

THIS WEEK

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Justice for all

The US government must not wriggle out of paying compensation to the victims of horrific experiments in Guatemala in the 1940s.

The US Department of Justice is trying to persuade a court in Washington DC to throw out a lawsuit filed last year by the survivors of shameful 1940s experiments in Guatemala that were funded by the US government. More than 1,300 Guatemalans, almost all of them poor or otherwise vulnerable, were intentionally exposed to the diseases syphilis, gonorrhoea or chancroid without their consent. The experiments also took blood and cerebrospinal fluid from 5,128 adults and children, again with no consent. Of those infected, unknown numbers contracted the diseases and died; others suffered for decades, in some cases infecting their spouses or their children (see *Nature* **482**, 148–152; 2012).

US President Barack Obama, Secretary of State Hillary Clinton and Secretary of Health and Human Services Kathleen Sebelius were quick to issue public apologies when news of the heinous experiments on prisoners, prostitutes, orphans, soldiers and patients with leprosy or mental illness broke in 2010. Obama also asked his bioethics commission to investigate. It issued a damning, 200-page report last September.

But when lawyers for the victims asked US Attorney General Eric Holder to set up a claims process that would meaningfully compensate the survivors, they hit a wall of silence.

So in March 2011, they sued senior officials at agencies including the National Institutes of Health in Bethesda, Maryland, and the Centers for Disease Control and Prevention in Atlanta, Georgia, asking for compensatory and punitive damages. These agencies and others funded and oversaw the Guatemalan experiments in the name of science 65 years ago.

In a court filing last week, the US government reiterated a stance that it first took in January: that the court should throw the case out because government officials are shielded from lawsuits that arise from actions taken in the course of performing their jobs, and because current officials cannot be held responsible for the acts of their predecessors decades ago.

The United States may be in the right, legally. It can be argued that no one would work for the government if they could be sued every time their actions, never mind those of their predecessors, had a negative impact on a member of the public. But the government is in the wrong, morally, in refusing to find a way to compensate the survivors. These people and their families have borne decades of pain, misery and poverty on the heels of experiments called “reprehensible” in a joint statement by Clinton and Sebelius, and for which Obama, in a personal phone call with the Guatemalan president, expressed his “deep regret”.

These apologies will ring hollow until officials establish a compensation fund that is outside the court system. (The courts could take months or years to reach a conclusion in this case, and time is of the essence: already, one of the elderly plaintiffs has died since the lawsuit was filed.)

There is plenty of precedent for reparations for unethical medical experimentation. The United States paid US\$37,500 and lifetime

health benefits to each living survivor of the Tuskegee syphilis experiments, which involved 399 poor African American tenant farmers in Alabama. Those US-funded experiments left the syphilis-infected farmers untreated between 1932 and 1972.

In 1996, the US government paid \$4.8 million in compensation for injecting 12 people, most of them hospital patients being treated for unrelated illnesses, with plutonium and uranium in the mid-1940s. Those compensated included one survivor and 11 family members

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of deceased victims. And earlier this year, a task force in North Carolina recommended that victims of that state’s forced-sterilization programme, which ended in 1974, each receive \$50,000.

There is a compelling moral case that the US government — a continuous institution since the time of the horrific Guatemalan experiments — owes reparations to the

Guatemalans affected. Senior officials clearly recognize this: the day after the Department of Justice first asked the court to throw out the case, the Department of Health and Human Services announced that it would spend \$775,000 to prevent and treat sexually transmitted diseases in Guatemala. It pledged another \$1 million to evaluate the effectiveness of changes being made to the way human subjects are protected in medical experiments.

These measures are necessary, but not sufficient. The administration must find a way to put money in the pockets of those who paid the highest price for these evil acts — and quickly. If it cannot, or will not, Congress should step into the breach. Justice demands no less. ■

No shame

The handling of results suggesting faster-than-light neutrinos was a model of fitting behaviour.

If the public learned one thing about physics last year, it was that a particle had been found that might travel faster than the speed of light. Most people were probably vague about what the particle was, but they seemed to grasp the significance. The Universe’s speed limit was in doubt, and anything might be possible. The result, announced by scientists at the OPERA neutrino experiment in Gran Sasso, Italy, may have been wrong, but the message conveyed about science was not. Late last month, following a vote of no-confidence in their leadership, OPERA’s two top scientists resigned. Yet both men, along with the rest of the collaboration, can hold their heads high.