

Access to Information for Victims of Mass Atrocities in Latin America

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In recent decades, declassified US government documents have been increasingly used for purposes of understanding the abuses perpetrated by authoritarian governments in twentieth-century Latin America. Because the US government held close diplomatic relationships with various repressive regimes and frequently provided financial and military support to their counterinsurgency campaigns, US archives contain abundantly detailed records relating to atrocities, including forced disappearance, torture, arbitrary imprisonment, mass killings, and genocide. In recent years, such records have played key roles in attempts to secure justice for victims of such crimes in Peru and Guatemala. Until now, however, their use has been largely confined to attorneys, historians, and expert witnesses in legal proceedings. This article offers insights from work conducted by the University of Washington Center for Human Rights to broaden access to information by sharing declassified US documents directly with victims of mass atrocities committed in the context of El Salvador's armed conflict.

Declassified US Government Documents

Under US law, records generated by agencies of the US federal government are required to be preserved through a process overseen by the National Archives and Records Administration and can be made accessible to the public upon request under the terms of the 1966 Freedom of Information Act (FOIA). Declassified US government documents provide a vital window into the workings of government and have been used effectively by journalists, policy advocates, and researchers of all stripes. For scholars, especially historians, these documents offer a rich primary source of data about government activity.

For those of us who research human rights in twentieth-century Latin America, declassified documents can be a particularly important source of information, given the relationships that existed between the US government and various regimes of the region. Although the past decade has seen a proliferation of access to information legislation throughout the world, and some countries (most notably, Argentina and Guatemala) do have open archives that contain some of their governments' records on Cold War abuses, in many cases access to the records of Latin American governments pertaining to these abuses remains limited or nonexistent. This makes US records an important surrogate, as well as, of course, a vital key to understanding the role played by the US government in relation to these abuses.

The United States government itself has recognized at times that its records may contain important keys to societal accounting for historical abuses in Latin America. For example, under Bill Clinton the US government released large caches of records on Guatemala and El Salvador, originally intended to bolster the work of UN-sponsored truth commissions investigating the armed conflicts in those countries. Under Barack Obama, a related commitment was made to the government of Argentina on the occasion of the 40th anniversary of the coup that ushered in that country's dirty war; this led to a lengthy declassification process that concluded under Donald Trump with the release of 7,035 records issued directly to the government of Argentina.

At the same time, access to US records relevant to this topic remains severely limited, for at least three reasons. First, there is no single process for identifying and accessing documents that have already been declassified as a result of previous

researchers' requests or mass document releases like those referenced above. While the process of declassification renders the document no longer secret, it does not necessarily make it readily available to the public. The National Archives is tasked with providing access to such records, yet perusing its collections is cumbersome and costly. There is no single repository for all US government documents that have been declassified, and even finding out whether a given record exists can be exceedingly complicated. Some private companies like ProQuest and GALE have compiled proprietary databases of documents on certain topics, but for researchers from institutions who lack the resources to pay for access to such tools, and certainly for the overwhelming majority of Latin Americans whose histories may be referenced in such records, they are simply not accessible. (This also raises important questions about the ethics of profit-making by selling access to public documents.)

Second, despite the declassification of thousands of records, *most* US documents relating to Latin American abuses of the latter half of the twentieth century still remain secret. While anyone—US citizen or not, from within the country or abroad—is legally entitled to request the declassification of additional documents under FOIA, the process is lengthy, can be costly, and requires more expertise than is immediately apparent upon reading the brief requirements.

And third, even when one obtains documents, the value of what they contain is not necessarily obvious. They're in English, first of all, a limiting factor for many in Latin America. Many still contain large portions of redacted text, concealing key information. Most cables and telegrams contain codes that must be deciphered. And beyond codes, interpreting their full content requires some understanding of US foreign policy and the circumstances in which they were generated. From a human rights point of view, the fact that they were written by agents of the very government often bankrolling abusive regimes presents another problem: they frequently reproduce the very language through which opposition movements were delegitimized and civilians defined as military targets. To avoid replicating the discourse of state terror—at precisely a time when movements

to rehabilitate it are newly ascendant in some countries—declassified US documents must be carefully and critically contextualized.

As a result of these multiple barriers to access and understanding, the US Freedom of Information Act has produced limited dividends for those grappling directly with legacies of abuse in Latin America. For the most part, the use of US government documents remains confined to small circles of historians, lawyers, and expert witnesses in human rights proceedings. While victims' advocates have used declassified documents as evidence in judicial trials against perpetrators of atrocities, the documents themselves have not typically been shared directly with the victims, presumably for several reasons. The access barriers noted above are augmented for this population: many have limited years of formal schooling and would require substantial technical assistance in deciphering documents; attorneys and expert witnesses may be concerned about leaking evidence they anticipate using in court, or fear that the content of the documents themselves could contribute to revictimization.

History of This Project

Since the conclusion of the internal armed conflict in El Salvador in 1992, efforts to address its legacies and provide truth, justice, and reparations for its victims have delivered fewer dividends than similar transitional justice efforts in other Latin American countries. While the UN Truth Commission for El Salvador produced landmark findings at the time—it estimated that some 75,000 civilians had been killed in the conflict, some 5,000 forcibly disappeared, and it highlighted select cases it defined as paradigmatic¹—it did not attempt a systematic accounting of all crimes, and its conclusions were based on a scant three months of research. Its impacts were limited, too; the report was delivered in New York, and any effort to seek justice it might have spawned was promptly buried by a sweeping amnesty law passed just days after the report's release, with the acquiescence of both sides of the conflict.² As a result, for decades Salvadoran human rights movements focused less on efforts to pursue legal accountability for atrocities than did their counterparts in other

countries, though victims were indefatigable in their demands for truth and reparations. As of this writing, there are signs this may be changing: in the wake of the 2016 overturn of the amnesty law by the constitutional chamber of the Salvadoran Supreme Court, a small number of cases are finally wending their way through the Salvadoran justice system, though political actors have made multiple attempts to derail this process by introducing new amnesties.

In 2011, in response to requests from Salvadoran human rights advocates, the University of Washington Center for Human Rights embarked on a process of seeking and sharing information from US archives about abuses from the conflict era. This work is conducted in partnership with Salvadoran human rights organizations that include grassroots organizations of survivors and family members, legal advocates, and specific victims and their families; initially, many approached us seeking information that might assist them in locating the disappeared or understanding the circumstances of a loved one's final moments. Over time, and with the assistance of FOIA experts Kate Doyle and Emily Willard at the National Security Archive, we built a system whereby US university students research cases reported to us by Salvadoran victims, gather existing declassified documents, and solicit the declassification of additional documents using FOIA, eventually translating and sharing all information received with the requestors during periodic trips to El Salvador. To date, our team has filed over 600 FOIA requests of eight different federal agencies. In 2015 we became the first university to sue the CIA under FOIA, a process we repeated in 2017 against the DOD and in 2019 against the CIA a second time. Taken together, these efforts have resulted in the declassification of 514 documents amounting to thousands of pages.

Given the depth of US involvement in the conflict in El Salvador, we initially hoped that our research could yield concrete findings that might contribute to breakthroughs in long-stagnant investigations, giving answers to families for whom the truth had been denied for decades. As our work progressed, however, we realized that US documents typically offer but glancing mentions of specific victims or incidents, not the "x marks the spot" that we'd

hoped to find. This was disappointing, even though through this process we began amassing a trove of contextual documents that make it possible to knit together a far richer picture of the military and political context in which abuses took place.

We also found that in our conversations with victims and their families—conversations I always opened with an apology for what I assumed would be disappointing results—most victims expressed enormous, even inordinate, gratitude for our work. We came to realize that against the backdrop of decades of denials and silence, even scraps of information were significant to families. Although the documents seldom contain answers to victims' most urgent questions about the ultimate fate of individual loved ones, the contextual information they provide about counterinsurgency campaigns can be useful in validating victims' experiences and in dispelling long-standing sources of ongoing suffering. For example, the documents speak powerfully to questions of national military strategy, and to the scope, scale, and intentionality of military incursions into specific territories, in ways that may help alleviate feelings of "survivors' guilt" by making it abundantly clear that there was nothing individuals could have done to avoid being targeted, or to spare their loved ones. While being stigmatized as "subversives" is not new to most survivors, having the opportunity to confront such logics openly and to correct the record by responding to the documents on their own terms—in a supportive environment, rather than the high-stakes setting of a witness stand during criminal proceedings—can be empowering.

Ultimately, the process of encountering the documents has often proved as important as their specific content. Many families told us that the fact that researchers and students from a major US university had asked them what they wanted to know from US government files, then tasked ourselves with finding answers in the archives or demanding them from our government, felt like a small but significant recognition of their right to truth. For many, this was an all too rare affirmation that their experiences deserve to be taken seriously, even this many years later.

For this reason, we have continued our commitment to never declining a request brought to us by victims, and always filing FOIA requests on their behalf, even in cases we believe are unlikely to yield documents; likewise, we always provide them access to any materials we obtain. And through an agreement with the University of Washington Libraries, we also make all documents declassified to us publicly available for free on the Internet; to permit maximum access, they are full-text searchable and can be located with a simple Google search.

At the same time, we take seriously concerns about the potential of the documents to revictimize those who have already suffered greatly. Most US government documents reflect attitudes of the Salvadoran counterinsurgency apparatus, itself trained by the US government to wage war against the internal enemy, and the documents identify some victims as “terrorists” and “subversives.” Using euphemisms (such as the need to “neutralize” targets) and omissions (most discussions of military campaigns neglect to mention civilian casualties altogether) they justify the very logic that led to the death and disappearance of so many. Because of this, we sought advice from multiple psychologists about the best way to respond to victims’ requests for information from declassified documents, and ultimately concluded that best practices should grant victims full access to the documents they seek, while at the same time providing that information in the context of long-term psychosocial support rather than one-off requests and deliveries of documents. At present, working in partnership with psychologist Sol Yañez of the Universidad Centroamericana José Simeón Cañas, we are seeking to measure the psychosocial impact of using documents in this manner to promote truth and healing in specific survivor communities. We look forward to sharing the empirical findings from this project in due time.

In the meantime, however, this process has opened up new ways of understanding our mission as a research university, and new possibilities for the involvement of Latin American victims, US-based undergraduate and graduate students, and faculty in a collaborative process from beginning to end. For whom is the knowledge we produce? Who are

the “experts” and to whom are they accountable? We believe the potential uses of this method vastly outstrip our own capacity to do this work, and we encourage other researchers to join us in exploring these questions.

Notes

- ¹ See Buerghenthal (1994) and Hayner (1996).
- ² For more on this see Martínez Barahona, Gutiérrez Salazar, and Rincón Fonseca (2012); and Collins (2008).

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