Culture and Sports must jointly:
 10. Create a documentary about the Sepur Zarco women’s case;
 11. Translate the verdict of the Sepur Zarco case to the 24 Mayan languages.

- b) The co-plaintiff organizations must:

12. Petition to declare February 26 the “day in honor of victims of sexual violence, sexual and domestic slavery”;
13. Conduct the necessary procedures with the Guatemalan National Congress related to the Forced Disappearance Law.

c) The municipality of El Estor, Izabal, must:

14. Build, in a year’s time, a monument that portrays the pursuit of justice by the women of Sepur Zarco.
15. The Defense Ministry, in its military training courses, must include the topics of women’s rights and legislation to prevent violence against women.
16. The Ministry of the Interior must coordinate security measures for the members of the plaintiff organizations, victims, and families.

For individual reparations, the court stipulated that:

17. Esteelmer Reyes Girón must pay the amount of five hundred thousand quetzales for each victim (11 women).
18. Heriberto Valdez Asig, by way of compensating for the damages incurred by the families of the seven disappearance victims, must pay two hundred fifty thousand quetzales for each victim.

Compliance with these measures can contribute to improved material living conditions for the women. Independent of the fact that the ruling is not firm, the State has the responsibility to guarantee at the very least health care, housing, and education for the population. The protagonists of this process long to see some of these measures implemented; to that end, working groups have formed at the community level and with different State institutions involved in the reparations ruling, in order to ensure follow-through.

One year after the ruling, one of the measures has been partially achieved: the creation of a mobile clinic where the military post of Sepur Zarco was stationed. As one of the Collective members affirmed, “This clinic is not only for us... This is not all that we want; we hope for more things to improve our situation, for us and for our grandchildren” (Radio program Maya Kat, 2017).

c) The impact of the process on the women of Sepur Zarco

From the outset, the women of Sepur Zarco were aware that pursuing justice would entail a long and difficult journey. It took more than six years in the justice system for the case to reach a verdict. However, the women had already waited over 30 years for justice to be done for what they had experienced. Fatigue and doubts about whether the justice system would respond were ever present; they often asked the MP “will we ever make it to trial someday after so many years... look at how long the case has been around” (Interview, Prosecutor Hilda Pineda, 2017).

Although they had already been participating in psychosocial support groups and training and empowerment processes before embarking on the pursuit of justice, and they had managed to tell and speak about what they experienced with other women, or even given testimony to the PNR, at the

community level they had shared their stories to little or no extent. Doubt and stigma against them were always present.

The guilty verdict gave women back the recognition of their voice, their history, and their dignity in their community. For the survivors, it meant that the State was acknowledging their truth:

“We felt happy to see that the court allowed us in, listened to us, especially us women, because we never thought that they would grant us that right or give us that space. We thank the judges who listened to us... Then I felt calm and at the same time I cried from the effort. I remembered those of us who were there sitting, watching, and listening. When we rejoiced the most is when the judge issued the ruling, because we fulfilled our struggle and I felt calmer because I heard how many years the culprits were sentenced to serve in jail. Because before they were sentenced we were not calm, but when we heard it or when I heard it I felt calmer knowing that they will pay for what they did to us.” (Interview, Demecia Yat, 2016)

When the verdict was announced, the women raised their arms and hands to salute the courtroom. When the trial ended, a group of people at the Human Rights Plaza outside the justice system building held a public, symbolic act to support the verdict. The women involved in the case watched from inside the Justice Palace through glass windows that look out on the plaza and, with their faces covered, waved at the people there. Back in Sepur Zarco, the women have regained their leadership status in the community for having achieved justice for the crimes occurred during the internal armed conflict and for promoting reparations measures that benefit the whole community.

Everyone interviewed who knows the women recognizes the change in them. In the words of Prosecutor Pineda, “It’s as though the credibility of the justice system has been rescued, so we see women who believe in the justice system. The State restores to them something of what it took away. It’s like restoring a part of the injury that was done to them... I also see them as happier now, more content.”

d) Political and social support

As indicated above, the case raised and awakened solidarity and interest among many social groups. Several sectors took on the messages, information, and interest in the case to share and disseminate further. There was also interest in the women themselves. “There was a ton of interest among social groups at a level that was hard to imagine... and they moved on many things that we ourselves didn’t exactly move. We did work that joined advocacy and communications...the task of sending and launching messages and information, and this also turned into a response by social sectors in the population” (Interview, Ada Valenzuela, 2016).

Different reactions, including statements by women’s and human rights organizations and international groups, expressed support for the case. Songs were written, such as *Mujer de Sepur (Woman of Sepur)* by Fernando López. A variety of people attended the trial: women, other victims of the internal armed conflict, members of national and international human rights organizations, women’s organizations, filmmakers,

artists, people from other countries who came to observe the case as it unfolded, and students from different universities.

Compared to other cases involving crimes committed during the internal armed conflict, this case had a more favorable reception in the media and society. According to Prosecutor Pineda, this is probably because the victims, who were also the plaintiffs, were Q'eqchi' Maya women, humble, monolingual, and elderly, who were facing former members of the armed forces within a justice system that has disparaged indigenous women. On the other hand, in the counter-insurgency discourse and the framework of war, the idea that "it is valid to attack the enemy" tends to prevail; yet it is harder to contend that it was valid to rape women, specifically Maya women who were widows living in poverty.

Sexual violence is a crime that continues to occur in women's lives across the world, during conflictive contexts and outside of them. Perhaps that is why the case received worldwide support from women: it is a problem that is close to home for many.

"I don't know if there is a woman in this country who can say that she has never felt harassment on the streets, in the workplace, in school, at the university, who can say that she has never felt what it is like to be sexually harassed... so we raised the issue of sexual violence as a crime of the past and the present, and this above all drew in Guatemalan women and men who are conscientious and have daughters or sisters who have been victims of violence. It made the case feel closer to home." (Interview, Ada Valenzuela, 2016)

Media coverage

The Sepur Zarco case received media coverage at every public event of the legal process, starting with the pre-trial testimonies in 2012, with widespread coverage once the oral public trial started on February 1, 2016.

In general, media coverage tended to be informative with case updates, even in some media outlets that had previously displayed stances opposed to women's rights, such as Canal Antigua. In January 2015, Sylvia Gereda, on her "Special Report" program in an episode entitled "The Sepur Zarco case: Sexual Violence or Legal Terrorism," questioned the women's testimonies and suggested that it was an "ideological" case that responded to social organizations' self interests. In February 2016, on that same channel, the program "At 8:45" dedicated the first segment of the show to the case, both on the first day of the trial and the day after the verdict. Both programs invited plaintiffs' representatives and a defense lawyer.

After the first day of public hearings, almost all media outlets published or covered the trial. Traditional media such as Prensa Libre, La Hora, Guatevisión, and Emisoras Unidas were at the trial every day, some with full-time staff broadcasting live. Independent and electronic media sources covering the trial included journalists from the Center for Independent Media, the feminist newspaper La Cuerda, Plaza Pública, Nómada, and Soy502.

National media tended to cover the case from an informative standpoint, in terms of news items and press reports; however, the opinion columns unleashed stances for and against the process. Likewise,

publications and commentaries on social media reflected views held by different sectors of Guatemalan society about the case.

The women of Sepur Zarco received support from national and international media during the trial, particularly towards the end. As mentioned earlier, diverse campaigns were carried out on social media to show support from society and women who identified with the Sepur Zarco women; for example, the campaign “For the brave women of Sepur Zarco” collected over 41,000 signatures via the cyber-activism platform Avaaz.

Some of the elements that garnered the greatest media coverage and reaction were the women’s use of shawls, the witness testimonies, and the reports of the skeletal remains in court. The image of the Q’eqchi’ women with their faces covered would become imprinted as the iconic image of the Sepur Zarco case. It would also, however, be used against the women to deny their testimonies’ veracity (Leuthard and Shetterly, 2016). Some feminists also questioned this measure, opining that these courageous women did not need to cover their faces, since they had already managed to tell what had happened to them in the past without hiding or concealing anything; they criticized the idea of victimhood within a justice system that “needs victims instead of people. The more beaten, weak, and vulnerable you appear to the judges, the better” (Hernández, 2016). This brings up a reflection about what it means to be women capable of reclaiming justice and rights, what it means for them to make their own decisions when faced with a justice system that lacks the means to protect them.

When the testimonies were presented, the press highlighted sexual violence as a constant factor in the Q’eqchi’ women’s lives and the suffering that they endured during the time period that they were confined to the military post. The murder of Dominga Coc and her two young children, Anita and Hermelinda, attracted the media’s attention since the adult’s skeleton was found with her daughters’ underwear.

Of all the expert reports that were presented, the press gave the most coverage to the forensic report due to the impact caused by the number of skeletal remains found together with bits of clothing and torture devices. Meanwhile, in social media and opinion columns, pro-military organizations and figures questioned this evidence for having been managed by FAFG rather than the National Forensic Science Institute of Guatemala -INACIF-.

The defense and opposition sectors tried to use their media and social networks to discredit the process and the women. On the first day of the trial, defense lawyer Moisés Galindo conspicuously attempted to impede the process by alleging a lack of impartiality and jurisdiction of the presiding judge and one member-at-large on the judges’ panel. However, his allegation was rejected. This act at the beginning of the hearing was used by pro-military figures and organizations to dub the process as illegitimate (Kaltschmitt, February 23, 2016).

In this same vein, as has occurred with other cases involving the internal armed conflict, the concept of human rights and the organizations that defend them were discredited in print media and social networks (Rodríguez, February 8, 2016). Under an erroneous concept of human rights, their content and application is twisted (Marroquín, February 7, 2016). Throughout the course of the trial, the Foundation against Terrorism, the Daughters of Guatemala Movement (Daughters of Military Members), and other pro-military

figures spread the idea that social media was being used to feed hatred of elderly members of the military who are now being “unjustly” judged (Republicanos Guatemala, February 28, 2016).

Since the Sepur Zarco case largely featured women as protagonists, gender-based violence was in evidence by way of insults and attacks in social media and opinion columns, such as labeling the plaintiff organizations as feminazis. Likewise, the judge Yassmín Barrios was criticized, and the women of Sepur Zarco were the most attacked.

Nevertheless, resounding support for the case prevailed overall in the media, and people from diverse sectors spoke out against the abovementioned accusations, claims, and attacks by the opposition sectors. On the day that the verdict was delivered, declarations against the ruling were inevitable, as were celebrations. In general, the trial was interpreted as a breakthrough for justice in Guatemala, a precedent with international significance, as was underscored in numerous opinion columns, and an opportunity that opens the way for other women who have suffered sexual violence in the context of war.

The surviving grandmothers of Sepur Zarco have paved the way for those who have endured and suffer these forms of patriarchal oppression. With their example, they have shown us from a place of adversity how to undertake the pursuit of justice so that the horrors never occur again. (Cofiño, February 27, 2016)

The importance of the trial in Guatemalan society was highlighted for opening up a series of questions about the foundations of society.

Their colorful shawls, like beautiful flowers, accompanied them in demanding an acknowledgement that *this should never happen to anyone, ever*, to ensure that *these crimes will not remain in impunity*. They are the strong ones, and we, the broken and fragile Guatemala that still has not figured out how to look at itself and recognize itself, to accept itself and begin to heal... They have bequeathed to us dignity instead of silence. (Cosenza, March 1, 2016)

e) International impact

Women’s, feminist, human rights, and transitional justice (TJ) organizations across the world followed and supported the case. The case was recognized as being historic: “It established precedents in terms of prosecuting sexual violence as a weapon of war using TJ mechanisms in national systems rather than the International Criminal Court which has been the primary focus to date. Moreover, it is the first case in which indigenous women achieved justice... It was a critical example of racialized gender-based violence” (Interview, Alison Crosby and M. Brinton Lykes). The case represents hope for women victims of this type of crime in the whole world and particularly in Guatemala.

Internationally, cases involving crimes of sexual violence committed in contexts of conflicts have primarily been tried in international military courts like the Tokyo Tribunal; the ad hoc tribunals for Rwanda, the former Yugoslavia, and Sierra Leone; or the Special Panels for Serious Crimes in East Timor and the Extraordinary Chambers in the Courts of Cambodia, created as support bodies in the United Nations

System. In Latin America, the Humanas Corporation of Colombia has brought individual cases of sexual violence committed during the conflict to the Colombian justice system.

As explained in the section of the previous chapter “Support and encouragement from the international community,” the networks and media outlets linked to human rights groups or agencies promoted international awareness of the case, especially through electronic and online media.

Various international organizations and agencies released statements when the verdict was announced. The Washington Office on Latin America -WOLA-, the Due Process of Law Foundation -DPLF-, the Guatemala Human Rights Commission -GHRC-, the Center for Justice and International Law -CEJIL-, Impunity Watch, and the Platform Against Impunity issued a joint statement congratulating “the High Risk Court A and the Public Prosecutor’s Office, especially the Human Rights Unit, as well as the Alliance to Break the Silence and Impunity – the concurring plaintiff in the case – for their valiant actions to ensure that the law is complied with” and hailing the women of Sepur Zarco (WOLA, 2016). The Office of the United Nations High Commissioner for Human Rights issued a statement highlighting UN experts’⁷ satisfaction with the verdict: “We commend the courage and the crucial role played by women in this justice seeking process, which has established an important precedent for all women victims of violence, past and present... Without the unwavering commitment of these victims, this trial and the historic step towards truth and justice would not have been possible” (OHCHR, 2016).

Meanwhile, Nobel laureate Williams declared, “These 15 women bravely told their stories to ensure that future generations of Guatemalans will have access to justice... Around the world, women are watching because wars are still being fought on women’s bodies. This case is an important step in ending the nearly complete impunity for such horrific crimes” (Nobel Women’s Initiative, 2016).

⁷ The experts were Mr. Juan E. Méndez, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Mónica Pinto, Special Rapporteur on independence of the judiciary; Michel Forst, Special Rapporteur on the situation of human rights defenders; Urmila Bhoola, Special Rapporteur on contemporary forms of slavery, including its causes and consequences; Pablo de Greiff, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence; Eleonora Zielinska, Chair of the Working Group on the issue of discrimination against women in law and in practice; Dubravka Šimonović, Special Rapporteur on violence against women, its causes and consequences; Victoria Tauli-Corpuz, Special Rapporteur on the rights of indigenous persons, Christof Heyns, Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Working Group on Enforced or Involuntary Disappearances.



The community of Sepur Zarco one year after the sentence.

Final Thoughts and Lessons Learned

The Sepur Zarco trial set a historic precedent for women's struggles against sexual violence and for justice for internationally significant crimes. Applying strategic litigation in this case was undoubtedly successful and managed to impact Guatemalan society and the international community by acknowledging the use of sexual violence in the internal armed conflict. In the ongoing movement to promote access to justice for the many other victims of sexual violence, a case like this presents lessons, achievements, and challenges useful for other cases in Guatemala and around the world.

The implementation of strategic litigation in this case represents a watershed for developing TJ cases. Moreover, the application of strategic litigation, whose aim is to transform the legal system, social mentalities, and the protagonists' lives, is already being incorporated into the work of the Alliance organizations.

First of all, the victory in this case is the result of the resistance, resilience, and courage of the Q'eqchi' women who decided to undertake the pursuit of criminal justice. They were enhanced by 15 years of psychosocial support and the strength, coordination, and synergies of several Guatemalan civil society organizations. The case represents a significant breakthrough for women's justice as well as a learning experience for the organizations involved. The women's involvement throughout the entire process contributed to decision-making and to meeting the needs that exist in their context. They were involved before, during, and after the verdict. As an example of their ongoing leadership roles, they are now part of the working groups for implementing the reparations; this has been important because the reparations will be enacted to benefit them and their communities (ECAP, 2017).

The psychological preparation and the human rights training that the women from Sepur Zarco engaged in made their participation in the case more active. It allowed them to transform from victims to plaintiffs. The final result with the conviction was a task achieved by many different parties, in which the voice and decisions of the Q'eqchi' women resonated always.

For the victims of sexual violence, this case above all shows that it is possible to move forward, not only in terms of lawsuits but also by appropriating the actual justice process itself in which they can be plaintiffs and circumvent the confining role of victimhood.

I remember so well when I began to participate in these groups. I would shake a lot. I could not talk. I could not stay still; I felt that my body was shaking. But little by little I lost this fear, and now I know that I have this right. I am a woman who can decide and speak for herself. (Interview, E06, 2016)

For ECAP, "the psychosocial work should be comprehensive and should be provided before, during, and after the hearings. Psychosocial work has seldom been valued, since the impact that it generates is internal. However, when it follows an action plan designed to achieve people's goals, it produces positive results. In the Sepur Zarco case, the impact on the Q'eqchi' women's mental health is noticeable. They are women

who have changed from victims to survivors, empowered women in the struggle, as well as subjects of rights. The whole process has helped make them women who are sure of themselves and who struggle for a collective project to achieve justice. At each stage in the process, it has been critical that the women be the protagonists and that the work center on their demands and needs” (ECAP, 2016).

Legally, the Sepur Zarco case generated jurisprudence and a standard for evidence. Cases involving sexual violence in situations of internal armed conflict can be envisaged and prepared in different ways, integrating testimonies as pre-trial evidence as a way to safeguard them, developing groundbreaking expert reports in the absence of information that would otherwise support the evidence, such as the Forensic Architecture Expert Report, for example. The ways in which the expert witness reports complemented the women’s testimonies were key in establishing that they were victims of sexual violence and in proving the crimes even though 30 years had passed. They showed that it is not necessary to have a clinical DNA test. The predominant mentality in society is that after such a long time there is no “physical proof” of rape. This case showed that sexual violence can be prosecuted, even after so many years, and that the murderer of a woman and her two daughters can be convicted even without having the bodies (Interview, Rubí Hernández, 2016).

In this sense, the path that the women in Sepur Zarco opened sets out the next steps for women to follow in the country and around the world to access justice. The Sepur Zarco case, and everything it entailed in achieving a conviction, was certainly not easy, yet, as the women say, it was necessary; and now there is space for women and girls who have suffered sexual violence to be able to demand justice. Moving individually and collectively towards dignified reparations, the history of this society can be written and rewritten. This case provides a concrete example for others who pursue justice to follow.

One of the challenges of the criminal process relates to establishing the chain of command. “Even though the case prosecuted individuals instead of the nation-state, the trial was an important piece in achieving a measure of accountability for these crimes” (Interview, Alison Crosby and M. Brinton Lykes, 2017). Also, although the defendants were not part of the high command in executing and planning the crimes, they were individuals close to the women. For the women, it meant sitting in front of the perpetrators who had been in the community and acknowledging them as the most direct culprits (Interview, Paula Barrios and Jennifer Bravo, 2016). It will be necessary to undertake additional investigations; and it is necessary to understand the long-term effects of the trial, both healing and otherwise.

In terms of the ruling, it is important to strengthen the mechanisms for judges to go beyond the criteria that the criminal category of “crimes against humanity” entails one crime only rather than a blank criminal law, as demonstrated by the fact that Court did not accept the request by the MP and the co-plaintiffs to order a jail sentence for each crime committed against each victim, arguing that the subject affected by the crime is the “civilian population.”

The Sepur Zarco ruling is a critical breakthrough for national jurisprudence by explicitly mentioning in its preamble that sexual violence, sexual and domestic servitude, and humiliating and degrading treatment constitute forms of crimes against humanity. Although they are not specified in the sentencing part of the ruling, this is the first time that such crimes have been mentioned in a verdict related to TJ.

Building national and international alliances was key to the case's success. The multidisciplinary work in alliances "is central to achieving the diverse strategies proposed in advancing transitional justice cases; within those, ethical values are paramount in practice as these formations of alliances create synergies, all of them with the intent of accomplishing and accompanying the women and men who entrusted their life histories with the organizations to bring the cases to the final stage. Also, by respecting and acknowledging the contributions of other significant entities to reach results, divisive practices are left behind" (ECAP, 2017).

This case was also distinguished by being comprised of women: with Q'eqchi' women as protagonists, women prosecutors, women judges, women lawyers, women psychologists, and women accompaniers. Throughout the process this also served to challenge the social mentality about women in the aggregate. Building alliances among women continues to be a challenge, as relations of power between women are also marked and intersected by patriarchy and racism. Centering the discussions among women on a common goal gives rise to reflections on the relationships between diverse women.

(...) We all got involved in the trial, in the whole process, and taking this strength, this women's strength, this struggle, allowed us to grow. (Interview, Jennifer Bravo, 2016)

To the extent that TJ cases are implemented through a strategic litigation approach, spaces for reflection and social interaction can be generated to achieve cultural changes, as well as pedagogical lessons for youth and children who do not know this history. In fact, youth involvement is key in violence prevention and non-repetition guarantees. Establishing clear messaging within the communications strategy allows outreach with sectors that are perhaps unaware of these issues; this includes messages that dismantle the normalization of violence.

This also presents a challenge when presenting expert witness reports, testimonies, and other evidence at the hearings. For example, the plaintiffs had built a logical order for the expert witness reports to be presented; they did so for the sake of the court, while also viewing it as an educational experience for the population and the media. However, the judges' panel determined the order in which the evidence would be presented, which did not coincide with the plaintiffs' structured logic. As Paula Barrios explained, due to the criteria of judicial independence, the judges have the power to determine in which order they will receive evidence. It would be important to broaden courts' perspective beyond the criminal proceedings in order to recognize the value that public trials hold for pedagogy, communications, and education.

This case set a standard for dignified reparations. However, the three member organizations of the Alliance consider that the reparations could be improved and further worked in order to build and promote reparations measures that are more focused on guarantees of non-repetition. That means moving towards actions, policies, and programs that improve women's living conditions which are violated by sexual violence and violence against women and ensuring that these crimes be minimized and prevented. In the end, the Q'eqchi' women's central objective is that no other woman suffer what they suffered. "No woman, in any part of the world, should be subjected to any kind of slavery. Neither domestic slavery or sexual slavery should be tolerated by society. No girl should experience sexual violence" (Valenzuela, 2016).

It is known that many other women have been victims of sexual violence and other types of violence, and neither they themselves nor the justice system has the capacity to respond to each case. This case therefore reminds us of the manifold challenges faced by the need to identify other processes that could be implemented in communities to confront the effects of racialized violence and to support the pursuit of justice and reparations beyond the court system. It is also crucial to focus on indigenous ways of knowing and acting, rather than orienting efforts on a Western-centric understanding of justice; and this should be headed by indigenous communities themselves, with the support of their allies (Interview, Alison Crosby and M. Brinton Lykes, 2017).

Impunity in cases of sexual violence and violence against women during the internal armed conflict furthers the prevalent violence against women and girls in the post-conflict period and the present. To the extent that justice prevails and impunity wanes, a firm step is made towards women's human rights. The Public Prosecutor's Office maintains "the prosecuting unit's commitment to continue with its investigation processes that are opening doors. Sepur Zarco opens doors; it opens doors to other legal processes involving sexual violence and other cases that relate to transitional justice, cases that took place during the internal armed conflict" (Interview, Fiscal Hilda Pineda, 2017).



*Artistic Youth for the Memory of the Polochic Valley and the Sierra de las Minas –AWINELEB-
This is a results of ECAP's work with the youth.*

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Impunity Watch is a Netherlands-based, international non-profit organization seeking to promote accountability for atrocities in countries emerging from a violent past. IW conducts research into the root causes of impunity that includes the voices of affected communities to produce research-based policy advice on processes intended to enforce their rights to truth, justice, reparations and non-recurrence. IW works closely with civil society organizations to increase their influence on the creation and implementation of related policies.

The programme “Tackling Violence against Women beyond Borders: Burundi, Guatemala & Liberia” is implemented by a consortium composed of OxfamIbis and Impunity Watch. It aims to promote a life free from violence and as active citizens for women, adolescents and girls. By empowering women as change agents, fostering greater awareness of gender equality and women’s rights, while enhancing the prevention and response to violence against women by public institutions and regional and international authorities, it seeks to address unequal gendered power relations through a transformative approach. The programme is financed by the “Funding Leadership and Opportunities for Women” (FLOW) fund set up by The Netherlands Ministry of Foreign Affairs.