



FREEDOM IN THE WORLD 2020

Guatemala

PARTLY FREE

52

/100

<u>Political Rights</u>	21 /40
<u>Civil Liberties</u>	31 /60

LAST YEAR'S SCORE & STATUS

53 /100 **Partly Free**

Global freedom statuses are calculated on a weighted scale. See the methodology.



Overview

While Guatemala holds regular elections that are generally free, organized crime and corruption severely impact the functioning of government. Violence and criminal extortion schemes are serious problems, and victims have little recourse to justice. Journalists, activists, and public officials who confront crime, corruption, and other sensitive issues risk attack.

Key Developments in 2019

- Outgoing president Jimmy Morales attempted to unilaterally shut the UN-backed International Commission against Impunity in Guatemala (CICIG) in January, but his effort was halted by the Constitutional Court. CICIG closed when its mandate expired in September.
- Alejandro Giammattei was elected president in August after defeating former first lady Sandra Torres in a runoff; he will take office in 2020. In September, Torres was arrested for underreporting contributions for her 2015 presidential bid; her case was continuing at year's end.
- In July, Guatemala signed an agreement with the United States that forces asylum seekers traveling through the country to apply there first. The first asylum seeker forced to travel to Guatemala under the agreement was sent from the United States in November.
- In September, the government declared of a state of siege in the northeast, after three soldiers died in a clash with drug traffickers. Freedom of movement and assembly were restricted, and authorities raided an indigenous radio station before the declaration expired in November.

Political Rights

A. Electoral Process

A1 0-4 pts

Was the current head of government or other chief national authority elected through free and fair elections?	2/4
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The constitution stipulates a four-year presidential term, and prohibits reelection. In the August 2019 runoff, Alejandro Giammattei of the Vamos party won 58 percent of the vote, defeating former first lady Sandra Torres of the center-left National Unity for Hope party (UNE). Giammattei will replace outgoing president Morales, whose term ends in January 2020. While the results were judged as credible, Organization of American States (OAS) electoral observers noted irregularities including disturbances, ballot burning, voter intimidation, and acts of violence; monitors reported seven election-related murders.

The campaign was also marked by successful efforts to disqualify several presidential candidates and by threats of violence. National Change Union (UCN) candidate Mario Estrada was disqualified after he was arrested on charges of drug trafficking in the United States in April 2019; prosecutors alleged that Estrada sought the Sinaloa drug cartel's support and conspired to assassinate political rivals. Fuerza party candidate Mauricio Radford was barred over an ongoing corruption case that same month. Zury Ríos, the Valor party candidate and daughter of former dictator Efraín Ríos Montt, was barred in May because of a legal provision that bars members of his family from holding office.

Former attorney general Thelma Aldana, who pursued a high-profile corruption case against former president Otto Pérez Molina (2012–15), was barred in April and lost a Constitutional Court appeal in May. Aldana, who later fled to the United States after receiving threats, claimed she was targeted by those she investigated. Electoral crimes prosecutor Óscar Schaad fled Guatemala days before the first round in June 2019, after he and his family were threatened; Schaad resigned in November.

Score Change: The score declined from 3 to 2 because several presidential candidates were disqualified shortly before the first round of elections, including a

candidate who accused of plotting acts of violence against political rivals; another candidate and a prosecutor were also threatened with violence during the campaign, resulting in a less fair contest.

A2 0-4 pts

Were the current national legislative representatives elected through free and fair elections?

3/4

Members of the unicameral Congress, which will expand from 158 seats to 160 when it sits in 2020, are elected to four-year terms. Legislators were elected in June 2019, concurrently with the first round of the presidential election and 340 mayoral races. The UNE won 53 seats while Vamos, whose presidential candidate won the runoff, won 16 seats. The UCN won 12. The remaining 79 seats were split between 16 parties; none of them won more than 10 seats.

The June 2019 election results were deemed credible, but observers noted irregularities, disturbances, and threats of violence. The electoral board of the town of San Jorge resigned after receiving death threats, and elections were not held in city according to OAS monitors. Results in four other locations were nullified by the Supreme Electoral Tribunal (TSE) because of violent incidents; races in these five locations were rerun in August. The TSE also declined to hold runoff contests in the municipality of San Mateo Ixtatán after 10 of its workers were assaulted.

Election monitors received complaints from female officeholders and candidates who consistently reported discrimination. No specific legislation exists to protect women from political violence.

A3 0-4 pts

Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies?

2/4

Authorities and lawmakers in recent years have taken some steps to address the lack of transparency in party financing and to prevent illegal party financing—both of which were serious problems in the 2015 polls. In 2016, the legislature approved electoral reforms that included stronger oversight of parties’ financial disclosures, regulation of paid publicity of campaigns, and stronger oversight and sanctioning powers for the TSE. The 2019 elections were the first to be held under the new system, but the implementation of these reforms was incomplete.

Electoral reforms enacted in 2016 included a provision to restrict the practice of switching party affiliation, or *transfuguismo*, for legislators. However, OAS election monitors reported that this provision was inconsistently applied during the 2019 elections; some candidates who belonged to different parties than the one that nominated them were rejected before the TSE overruled those decisions.

B. Political Pluralism and Participation

B1 0-4 pts

Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings?

3/4

Political groups and organizations generally operate without encountering legal restrictions. However, new groups sometimes face bureaucratic delays from the TSE when attempting to register.

Elections take place within an inchoate multiparty system in which new parties are frequently created. New parties that lack resources and infrastructure face disadvantages in gaining broad support. A historic lack of party finance regulations has allowed some candidates and parties access to vast resources.

B2 0-4 pts

Is there a realistic opportunity for the opposition to increase its support or gain power through elections?

3/4

Elections at the national and local levels are competitive, and new parties routinely gain significant quotas of power. Guatemalan politics are unstable and power rotates between parties frequently, which can discourage a traditional opposition from coalescing. Political candidates risk attack during campaign periods; Spanish news agency EFE reported that at least 10 candidates were killed in the run up to the June 2019 elections.

B3 0-4 pts

Are the people's political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means?

2/4

Verbal harassment and physical violence against voters are common during elections, and can deter political participation. Weak campaign finance regulations have historically permitted lopsided financing of candidates, as well as financing of candidates by special interests and organized criminal groups, distorting the political choices of citizens. Presidential candidate Estrada, who was arrested in the United States, was accused of promising cabinet positions to the Sinaloa drug cartel in return for their support. Observers reported that armed groups and criminal organizations attempted to sway the results of some local races.

Groups of military veterans also sought to influence the popular will during the 2019 campaign, threatening an election boycott and violence if their demands for pension payments were not met. In early June, the agricultural ministry relented by diverting \$5.5 million from a grant program to veterans.

Direct vote buying is also common.

B4 0-4 pts

Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities?

2/4

Minorities struggle to fully exercise their political rights. While as much as 60 percent of the population is indigenous, only one indigenous presidential candidate ran in 2019.

Women are underrepresented in politics, though small women's rights groups, mainly those working on addressing violence against women, have some visibility in the political sphere. Outgoing president Morales had only one woman in his cabinet in 2019, while President-elect Giammattei named two female ministers by year's end. Only 19.38 percent of the incoming Congress is female.

The first openly gay man to enter Congress, Aldo Dávila, was elected in 2019, but political opportunities remain rare for the LGBT+ community.

C. Functioning of Government

C1 0-4 pts

Do the freely elected head of government and national legislative representatives determine the policies of the government?

2/4

The elected government and legislature determine government policies, but they are frequently subject to influence by outside interests. The outgoing president's party, the National Convergence Front (FCN), was established by former military officials, and Morales's association with them raised questions about military influence in his administration. President-elect Giammattei also maintains connections to former military officials.

Recent investigations of electoral and party finance corruption have shed light on the influence of nonelected and illicit groups over the government.

C2 0-4 pts

Are safeguards against official corruption strong and effective?

1 / 4

Corruption, which is often related to organized crime, remains a serious problem. The CICIG and the attorney general have pressed forward with investigations of high-level officials in current and past administrations, but authorities and lawmakers have repeatedly attempted to undermine their work.

President Morales warned that he would not renew CICIG's mandate in 2018 after it petitioned to lift his immunity, and barred Commissioner Iván Velásquez from returning to Guatemala from a trip abroad that year. In January 2019, Morales tried to unilaterally end the agreement that governed CICIG and ordered its international staff to leave Guatemala. While the Constitutional Court overruled Morales later that month, Velásquez and 11 investigators were not allowed to return to the country. CICIG operations ended in September, after its mandate was left unrenewed. Since its departure, judges, prosecutors and civil society actors have been threatened with reprisal for their support of CICIG's work.

September 2019 also marked the indictment of presidential runner-up Sandra Torres; prosecutors and CICIG alleged that she did not report \$3.6 million in political donations during her 2015 run. Her case was still continuing at year's end.

C3 0-4 pts

Does the government operate with openness and transparency?

1 / 4

Public information offices frequently fail to publish data about public expenditures as required. The Law on Access to Information is poorly enforced, and dedicated

nongovernmental organizations (NGOs) continue to file grievances over its nonapplication and, together with the Office of the Human Rights Ombudsman (PDH), work to encourage the government to adhere to its provisions.

The government's contracting and budgeting processes are opaque and racked with corruption. CICIG continued to investigate violations and called for reforms until its mandate expired, but the political will to implement these recommendations is lacking.

Civil Liberties

D. Freedom of Expression and Belief

D1 0-4 pts

Are there free and independent media?	2/4
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While the constitution protects freedom of speech, journalists face threats and self-censor when covering sensitive topics including drug trafficking, corruption, organized crime, and human rights violations. Threats come from public officials, illicit actors, the police, and individuals aligned with companies operating on indigenous lands. Physical attacks against journalists occur regularly. Journalists have reiterated demands that the government implement a protection program that was agreed to in 2012, but no progress has been made.

Congress approved a state of siege declaration in six northeast departments in September 2019, after three soldiers were killed in a clash with drug traffickers. Authorities used the declaration to raid the office of indigenous radio station Xyaab' Tzuultaq'a in Izabal Department later that month. No reason was given for raiding

the station, which stopped transmitting via radio when the siege was declared but continued operations online.

D2 0-4 pts

Are individuals free to practice and express their religious faith or nonbelief in public and private?

4/4

The constitution guarantees religious freedom, and individuals are free to practice and express their religious faith or nonbelief in practice.

D3 0-4 pts

Is there academic freedom, and is the educational system free from extensive political indoctrination?

3/4

Although the government does not interfere with academic freedom, scholars have received death threats for questioning past human rights abuses or continuing injustices.

D4 0-4 pts

Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution?

2/4

Many Guatemalans take precautions when speaking about social and political issues outside of their homes due to a high level of insecurity in the country. Journalists and human rights defenders reported incidents of harassment and surveillance throughout 2019. This stepped-up surveillance, along with increased intimidation and harassment of perceived opponents of the government, has encouraged greater self-censorship among ordinary citizens.

E. Associational and Organizational Rights

E1 0-4 pts

Is there freedom of assembly?	2 /4
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The constitution guarantees freedom of assembly, but this right is not always protected. Police frequently threaten force, and at times use violence against protesters. Protests related to environmental or indigenous rights issues have been met with harsh resistance from the police and other armed groups.

The September 2019 state of siege declaration suspended freedom of assembly, instituted a curfew, and granted broad powers for authorities to detain individuals in the northeastern reaches of Guatemala until it expired in November. Indigenous communities that were devastated by the 1960–96 civil war and land rights advocates in the region were especially affected.

E2 0-4 pts

Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work?	2 /4
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The constitution guarantees freedom of association, and a variety of NGOs operate. However, groups associated with human rights, indigenous rights, and environmental rights face violence and criminalization of their work. The Unit for the Protection of Human Rights Defenders in Guatemala (UDEFEQUA), an NGO, registered 3 killings, 5 attempted murders, and 361 attacks against human rights defenders from January to July 2019; 28 criminal complaints against defenders were filed during this period.

In February 2019, legislators considered an amendment to the law governing NGOs that would narrow their legal scope, introduce a more difficult registration process, and restrict their ability to receive foreign funding. The bill was still pending at year's end.

E3 0-4 pts

Is there freedom for trade unions and similar professional or labor organizations?

2/4

Guatemala is home to a vigorous labor movement, but workers are frequently denied the right to organize and face mass firings and blacklisting. Trade-union members are also subject to intimidation, violence, and murder, particularly in rural areas. Labor laws obstruct union membership and impeded strikes.

F. Rule of Law

F1 0-4 pts

Is there an independent judiciary?

2/4

The judiciary is hobbled by corruption, inefficiency, capacity shortages, and intimidation of judges, prosecutors, and witnesses, both by outside actors and influential figures within the judiciary. However, the Constitutional Court demonstrated independence in several rulings in 2019, including its January decision to stop President Morales from halting CICIG activity. However, Morales's continued public attacks against the court, and consistent refusal to comply with court rulings, raised concerns about attacks on the judiciary's independence.

In July 2019, several legislators filed a legal motion against three Constitutional Court magistrates after they temporarily suspended deliberation of the National Reconciliation Law amendment; the proposal would have offered amnesty for

crimes committed during the civil war. This was the third attempt to lift their immunity ahead of possible impeachment proceedings.

Corruption also affected the process to select new Supreme Court and appellate court judges, which began in July 2019. The nominating committee responsible for finalizing the list of candidates, which included individuals suspected of connections to criminal groups, shortened the length of time available for reviewing applications and watered down the vetting process. In September, the Constitutional Court ordered the process restarted, citing irregularities, but new magistrates remained unselected by year's end.

F2 0-4 pts

Does due process prevail in civil and criminal matters?

1 / 4

Due process rights are guaranteed in the constitution, but those rights are inconsistently upheld, due in part to corruption in the judiciary and an ineffective police force in which many officers routinely violate the law and the rights of citizens. Access to justice remains difficult, especially for the indigenous community. Conviction rates are low.

In 2018, the interior minister implemented measures that weakened the independence and professionalism of the police, including the removal of senior officials and detectives without due process or justification. Promotions were also granted to personnel who, according to some experts, did not meet the required qualifications.

Disciplinary action was taken against several judges in 2019, in apparent retaliation for their rulings on sensitive cases related to corruption and human rights abuses.

F3 0-4 pts

Is there protection from the illegitimate use of physical force and freedom

2 / 4

from war and insurgencies?

High levels of violence, kidnappings, and extortions at the hands of the police, drug traffickers, and street gangs continue, with related fears and risks routinely affecting the lives of ordinary people. The link between the state, politicians, the military, and illicit actors complicates a cohesive response to the country's security challenges. Despite these challenges, the homicide rate dropped for the tenth straight year; the police reported 3,578 homicides in 2019, down from 3,881 in 2018. Prison facilities are grossly overcrowded and rife with gang and drug-related violence and corruption. Prison riots are common, and are frequently deadly.

Efforts to bring perpetrators of past human rights abuses to justice continued in 2019, but progress was mixed. In April, evidentiary hearings were held against seven former members of the civil defense patrols (PACs) who were charged with crimes against humanity for engaging in sexual violence against 36 Maya Achí women during the civil war. In June, a month after one defendant died, the judge ruled there was insufficient evidence to send the remaining six to trial; the ruling was condemned for the exclusion of key evidence, and the judge was removed in September. However, progress was made in indicting officers suspected of committing crimes against humanity and genocide during the war. Three members of the military high command were indicted in November 2019 and a retired army general was indicted in December.

In January 2019, Congress began considering the amendment to offer amnesty for civil war-era crimes; it would release those awaiting trial on such violations. A third reading was held in August, despite a Constitutional Court order to suspend debate in July, but the bill failed to pass.

F4 0-4 pts

Do laws, policies, and practices guarantee equal treatment of various segments of the population?

1 / 4

Equal rights are guaranteed in the constitution, but minorities continue to face unequal treatment. Indigenous communities suffer from high rates of poverty, illiteracy, and infant mortality. Indigenous women are particularly marginalized. Discrimination against the Mayan community is a major concern.

LGBT+ people face discrimination, violence, and police abuse and are unprotected by legislation. The PDH has stated that people living with HIV and AIDS also face discrimination.

The constitution prohibits discrimination based on gender, but women continue to face gender-based inequality; women are usually paid less for their labor than men, and sexual harassment in the workplace is not penalized.

In July 2019, the government signed an agreement with the United States that forces migrants passing through Guatemala to claim asylum there first. Despite heavy criticism from civil society actors, the first asylum seeker to be sent from the United States under the agreement arrived in November.

G. Personal Autonomy and Individual Rights

G1 0-4 pts

Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education?

3/4

While there are no permanent restrictions on free movement, violence and the threat of violence by gangs and organized criminal groups inhibits this right in practice, and has prompted the displacement of thousands of people. Residents living in the northeast saw their freedom of movement restricted in September 2019 due to the two-month state of siege.

G2 0-4 pts

Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors?

2/4

Protections for property rights and economic freedom rarely extend beyond Guatemalans with wealth and political connections. Access to land is especially limited for the indigenous community and for women in particular. Business activity is hampered by criminal activity including extortion and fraud. An inefficient state bureaucracy, rife with unclear and complicated regulations, also contributes to difficulties in establishing and operating a business.

G3 0-4 pts

Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance?

2/4

Physical and sexual violence against women and children remains high, with perpetrators rarely facing prosecution. The homicide rate for women in Guatemala is triple the global average. The law permits abortion only when a pregnancy threatens the life of the woman. In 2017, a decree banned marriages for children under the age of 18, though the law is not effectively enforced. Guatemala had the fourth-highest rate of teen pregnancy in Latin America in 2019.

G4 0-4 pts

Do individuals enjoy equality of opportunity and freedom from economic exploitation?

1/4

The indigenous community's access to economic opportunities and socioeconomic mobility remain limited, with more than 70 percent of the indigenous population

living in poverty. Guatemala has one of the highest rates of child labor in the Americas, with over 800,000 children working in the country. Criminal gangs often force children and young men to join their organizations or perform work for them.



On Guatemala

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Country Facts

Global Freedom Score

52/100 Partly Free

Other Years

2019

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