

Pam Yates's *Resistance Saga trilogy*, *Skylight Pictures: When the Mountains Tremble* (1983); *Granito: How to Nail a Dictator* (2011); *500 Years* (2017).

Genocide in Guatemala?

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Latin America leads the world in jailing and prosecuting its presidents, often before the end of their terms. This energizes the opposition but demoralizes voters, who stop believing that the winner of the next election will be any different. Putting presidents on trial is how Skylight Pictures and its director, Pamela Yates, begin and end the latest of their three documentary films on human rights in Guatemala. The 2013 conviction of ex-president Efraín Ríos Montt, for genocide against the country's Ixil Mayas thirty years before, opens *500 Years*. The film ends with the 2015 resignation of President Otto Pérez Molina, who is still awaiting trial for corruption. Both

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are retired generals, in a country where army officers used to hold life-and-death power over their fellow citizens. I am among the many who never expected such a day to come.

Yates's first film about Guatemala came out of freelancing for U.S. television networks at the height of army massacres in 1982, when Central America was ablaze with insurgency and counterinsurgency. Over six months, she and her colleague Tom Sigel were able to film the Guatemalan army, the guerrillas, and the civilians whose loyalty each side demanded. Back in the U.S., with support from the Public Broadcasting Service, Yates, Sigel and their editor Peter Kinoy added archival footage to create *When the Mountains Tremble* (1983). By this time, the revolutionary movement had been decimated and many supporters gave it up for lost, but not Yates and her colleagues, who remained loyal to its assumptions and predicted that it would triumph. In this they were wrong, but they managed to tell a captivating story about the war and its origins, which is why I still show it to my college classes.

Yates's second film about Guatemala, *Granito: How to Nail a Dictator* (2011), championed the campaign to indict Ríos Montt for

genocide against the Mayas. Judging from the attention it got in Guatemala, *Granito* may have helped convince Guatemalan prosecutors that they could make this indictment stick. That was no forgone conclusion. No living figure divides Guatemalans as fiercely as this now senile army officer who, in 1982, became Latin America's first born-again Protestant dictator.

Now often forgotten is the predecessor he dislodged, General Romeo Lucas García, under whom the security forces had lost all restraint. Installed by a junior officers' revolt, Ríos Montt pledged to stop police and army abuses, which did diminish in urban areas. He also made all government employees swear in public, "I will not rob, lie or abuse." Most importantly, it was under his manic, finger-wagging moralism that the army broke the back of the guerrilla movement. It did so with a new civic action strategy that, contrary to his assurances, continued to kill large numbers of presumed guerrilla supporters.

Despite this record, Ríos Montt's soldier-of-God persona impressed enough Mayan voters that, when he sought to make an electoral comeback in the presidential elections of 1990, 1995 and 1999, he was the clear favorite of this part of the electorate. Many indigenous peasants seemed to view him as a protector of law and order, though he was kept off the ballot each time by a constitutional

ban. Only after 1999, when his political party captured the presidency with another man at the helm and set new records for corruption, did his righteous image fade.

Indictments for human rights abuses were not part of the 1996 peace accords between the government and the National Guatemalan Revolutionary Union (URNG). The URNG was responsible for many fewer extra-judicial killings than the army, but its comandantes-for-life had been in authority for decades, in contrast to army officers who rotated through combat units for short periods. That made them liable for war-crimes. And so guerrilla comandantes and army generals agreed to a mutual amnesty. This self-preserving deal outraged the large human rights wing of the Guatemalan left; some NGO leaders were former guerrilla cadres who had lost too many near and dear to army torturers to consent to amnesty. And so human rights groups recruited forensic teams to exhume unmarked graves. Over the last two decades, they have unearthed the remains of nearly six thousand people.¹

The first of two truth commissions, conducted by the Catholic hierarchy, debated whether to call this genocide and decided it needed further study. The second truth commission, the UN-sponsored Commission for

¹Fundación de Antropología Forense de Guatemala. <https://www.fafg.org/bd/> (accessed February 27, 2018).

Historical Clarification (CEH), went with genocide. Playing into this decision was a startling extrapolation. Based on sampling techniques by statistician Patrick Ball, CEH concluded that the death toll from 1962 to 1996 was “more than 200,000,” far higher than previous estimates. Journalists and solidarity activists now echo the 200,000 figure as an authoritative, documented minimum and use it to project even higher numbers. In actuality, it is a very high-end estimate because it is 6.7 times the 23,671 victims of arbitrary executions and 6,159 victims of forced disappearances that the commission could actually document.

Emboldened by the 200,000+ claim, CEH concluded that “the reiteration of destructive acts, directed systematically against groups of the Mayan population” and including “the elimination of leaders and criminal acts against minors who could not possibly have been military targets, demonstrates that the only common denominator for all the victims was the fact that they belonged to a specific ethnic group and makes it evident that these acts were committed ‘with intent to destroy, in whole or in part’ these groups.”²

From 1981 to 1983, CEH concluded, the army committed “acts of genocide” against four of the country’s twenty-two Mayan language groups. One of the four consisted of the Ixil Mayas, some of whom had joined the Guerrilla Army

of the Poor (EGP). The army reacted by burning down virtually all Ixil villages; massacres and hunger killed at least 5 percent of the population.³ Many of the survivors joined evangelical churches, and the three Ixil towns elected Ríos Montt candidates into the 2000s. Ixils were also the group from whom the 2013 genocide prosecutors recruited most of their witnesses.

Following the 1996 peace accords, human rights campaigners obtained indictments against more than a dozen army officers and other senior officials. None of the others aroused as much anger as Ríos Montt. Although he presided over the army’s war machine for only seventeen months, and although admirers thought he had saved them from the unpredictable rampages of the preceding regime, he symbolized the army victory like no one else.

For more than a decade, the judicial cases against Ríos Montt, his predecessors and successors seemed to go nowhere. Even in Spain, where the campaign was welcomed by activist judges, close examination revealed a serious problem. If under international law a genocide conviction requires the

²“Guatemala Memory of Silence, Report of the Commission for Historical Clarification, Conclusions and Recommendations.” https://www.aaas.org/sites/default/files/migrate/uploads/mos_en.pdf (accessed February 27, 2018).

³Memoria Del Silencio. “Metodología Intermuestra,” 238. https://www.plazapublica.com.gt/sites/default/files/tomo_12_anexo_iii_documentos_de_la_comision_para_el_esclarecimiento_historico.pdf accessed (February 27, 2018).

“intent to destroy, in whole or in part” a racial or ethnic group, where exactly was proof of intent? Proving intent is a serious additional burden for prosecutors, which is why genocide is so much harder to prove than war crimes or crimes against humanity. There was plenty of evidence that the army had slaughtered entire non-resisting villages. But where was evidence that the army sought to exterminate Mayas as an ethnic or racial group? Yes, army commanders habitually vowed to exterminate subversives, but they did not vow to exterminate the civilians they had rounded up to listen to their rants. Instead, army commanders conscripted these reluctant assemblies into their counterinsurgency militia, the civil patrols. This is how the army cut off the civilian population from the guerrillas and won the war.

In 2009 Yates hit upon proving genocide as the best way to fund her next film about Guatemala. A Spanish judge was taking testimony from survivors of army massacres, but to indict for genocide he needed a missing link: proof of intent to exterminate an ethnic or racial group. Could Yates search the outtakes for *When the Mountains Tremble* to see if Ríos Montt or other army officers had ever incriminated themselves? This, then, became the quest narrative for *Granito: How to Nail a Dictator* (2011). Typical of any quest, this one went up some blind

alleys. The outtakes failed to reveal anything that wasn't already in the first film, key scenes from which Yates replays in *Granito* without casting new light on the problem: e.g., Ríos Montt claiming to be in complete control, or a soldier admitting that, if people show up on the list of suspected subversives, they are as good as dead.

Half way through *Granito*, with considerable drama, Yates rolls out what she claims to be the missing link: army files about Operation Sofia, a July 1982 offensive in Ixil country. One of many such offensives, Sofia's only claim to fame is that 359 pages of its radio traffic and operation reports came into the hands of Yates's colleague Kate Doyle, director of a Washington, D.C. human rights campaign called the National Security Archive. Could Sofia provide the missing link? On camera, Doyle makes much of the fact that, according to the Sofia documents, the army had a command structure with information flowing back and forth from the field. This is news? The Sofia documents also show that, like Doyle and Yates, the army accepted at face value the EGP's grandiose claims to represent the Ixil Maya population.

As for army orders to kill noncombatants, the Sofia cache provides nothing. Nowhere has anyone found army directives to kill noncombatants. Either this sort of thing was never put into writing or

it was destroyed before it fell into the wrong hands. Sofia troops do report killing 21 people in eight different encounters. They describe most of the victims as Local Irregular Forces (FILs), the EGP's civilian militia. They also acknowledge the death of two women and a baby during a firefight with guerrillas seeking to protect fleeing noncombatants.⁴ Last but not least, the Sofia documents describe the army capturing more than 300 refugees, just before another 238 refugees from the same area fled from EGP territory to army territory. Such events are how the army regained control of most of the Ixil population, but they do not appear in *Granito*.

Despite the lack of evidence for genocide, Yates was now financially committed to deliver a movie on this theme. Perhaps this was why she now committed an error that, if she had been working for a television network or newspaper, could have ended her career.

In May 1982 the army helicoptered Yates and her colleague Tom Sigel to what it said was a massacre by the EGP. A hamlet called Batzul had disobeyed the EGP's orders to abandon their homes and flee to an EGP-controlled zone. Instead, the

Batzulenses had obeyed the army's order to join its civil patrol. One morning before dawn, men dressed as soldiers rushed into the settlement and ordered the civil patrollers to fall in. As soon as they did they were all butchered. When Yates and Sigel arrived to film the seventeen bodies, they interpreted a survivor's comment to mean that this was actually a massacre by soldiers, not guerrillas. And so, when they turned their footage into the culminating scene of *When the Mountains Tremble*, they presented it as an army massacre.

Fifteen years later, EGP commanders admitted that Batzul had been committed by their own forces. Both truth commissions gave this confession the prominence that it deserved. Yet in 2011, as Yates cast about for how to strengthen *Granito*, she decided to replay her Batzul footage, now as proof of Ríos Montt's genocide of the Mayas. Worse still, *Granito* shows her impressing Judge Santiago Pedraz of the Spanish National Court with the footage, which means that she was now presenting false evidence in a legal proceeding.

Two years after *Granito* appeared, during a visit to Ixil country, I came across a friend who reminded me that he was a Batzul survivor. He expressed shock at seeing the murder of his father and uncle being blamed on the army. He also expressed the wish to correct the record. I helped him

⁴Kate Doyle, Operation Sofia: Documenting Genocide in Guatemala, Electronic Briefing Book No. 297 (Washington, DC: National Security Archive, 2009), <https://nsarchive2.gwu.edu/NSAEBB/NSAEBB297/index.htm>, accessed February 27, 2018.

communicate with Yates, who arrived to interview him as well as the other survivor whose 1982 remark she had misconstrued.

What was Yates's explanation? Somehow, she said, she had not connected the Batzul massacre in two truth commission reports to the massacre that she and Sigel had filmed. Yet Batzul was just a few kilometers from Chajul, a town Yates knew well because she also filmed there. That she could be so ignorant of such a pivotal location in two of her movies is hard to believe. A retraction and apology now appears on the website of Skylight Pictures, but it continues to market the two documentaries to new audiences without warning that a key scene blames a guerrilla massacre on the army.⁵

The title of Yates's third film, *500 Years* (2017), refers to the last five centuries of Western colonialism in the Americas. Its most compelling footage is Ríos Montt's trial for genocide. He sits at the front of the proceedings in a wheelchair, with expressions that might include shock, sorrow, or shame, as a hundred mainly Ixil witnesses provide the most horrifying weeks of testimony ever heard in a Guatemalan courtroom. With her head buried deep in her

shawl, a woman wails that soldiers "opened my legs forcefully and with great strength." Judge Yassmín Barrios reproves Ríos Montt's lawyers before they storm out. All of this takes place in an amphitheater packed with hundreds of spectators, who leap to their feet when Judge Barrios reads the guilty verdict and pumps her fist in the air.

The imagery of this trial, shot by other filmmakers as well as Yates's crew, was beamed around the world as it deserved to be. For some Guatemalans, the ones ably represented by *500 Years*, this was a triumph of justice. For other Guatemalans who are not so well represented, it was a kangaroo court. They preferred to believe Ríos Montt's claim to innocence: "I never authorized, never signed, never proposed, never ordered an attack on a race, ethnicity, or religion."

For anyone who believes in command responsibility for war crimes—the concept used to hang Axis leaders after World War II—Ríos Montt is a plausible candidate for prosecution. True, his claim to control the officer corps is belied by the fact that it soon threw him out of power. True, massacres of entire villages did stop after December 1982, half way through his time in the presidential palace. But the daily processing of guerrilla suspects, including not just their capture and interrogation, but their torture and

⁵Public Broadcasting Service. POV's Documentary Blog. <http://www.pbs.org/pov/blog/povdocs/2014/12/our-ethical-dilemma-nuestro-dilema-tico/> (accessed February 27, 2018).

execution, continued under his and succeeding administrations, into the early 1990s. That pattern alone could lead to a long prison sentence, and not just for him.

According to *500 Years*, the genocide conviction expressed the will of the Mayan people. The film includes no footage of the chartered busses that, outside the courtroom, disgorged five hundred or so Ixils who protested “there was no genocide,” as well as “I am Ixil and I want to testify.” True, they were assembled and transported by non-Ixil organizers. But the Ixil witnesses against Ríos Montt were also assembled and transported by non-Ixil organizers. After the verdict, when I snowball-sampled 45 Ixils in the town of Nebaj, twenty approved of the genocide verdict, fourteen did not, six leaned toward disapproval, and five were either neutral or did not care to respond. In the 1980s and 1990s I had heard many Ixils attribute their survival to Ríos Montt, on the grounds that he had ended the massacres of the previous regime. So I was impressed by how many now agreed with the genocide paradigm.⁶

Optimism about the future is extremely rare among Guatemalans. So I was impressed by the final two-thirds of *500 Years* as a warm contrast to the prevailing gloom. History may take half a millennium to turn, an

⁶David Stoll, “Guatemala: Hubo Genocidio?,” *Contrapoder*, December 6, 2013, <http://sites.middlebury.edu/dstoll/files/2018/01/Contrapoder-ERM-2013.pdf>

impressive collection of Guatemalan activists tell Yates, but it is finally doing so. Her protagonists show how one local movement stops an environmentally destructive gold mine; another stops an equally ominous open-pit mine; and still another blockades the Pan-American Highway, to protest corporate mining and hydroelectric projects. What nobody in the film talks about are job creation strategies, which is a shame given how many Guatemalans are preoccupied by lack of employment and living wages.

Yates concludes with the 2015 resignation and arrest of President Otto Pérez Molina. Thirty-three years before, as a young army major, Pérez replaced an openly homicidal predecessor as the army’s commander among the Ixils. Protagonists in the film accuse him of village massacres, but I have yet to see evidence of such events under his command. What he did preside over was the scaling down of extra-judicial killings, but not their end, as I’ve learned from Ixils who tell me of relatives who were taken away by his soldiers and then turned up dead.

Later, as a general, Pérez prevented the constitution from being suspended by a civilian president who, ever since, has been holed up in Panama as a fugitive from justice. After Pérez was elected president in 2011, he called for global decriminalization of drugs to save struggling countries like his own from being destabilized by the U.S.

war on drugs. When he was forced from office and jailed in 2015, it was for the same kind of pay-off pipeline, up to the highest level, that has produced indictments against four preceding presidents.

Footage of the massive demonstrations that ended Perez's administration closes out *500 Years*. These were organized not by any established political party, but by the kind of social media activists whom Yates showcases. Most are young, many are women, they seem to be fearless, and they deserve the wider audience that Yates is giving them. Sadly, Guatemalans hoping to reclaim their country have been unable to wrestle the electoral process away from drug traffickers, other big-money donors, and the usual gallery of upper-class options. Two decades after the guerrillas laid down their arms, the Guatemalan left consists of small factions vying for support from international donors. In the absence of any compelling candidate, the 2015 presidential election was won by a television comedian, who took office without a program and is now facing an indictment over campaign financing. A substantial

share of the Guatemalan congress is facing similar indictments, so it has voted to strip such offenses of penal consequences.

Through all this, government prosecutors continue to indict retired military officers, with the help of an international commission against criminal impunity. In 2016, a former base commander and a military commissioner were sentenced for the sexual enslavement of Q'eqchi Maya women and the disappearance of their husbands. The following year, five retired officers were indicted for the 1981 disappearance of a fourteen-year-old boy and the rape of his sister. One of these men, along with seven other retired officers, is also being indicted for what exhumation teams have found underneath an army base that they used to command: clandestine burials of at least 558 people. The eight are being charged with crimes against humanity and war crimes, not genocide, obviating the need to document their intent or state of mind. As for Ríos Montt, owing to procedural errors that invalidated his 2013 conviction, he is still on trial for genocide. Perhaps this is not the best way to bring him to account.