



U.S. DEPARTMENT of STATE

Guatemala

Country Reports on Human Rights Practices - [2007](#)

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Guatemala is a democratic, multiparty republic with a population of approximately 13 million. On November 4, in elections generally considered by international observers to be free and fair, Alvaro Colom of the National Unity of Hope (UNE) party won a four-year presidential term, scheduled to begin in January 2008. While civilian authorities generally maintained control of the security forces, there were instances in which members of the security forces committed illegal acts, including human rights abuses.

Although the government generally respected the human rights of its citizens, serious problems remained. Human rights and societal problems included the government's failure to investigate and punish unlawful killings committed by members of the security forces; widespread societal violence, including numerous killings; corruption and substantial inadequacies in the police and judicial sectors; police involvement in kidnappings; impunity for criminal activity; harsh and dangerous prison conditions; arbitrary arrest and detention; failure of the judicial system to ensure full and timely investigations and fair trials; failure to protect judicial sector officials, witnesses, and civil society representatives from intimidation; threats and intimidation against journalists; discrimination and violence against women; trafficking in persons; discrimination against indigenous communities; discrimination and violence against gay, transvestite, and transgender persons; and ineffective enforcement of labor laws, including child labor provisions.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

Although there were no reports that the government or its agents committed any politically motivated killings, members of the police force committed a number of unlawful killings. Corruption, intimidation, and ineffectiveness within the police and other institutions prevented adequate investigation of many such killings, as well as the arrest and successful prosecution of perpetrators.

As of August the National Civilian Police (PNC) and its Office of Professional Responsibility (ORP) reported that they had investigated 29 accusations of killings involving PNC personnel. The investigations determined that PNC personnel were responsible for the deaths in 16 cases. The ORP found that the PNC was not responsible in three cases, and 10 cases remained under investigation.

On February 19, three Salvadoran Central American Parliament (PARLACEN) members and their driver were kidnapped, and fatally shot, and burnt in a vehicle. Four members of the PNC Criminal Investigation Division (DINC) were arrested as suspects, and incarcerated in El Boqueron maximum security prison. On February 25, the four DINC suspects were found stabbed and fatally shot inside the prison.

On October 18, pursuant to a request by the Public Ministry, a judge in Santa Rosa dismissed for lack of evidence the case against 16 prison guards accused of facilitating the February 25 killings at El Boqueron Prison. At year's end the director and deputy director of El Boqueron, as well as 13 alleged gang member inmates, remained in custody in connection with these killings. Several police officers with alleged ties to narcotrafficking in Jutiapa were arrested in connection with the PARLACEN killings. Although the Public Ministry implicated Congressman Manuel Castillo in the killings, Castillo was elected mayor of Jutiapa in September. At year's end courts stripped him of his mayor-elect and parliamentary immunity. The Tenth Court issued an arrest warrant for Castillo, but he remained at large.

On March 14, the Public Ministry charged 10 PNC officers in the alleged extrajudicial killing of Antonio de Leon Lopez in Huehuetenango during a January 26 antinarcotics operation. The PNC arrested nine of the officers, who at year's end remained in custody. The 10th officer remained at large.

On September 25, PNC officers Wilson Tobar Valenzuela and Sabino Ramos Ramirez, who served as bodyguards to PNC Director General Julio Hernandez Chaves, were arrested and detained for the alleged September 21 unlawful killings of five men in Guatemala City. The police officers arrived at the scene in a police vehicle and reportedly arrested the five victims, who were alleged gang members, four of whom had criminal records. Their bodies, with gunshots to the head, were later found in an empty field. On September 26, Minister of Government Adela de Torrebiarte called for PNC Director General Julio Hernandez's resignation due to the alleged involvement of his staff in the killings. Hernandez resigned the same day.

In September the Public Ministry reported that no charges were filed and the case was closed against police inspector Marvin Wilfredo Mendez Mayorga for the alleged 2006 unlawful killings of two youths in the Villa Nueva suburb of Guatemala City.

There were no new developments regarding any investigation of the June 2006 shootings, one fatal, of five transvestites in Guatemala City. There also were no developments, and none were expected, regarding the 2005 killing of one transvestite and the wounding of another allegedly by persons dressed as police officers.

There were no new developments regarding the 2005 attempted mob lynching in Escuintla of four off-duty police officers who allegedly killed Cristian Oswaldo Rodriguez Alvarez.

There were no new developments regarding the search for fugitive Colonel Juan Valencia Osorio, whose 25-year prison sentence for orchestrating the 1990 killing of anthropologist Myrna Mack Chang was reinstated by the Supreme Court of Justice in 2004. By year's end Valencia had been at large for almost four years.

On December 12, the Constitutional Court ruled that Spain did not have jurisdiction over crimes committed in Guatemala and denied the extradition of former heads of state Efraim Rios Montt and Oscar Humberto Mejia Victores, as well as Angel Anibal Guevara Rodriguez, German Chupina Barahona, Pedro Garcia Arredondo, Benedicto Lucas Garcia, Donaldo Alvarez, and Fernando Lucas Garcia, for genocide, terrorism, and illegal detention during the 1960-96 internal armed conflict. Guevara and Chupina, the only named defendants detained by the authorities pursuant to a July 2006 arrest warrant issued by Spain, were released from prison on December 23.

There were no new developments, and none were expected, regarding the Public Ministry's investigation of the 2005 killing of Harold Gallardo, legal adviser to the nongovernmental organization (NGO) Casa Alianza.

Societal violence was rampant. Nonstate actors, with links to organized crime, narcotrafficking, gangs, private security companies, and alleged "clandestine" or "social cleansing" groups, committed hundreds of killings and other illegal acts. The NGO Human Rights Defenders Protection Unit (UPDDH) reported that from January to October, there were 178 threats and other acts of intimidation against human rights defenders, compared with 247 during the same period in 2006. Reports also suggested that former or current members of the police were involved in some of the attacks and other abuses.

There were credible reports that three clandestine "social cleansing" groups operated in the Kakchiquel Mayan town of Santiago Atitlan. Civil society leaders and press reported that the groups had killed at least 30 persons during the year and that local police had taken little action to stop the killings. There were allegations that former soldiers and guerillas and some local government officials were involved in these groups. Some members were reportedly arrested and detained on charges of extortion but released on bail.

In the period preceding the November national elections, there were more than 50 killings of municipal candidates and political activists, including some that allegedly were politically motivated.

Killings of all types, including those with evidence of sexual assault, torture, and mutilation of women, continued to occur. The NGO Grupo Guatemalteco de Mujeres reported that from January to October, 341 women were killed. The NGO Mutual Support Group (GAM) reported that the total number of all killings of men and women from January to June was 2,452, slightly lower than the 2,616 reported for the same period in 2006. At year's end the PNC reported a total of 5,781 killings, including 559 killings of women, compared to 5,885 total killings, including 603 women, in 2006.

GAM reported that from January to October, there were 64 killings of children nationwide.

GAM also reported that 39 attempted lynchings took place in the first half of the year. Many observers attributed the lynchings to continued public frustration with the failure of law enforcement and judicial authorities to guarantee security. Among the victims were civil servants or police officials who had taken unpopular actions in either enforcing or failing to enforce the law. There were also reports of community lynchings of individuals suspected of kidnapping or attempting to kidnap children to sell for adoption.

On June 14, nine-year-old Alba Mishel Espana Diaz disappeared from her village, Camotan, Chiquimula, and was found

dead the next day. On June 15, mobs lynched a woman suspected of kidnapping the girl. Two days later, residents of neighboring Jocotan attempted to lynch two women suspected of kidnapping another child and burned patrol vehicles of police officers who intervened to prevent the lynchings. PNC agents were temporarily forced to withdraw from both towns. At year's end the Public Ministry was investigating these cases.

b. Disappearance

Although there were no reports of politically motivated disappearances, there were reports of police involvement in kidnappings for ransom. The ORP reported that between January and August, there were three complaints of kidnapping by PNC personnel.

On January 20, Marcos de Jesus Garcia Sarmiento, a security guard at a building believed to be the hiding place of fugitive Gustavo Herrera, disappeared. The media reported that DINC officials allegedly tried to intimidate Garcia into giving them information about Herrera, who in 2003 embezzled \$46.6 million (350 million quetzales).

On February 19, four armed men wearing black PNC-type uniforms reportedly kidnapped Marco Tulio Moreno Ramirez during an ambush of Moreno's car. The Public Ministry asserted that Moreno was not kidnapped and that immigration records indicated that he left the country for El Salvador on February 27. The Public Ministry continued investigating the case at year's end.

There were no new developments in the June 2006 First Appeals Court decision to overturn the 2005 kidnapping convictions of, and order a new trial for, former police commissioner Rudy Giron, former PNC official Marvin Utrilla Marin, and four other persons. Giron and Utrilla Marin remained in prison.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

Although the constitution and the law prohibit such practices, there were credible reports of torture, abuse, and other mistreatment by PNC members. Complaints typically related to the use of excessive force during police operations and arbitrary detention of suspected gang members and others.

In June the District Court of Solola released and dropped charges against seven men arrested in January 2006 for extortion and kidnapping in relation to their alleged membership in the "People's Avengers" vigilante group in the municipality of San Lucas Toliman.

At year's end the Public Ministry continued investigating the case of the May 2006 alleged beatings of three homeless children by soldiers assigned to the Military Police Brigade.

There were credible reports that PNC officials or persons disguised as police officers stopped cars and buses to demand bribes or steal private property. In some cases the supposed police officers assaulted and raped victims.

Prison and Detention Center Conditions

Prison conditions remained harsh and dangerous. The prison system continued to suffer from a severe lack of resources, particularly in the areas of prison security and medical facilities. Prisoners complained of inadequate food and medical care. Corruption, especially related to illegal drug sales and use, was widespread. Prison officials reported frequent escape attempts and other manifestations of prisoner unrest.

Prison overcrowding continued to be a problem. The prison system registry reported that as of September, 7,143 persons were held in 40 prisons and jails designed to hold 6,974 persons. Approximately 40 percent of the national penitentiary system population was held in pretrial detention. On May 10, a Ministry of Government evaluation, which found some prisons holding up to three times their capacity, reported a "total collapse" of the penitentiary system.

The media and NGOs reported that physical and sexual abuse of women and juvenile inmates was a serious problem. Many of the abused juvenile inmates were suspected gang members.

On March 8, fellow inmates killed prisoner Jose de la Cruz Lara Diaz and injured prisoner Carlos Arturo Escaray during a confrontation in Pavoncito Prison. By year's end there had been no follow-up investigation of the incident.

On August 20, the Ninth Penal Court sentenced five members of the Calle 18 gang to 158 years in prison for killing four juvenile inmates and injuring five other rival gang member inmates during a June 2006 riot at the San Jose Pinula Juvenile Detention Center. The Office of the Human Rights Ombudsman (PDH) alleged that prison guards were involved in the killings, but by year's end prison authorities had taken no action against any prison guards.

On February 14, the Public Ministry announced the results of forensic examinations of seven inmates allegedly killed by security forces during a law enforcement operation at Pavon Prison in September 2006. The Public Ministry concluded that the seven had not been victims of unlawful killings, as had been alleged by prisoners and the PDH.

On March 15, the Seventh Penal Court absolved of wrongdoing 21 inmates suspected in the killings of eight other inmates during a 2005 prison riot in Pavon Prison. The court found that the Public Ministry's investigation was "deficient," because it lacked "technical efficiency and professionalism."

On August 25, authorities filed charges against prison guard Irma Barrientos for prostituting female prisoners in the jail for women in Jalapa and also for fraudulently charging a 30 percent commission on money sent to prisoners by their relatives. Penitentiary System Director Margarita Castillo requested ORP collaboration in investigating Barrientos' alleged misconduct. Following the investigation Castillo dismissed Barrientos on October 19. At year's end the Public Ministry continued investigating the matter.

There were no new developments, and none were expected, regarding the killings of 36 inmates in four prisons in 2005.

There were no developments, and none were expected, regarding an investigation of the 2005 intragang dispute in a prison in Mazatenango that resulted in the death of one gang member inmate.

On rare occasions male and female detainees in immigration facilities were held together. Pretrial detainees sometimes were held in the same prison blocks with the general prison population.

The government permitted prison monitoring visits by local and international human rights groups, the Organization of American States, public defenders, religious groups, and family members, and such visits took place throughout the year.

d. Arbitrary Arrest or Detention

The constitution and the law prohibit arbitrary arrest and detention, but there were credible reports of arrests without judicial warrants, illegal detentions, and failure to adhere to prescribed time limits in legal proceedings. In practice arresting officers often failed to satisfy legal requirements due to the failure of magistrates to review cases within the legally mandated six-hour timeframe. However, the Public Ministry's establishment of 24-hour courts in three high-crime municipalities significantly expedited timely case processing.

Role of the Police and Security Apparatus

The 19,143-member PNC, headed by a director appointed by the president, remained understaffed, inadequately trained, and insufficiently funded. As of September the PNC reported 84 deaths of PNC personnel, with 24 in the line of duty.

Police corruption was a serious problem, and there were credible allegations of involvement by individual police officers in criminal activity, including rapes, killings, and kidnappings. Police and immigration officials reportedly extorted and mistreated persons attempting to enter the country illegally.

Police impunity remained a serious problem. The PNC routinely transferred officers suspected of wrongdoing rather than investigating and punishing them. PNC efforts to curb impunity included placing 52 officers in employment dismissal proceedings.

While no active members of the military served in the police command structure, the government continued to employ the military to support police units in response to rising crime. Joint police and military operations under operational control of the PNC continued in high-crime areas of Guatemala City, as well as in other regions of the country.

Police threatened persons engaged in prostitution and other commercial sexual activities with false drug charges to extort money or sexual favors and harassed homosexuals and transvestites with similar threats of false charges. Critics accused the police of indiscriminate and illegal detentions when conducting antigang operations in some high-crime neighborhoods. Security officials allegedly arrested and imprisoned without charges, or sometimes using false drug charges, suspected gang members; at times police arrested these persons without a warrant.

The ORP conducted internal investigations of misconduct by police officers. Although the ORP increased its professionalism, its independence and effectiveness were hampered by lack of material resources and lack of cooperation from other PNC units. From January to August the ORP reported receiving 962 complaints, which included: 29 complaints of killings, 12 forced disappearances, three kidnappings, 12 illegal detentions, 132 thefts, 10 rapes, 82 instances of bribery, 81 threats, 168 cases of abuse of authority, and 12 instances of illegal detention.

Although cases with sufficient evidence of criminal activity were forwarded to the Public Ministry for further investigation

and prosecution, few cases went to trial. Between January and August, the ORP investigated 922 police officers, resulting in the removal from duty of 52 and the exoneration of 870. Based on an April 12 ruling by the Constitutional Court, on April 24, the Supreme Court ordered the dismissal of pending appeals for reinstatement brought by 561 PNC agents between 2005 and April 2007.

The PNC trained 2,635 cadets in human rights and professional ethics, compared to 954 in 2006. The army required civil affairs officers at each command to plan and document human rights training provided to soldiers.

Approximately two-thirds of police districts remained understaffed. Indigenous rights advocates asserted that security authorities' continuing lack of sensitivity to indigenous cultural norms and practices engendered misunderstandings, and that few indigenous police officers worked in their own ethnic or linguistic communities.

Arrest and Detention

The constitution and the law require that a court-issued arrest warrant be presented to a suspect prior to arrest unless the suspect is caught in the act of committing a crime. Police may not detain a suspect for more than six hours without bringing the case before a judge. Detainees often were not promptly informed of the charges filed against them. Once a suspect has been arraigned, the prosecutor generally has three months to complete the investigation and file the case in court or seek a formal extension of the detention period. The law provides for access to lawyers and bail for most crimes. The government provided legal representation for indigent detainees, and detainees had access to family members.

Through August the ORP had received 12 accusations of illegal detention. There were no reliable data on the number of arbitrary detentions, although most accounts indicated that police forces routinely ignored writs of habeas corpus in cases of illegal detention, particularly during neighborhood antigang operations.

In high crime areas of Guatemala City, Mixco, and Villa Nueva, the government operated three 24-hour court pilot projects that significantly reduced the number of cases dismissed for lack of merit or on technical grounds. These projects enhanced the government's ability to comply with legal requirements to bring suspects before a judge within six hours of initial detention.

Although the law establishes a three-month limit for pretrial detention, prisoners often were detained past their legal trial or release dates. Approximately 40 percent of persons incarcerated were in pretrial detention. Some prisoners were not released in a timely fashion after completing their full sentences due to the failure of judges to issue the necessary court order or due to other bureaucratic problems. A judge has the discretion to determine whether bail is necessary or permissible for pretrial detainees depending on the circumstances of the charges. Detainees who do not pay bail must remain in jail.

e. Denial of Fair Public Trial

While the constitution and the law provide for an independent judiciary, the judicial system often failed to provide fair or timely trials due to inefficiency, corruption, insufficient personnel and funds, and intimidation of judges, prosecutors, and witnesses. The majority of serious crimes were not investigated or punished. Less than 3 percent of reported crimes were prosecuted, and significantly fewer resulted in convictions. Many high-profile criminal cases remained pending in the courts for long periods as defense attorneys employed successive appeals and motions.

There were numerous reports of corruption, ineffectiveness, and manipulation of the judiciary. Judges, prosecutors, plaintiffs, and witnesses also continued to report threats, intimidation, and surveillance. The special prosecutor for crimes against judicial workers received 125 cases of threats or aggression against workers in the judicial branch, compared with 71 in 2006.

There were credible reports of killings of witnesses. On February 11, unidentified assailants killed Dalia Evangelina Garcia Illescas, a witness in the murder trial of PNC officer Jorge Macario Mazariegos.

In September the Public Ministry reported that it had closed the case, due to insufficient evidence, of the May 2006 complaint filed by Judge Maria Ester Roldan, who reportedly received threats from a police lawyer for ordering the transfer of a historical police archive to the custody of the Office of the Human Rights Ombudsman.

There were no developments, and none were expected, regarding an investigation of the 2005 killings of Justice of the Peace Jose Antonio Cruz Hernandez or High Impact Court Judge Jose Victor Bautista Orozco.

The Supreme Court of Justice continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its jurisdiction. The Judicial Discipline Unit investigated and held hearings for 1,689 complaints of wrongdoing. The Supreme Court did not provide statistics on the resolution of these cases.

Prosecutors remained susceptible to intimidation and corruption and were often ineffective. The law's failure to clearly identify responsibilities of the PNC and the Public Ministry in investigating crimes led to organizational rivalries and the duplication of investigative efforts.

The judiciary consisted of the Supreme Court of Justice, appellate courts, trial courts, and probable-cause judges (with a function similar to that of a grand jury), as well as courts of special jurisdiction, including labor courts and family courts. More than 350 justices of the peace were located throughout the country. Some of the justices specialized in administering traditional and indigenous law in community courts, which were under the jurisdiction of the Supreme Court of Justice. The Constitutional Court, which reviews legislation and court decisions for compatibility with the constitution, is independent of the rest of the judiciary.

Between January and September the Public Ministry had 411 persons in its witness protection program. There were no new developments in the November 2006 case in which one witness under police protection was killed at her home in Palencia.

Trial Procedures

The constitution provides for the right to a fair public trial, the presumption of innocence, the right to be present at trial, and the right to counsel. The law provides for plea bargaining, the possibility of release on bail, and the right to an appeal. Three-judge panels render verdicts. The law provides for oral trials and mandates language interpretation for those needing it, in particular the large number of indigenous persons who are not fluent in Spanish. Inadequate government funding limited the effective application of this legal requirement. The Public Ministry concentrated 16 interpreters in former conflict areas of the country, and the Office of the Public Defender employed bilingual public defenders in locations where they could serve as translators in addition to defending clients.

The Public Ministry, semi-independent of the executive branch, may initiate criminal proceedings on its own or in response to a complaint. Private parties may participate in the prosecution of criminal cases as plaintiffs. Lengthy investigations and frequent procedural motions used by both defense and prosecution often led to excessively long pretrial detention, frequently delaying trials for months or years.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

The law does not provide for jury trials in civil matters. The law provides for administrative and judicial remedies for alleged wrongs, including the enforcement of domestic court orders, but there were problems in enforcing domestic court orders; some killings resulted from PNC failure to promptly enforce restraining orders.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and the law prohibit such actions, and the government generally respected these prohibitions in practice.

Human rights defenders alleged that individuals affiliated with clandestine armed groups participated in a number of illegal entries into their homes and offices. The Public Ministry investigated a number of these cases but failed to identify suspects for prosecution.

Between February 3 and 4, unidentified persons broke into the offices of the NGOs Human Rights Defenders Protection Unit, National Movement for Human Rights, and Association of Communication for Art and Peace. The perpetrators removed files, computers, and other electronic equipment and used computer cables to tie knots resembling nooses, which they left in the offices.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and the law provide for freedom of speech and press, and the government generally respected these rights in practice.

Although the independent media, including international media, operated freely and were active and expressed a wide variety of views without government restriction, there were reports that unknown actors frequently threatened and

intimidated members of the media. The Public Ministry reported 11 incidents of intimidation of journalists, compared with 67 during 2006.

On February 2, unidentified assailants in Zacapa shot at the automobile of *Nuestro Diario* correspondent Wilder Jordan, reportedly in retaliation for his January 15 report alleging that a bus driver's apprentice was responsible for a public transportation accident. Jordan filed a complaint with the Public Ministry, but by year's end the authorities had taken no action regarding the incident.

On March 1, Guatelevision Director Erick Salazar reported that Guatelevision received anonymous death threats directed toward the staff and their families as a result of Guatelevision's coverage of the February PARLACEN killings.

There were no new developments regarding the Office of the Special Prosecutor for Crimes against Journalists and Unionists' March 2006 closing, with the support of the Telecommunications Authority and the National Broadcast Commission, of nine unlicensed, community radio stations. At year's end these radio stations remained closed.

The Public Ministry reported that it had no further information regarding the August 2006 wounding by gunshot of radio journalist Vinicio Aguilar.

There were no new developments, and none were expected, regarding the 2005 report by Reporters Without Borders that former members of the civil defense patrols assaulted *Prensa Libre* correspondent Edwin Paxtor in Chiquimula, or regarding any investigation of the anonymous threats Paxtor claimed to have received in September 2006.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups engaged in the peaceful expression of views via the Internet, including by e-mail.

Academic and Cultural Freedom

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

Although the constitution and the law provide for freedom of assembly, and the government generally respected these rights in practice, there were some allegations of unnecessary use of force, and of inaction by the police during violent demonstrations. Protesters complained that police officers used excessive force during postelectoral demonstrations in the towns of Palin and Tucuru, but by year's end no one had filed with the Public Ministry formal accusations or complaints regarding these incidents.

There were no new developments, and none were expected, regarding any investigations of the 2005 deaths of a protester in Solola and a protester in Huehuetenango.

Freedom of Association

The constitution and the law provide for freedom of association, and the government generally respected this right in practice.

c. Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. There is no state religion; however, the constitution recognizes explicitly the distinct legal personality of the Roman Catholic Church. The government does not establish requirements for religious recognition, nor does it impose registration requirements for religious members to worship together. The government requires religious organizations, secular associations, and NGOs to register as legal entities in order to transact business.

On April 3, the Immigration Service denied an entry visa to Puerto Rican Jose Luis Miranda, who claimed to be the Antichrist. In previous years the government had granted Miranda permission to enter the country and preach. Miranda's church was registered and recognized by the government and continued operating in Guatemala City.

Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination against persons for their religious beliefs or practices, and no reports of anti-Semitic acts. The Jewish population numbered approximately 2,000 persons.

For a more detailed discussion, see *the [2007 International Religious Freedom Report](#)*.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and the law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The law prohibits forced exile, and the government did not use exile in practice.

Protection of Refugees

The constitution and the law provide for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations.

During the year the government did not accord temporary protection, asylum, or refugee status to anyone.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and the law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of nearly universal suffrage for those 18 years of age and older. Members of the armed forces and police are not permitted to vote.

Elections and Political Participation

On November 4, Alvaro Colom of the UNE party won a four-year term as president with approximately 53 percent of the vote in the second round. The Organization of American States' international observation mission characterized the elections as generally free and fair.

There were 14 women in the 158-seat Congress of the Republic; two women on the Supreme Court of Justice, including the president of the court; one woman on the Constitutional Court; and 197 women serving as judges. There were three female ministers in the 12-member cabinet and eight female presidential secretaries. Of the country's 332 mayors, nine were women and 129 were indigenous. There was one indigenous cabinet member, and two presidential secretaries were indigenous. There were 15 indigenous members of the Congress.

Government Corruption and Transparency

Government corruption was widely perceived to be a serious problem, with public surveys noting a lack of confidence in almost all government institutions, including those in the legislative and judicial branches. According to the World Bank's Worldwide Government Governance Indicators, government corruption was a very serious problem. The Public Ministry continued to investigate corruption charges against former vice president Reyes Lopez, former president Alfonso Portillo, former minister of government Byron Barrientos, and other senior members of the previous government.

The Supreme Court's attempts to review government evidence to strip Congressman Hector Loaiza Gramajo of his parliamentary immunity and bring him to trial on charges of fraud, tax evasion, and other crimes were stalled by two appeals Loaiza filed on October 24. At year's end the Third Court of Appeals had not decided whether to strip Loaiza of his parliamentary immunity. On April 18, a court sentenced truck driver Juan Rolando Guzman to 10 years in prison for aggravated robbery linked to stolen gasoline trucks police found in May 2006 at a gas station owned by Loaiza.

On May 2, an appeals court overturned the 13-year prison sentence and \$3.2 million (25 million quetzales) fine assessed against former vice president of the Guatemalan Social Security Institute (IGSS) Jorge Mario Nufio for embezzlement in 2005 of \$46 million (350 million quetzales).

On February 20, the Constitutional Court rejected the First Appeal Court's acquittal of former IGSS head Carlos Wohlers, who was sentenced to two years in prison in October 2006 for material falsification in transferring funds. At year's end

Wohlens remained in detention awaiting a new trial.

There were no new developments regarding the whereabouts of former director of the National Transit Authority Arnoldo Heriberto Quezada Chapeton, who failed to appear at a 2005 hearing on charges of corruption.

On April 20, the Fifth Sentencing Court found Marco Tulio Abadio, former director of the Tax Authority (SAT), guilty of money laundering, fraud, and extortion. Abadio, who had been awaiting trial since 2004, was sentenced to 30 years in prison and fined \$3.2 million (24 million quetzales). Junior Vinicio Abadio Carrillo, Abadio's son, received a 15-year prison sentence and was fined \$3.2 million (24 million quetzales) for money laundering and swindling. Byron Rene Abadio Carrillo, Abadio's other son, was sentenced to six years in prison and fined \$21,000 (160,000 quetzales) for money laundering. Carlos Alberto Barrera Rodas, a former SAT employee, received six years in jail and was fined \$2,000 (15,000 quetzales) for fraud. Ana Angelica Diaz Fajardo, also a former SAT employee, was sentenced to six years in jail and fined \$184,000 (1.4 million quetzales) for money laundering.

Public officials who earn more than \$1,066 (8,000 quetzales) per month or who manage public funds are subject to financial disclosure laws. The Controller General's Office is responsible for oversight and enforcement of financial disclosure laws. Lack of political will and rampant impunity facilitated government corruption.

Although the constitution provides for the right of citizens to access public information, there are no laws regulating provision of, or facilitating access to, information held by public institutions and no other established mechanisms to enable citizens or noncitizens to access government information.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views, including civil society advocacy for the election of members to the Constitutional Court and the negotiation of the agreement to establish the International Commission Against Impunity in Guatemala (CICIG), approved on August 1 by the legislature.

Many NGOs, human rights workers, and a number of trade unionists reported threats or intimidation by unidentified persons, many with reputed links to organized crime, private security companies, and "social cleansing" groups, and complained that the government did little to investigate these reports or to prevent further incidents.

On February 2, unknown assailants assaulted at gunpoint, kidnapped, and later freed Jose Roberto Morales of the Center for Legal Action for Human Rights (CALDH). Following the incident, police undertook an investigation, including surveillance of the CALDH office, and between February and March provided temporary protection to CALDH staff. By year's end the authorities had not identified any suspects.

On February 5, Angelica Gonzalez, a lawyer for CALDH, received a written death threat stating that she and other CALDH workers would be killed unless they stopped trying to protect relatives of victims killed during the country's internal armed conflict.

In April five staff members of the Guatemalan Institute of Comparative Studies in Penal Sciences (ICCPG) received anonymous written death threats. The ICCPG believed the alleged threats were connected to their work on cases of human rights violations allegedly committed by PNC officers and their legal support for victims of police violence.

The government continued to provide security to homes and offices of human rights activists who received threats. The Myrna Mack Foundation and the Guatemalan Forensic Anthropology Foundation (FAFG) received continued security protection. During the year staff members of FAFG continued to receive death threats. The FAFG believed these threats were linked to the group's forensic exhumation work to identify victims of massacres during the internal armed conflict.

The Office of the Special Prosecutor for Human Rights opened several new cases involving anonymous telephone or written threats, break-ins, and physical assaults, as well as surveillance of workplaces, residences, and vehicular movements. The majority of such cases remained pending for lengthy periods without investigation or languished in the court system as defense attorneys filed successive motions and appeals to delay trials.

On August 15, Jose Amilcar Mendez Dardon, an airport technician and son of a former congressman and human rights leader, was killed while leaving Guatemala City's Aurora Airport. At year's end the Public Ministry was investigating the case.

The resident Office of the UN High Commissioner for Human Rights assisted the government in investigating various matters, including threats and other acts of intimidation against human rights advocates, land conflicts, and discrimination

against indigenous persons. The government cooperated with the office and other international organizations.

Human Rights Ombudsman Sergio Morales, whom Congress reelected during the year, reports to the Congress and monitors the rights guaranteed by the constitution. The ombudsman's rulings do not have the force of law. The PDH operated without government or party interference, had adequate resources to undertake its duties, and had the government's cooperation.

The ombudsman issued reports and recommendations that were made public, including its annual report to the Congress on the fulfillment of its mandate. His office also issued reports regarding the electoral process.

The President's Commission on Human Rights (COPREDEH), led by Frank La Rue, is charged with formulating and promoting the government's human rights policy, representing the government on past human rights abuse cases before the Inter-American Court of Human Rights, and negotiating amicable settlements in those cases before the court. COPREDEH took a leading role in coordinating police protection for various human rights and labor activists throughout the year, including pushing for congressional approval of the CICIG agreement.

The Congressional Committee on Human Rights drafts and provides advice on legislation regarding human rights issues. By law all political parties represented in the Congress of the Republic are required to have a representative on the committee. NGOs reported that they considered the committee to be an effective public forum for promoting and protecting human rights.

Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The constitution and the law prohibit discrimination based on race, gender, disability, language, or social status. In practice the government frequently did not enforce these provisions due to inadequate resources, corruption, and a dysfunctional judicial system.

Women

Sexual offenses remained a serious problem. The law criminalizes rape, including spousal rape and aggravated rape, and establishes penalties between six and 50 years in prison. Prosecutors from the Special Unit for Crimes against Women noted that reports of rapes had increased by 30 percent over the previous four years, although some observers suggested that the increases might reflect improved recordkeeping of crime statistics. Until 2004 the law provided that a rapist could escape charges by marrying the victim. Although the law no longer contains that provision, judicial processes initiated prior to the change were adjudicated under the pre-2004 standard.

Police had minimal training or capacity for investigating or assisting victims of sexual crimes. The government maintained a PNC Special Unit for Sex Crimes, an Office of Attention to Victims, and a Special Prosecutor for Crimes against Women, Children, and Trafficking in Persons. The UN Children's Fund (UNICEF) reported that rape victims sometimes did not report the crime for lack of confidence in the prosecution system and fear of reprisals.

Between January and September the prosecutor reported receiving 2,575 cases of sexual crimes. The government reported 155 convictions of sexual offenders, with an average sentence between six and 20 years imprisonment.

Violence against women, including domestic violence, remained a common and serious problem. The law prohibits domestic abuse but does not provide prison sentences for cases of domestic abuse. Prosecutors noted that the law permits charging abusers with assault only if bruises from the abuse remained visible for at least 10 days. The law provides for the issuance of restraining orders against alleged aggressors and police protection for victims, and it requires the PNC to intervene in violent situations in the home. In practice, however, the PNC often failed to respond to requests for assistance related to domestic violence. Women's groups commented that few officers were trained to deal with domestic violence or provide assistance to victims.

In November the Institute of Public Criminal Defense launched a pilot project that provided free legal, medical, and psychological assistance to victims of domestic violence. By year's end the project had attended to 1,500 cases of domestic violence.

The Program for Prevention and Eradication of Intrafamily Violence, a government program under the First Lady's Secretariat of Social Work, reported receiving 1,618 calls via its emergency hot line from battered women and children. Through July the Public Ministry reportedly received more than 6,228 complaints of family violence against women and children. Between January and July the Public Ministry achieved convictions in 96 cases.

Justices of the peace issued an unspecified number of restraining orders against domestic violence aggressors and ordered police protection for victims. Full investigation and prosecution of domestic violence and rape cases usually took an average of one year. Between January and September the Public Ministry handled 1,768 cases against perpetrators of

domestic violence, with two resulting in convictions. Although the law affords protection, including shelter, to victims of domestic violence, in practice there were insufficient facilities for this purpose.

The Office of the Ombudsman for Indigenous Women, within COPREDEH, provided social services for victims of domestic or social violence, as well as mediation, conflict resolution, and legal services for indigenous women. This office also coordinated and promoted action by government institutions and NGOs to prevent violence and discrimination against indigenous women but lacked human resources and logistical capacity to perform its functions on a national level. There were no firm statistics available on the number of cases the office handled.

The DINC Unit of Investigation of Homicides of Women reported that in the department of Guatemala, of the 271 reported deaths of women, 55 percent were considered homicide and 45 percent "femicide," targeted gender-based killings of women. The Public Ministry Crimes Against Life Unit reported that during the year the number of prosecutions for killings in Guatemala City was 125 (of approximately 1,000 killings), compared with 57 in 2006. The number of prosecutions of killings of women in Guatemala City during the year was 18, a three-fold increase over the six prosecutions in 2006. Few prosecutions, however, resulted in convictions.

In November the Ministry of Government inaugurated eight shelters for victims of abuse in departments with the greatest incidence of domestic violence. The centers provided legal and psychological support and temporary accommodation.

Although prostitution is legal, procuring and inducing a person into prostitution are crimes that can result in fines or imprisonment, with heavier penalties if minors are involved. Trafficking in women and minors, primarily for the purpose of prostitution, is illegal and was a broadly recognized problem.

The law does not prohibit sexual harassment, and there were no accurate estimates of its incidence. Human rights organizations reported, however, that sexual harassment was widespread, especially in industries in which the workforce was primarily female, such as the textile and apparel sectors; it was also a problem in the police force. While the law establishes the principle of gender equality, in practice women faced job discrimination and were less likely to hold management positions.

Women were employed primarily in low-wage jobs in agriculture, retail businesses, the service sector, the textile and apparel industries, and the government and were more likely than men to be employed in the informal sector, where pay and benefits generally were lower. Women may legally own, manage, and inherit property on an equal basis with men, including in situations involving divorce.

The government's Secretariat for Women's Affairs advised President Berger on interagency coordination of policies affecting women and their development. The secretariat's activities included seminars, outreach, and providing information on discrimination against women.

On November 28, Minister of Government Adela de Torrebiarte inaugurated a new women's shelter in Guatemala City for victims of violence. The shelter began operating during the year and had the capacity to house 20 victims and their families for six months at a time.

Children

The government devoted insufficient resources to ensure adequate educational and health services for children.

The UNHCR reported that there were problems in registering births, especially in indigenous communities, due to inadequate government registration and documentation systems. Cultural factors, such as the need to travel to unfamiliar urban areas and interact with nonindigenous male government officials, at times inhibited indigenous women from registering themselves and their children. Lack of registration sometimes restricted children's access to public services.

Although the constitution and the law provide for free compulsory education for all children up to the sixth grade, less than half the population had completed primary education. UNICEF statistics from 2000 to 2005, the most recent available, reported that 73 percent of children enrolled in elementary school reached grade five. Completion rates were lower in rural and indigenous areas. The NGO Population Council's 2006 annual report noted that the average educational level attained varied widely based on background and geographic region. Although the average nonindigenous child received 4.2 years of schooling, indigenous children received an average of 1.3 years. The government reported that boys and girls had approximately equal access to education and state-provided medical care.

Child abuse remained a serious problem. The Special Prosecutor's Office for Women, Unit of Adolescent and Child Victims, investigated cases of child abuse. It achieved two convictions in the 849 child abuse cases it opened between January and September. The Social Secretariat for the Welfare of Children, with oversight for children's treatment, training, special education, and welfare programs, provided shelter and assistance to children who were victims of abuse but sometimes placed children under its care in shelters with juveniles who had criminal records. Due to an overwhelmed

public welfare system, during the year family courts, the PNC, and the Public Ministry referred 60 minors to Casa Alianza.

Child prostitution remained a problem.

In collaboration with several NGOs, the government conducted 20 operations resulting in the rescue of 20 sexually exploited minors under age 18. The authorities referred the minors for protection and attention to Casa Alianza's shelter for street children and child victims of abuse. Judges, national police, and the Public Ministry referred 60 additional cases to Casa Alianza. Casa Alianza continued attending to 56 cases of sexually exploited minors from previous years, and the Secretariat of Social Welfare attended to six cases. Of the 142 cases, the authorities held 15 alleged perpetrators in detention.

Child labor was a widespread and serious problem. According to the International Labor Organization (ILO), during the year almost one quarter of children had to work to survive.

Credible estimates put the number of street children at 5,000 nationwide, approximately 3,000 of them in Guatemala City. Most street children ran away from home after being abused. Casa Alianza reported that increased gang recruitment decreased the number of street children in the capital because after joining gangs, street children often lived with fellow gang members. Casa Alianza reported that during the first half of the year, 192 minors suffered violent deaths in Guatemala City. Criminals often recruited street children for purposes of stealing, transporting contraband, prostitution, and illegal drug activities. Approximately 10,000 children were members of street gangs. NGOs dealing with gangs and other youth reported concerns that street youth detained by police were subject to abusive treatment, including physical assaults.

The government operated a shelter for girls in Antigua and a shelter for boys in San Jose Pinula. Two other shelters in Quetzaltenango and Zacapa served both boys and girls. The government devoted insufficient funds to its shelters, and governmental authorities often preferred to send juveniles to youth shelters operated by Casa Alianza and other NGOs. The government provided no funding assistance for shelter costs to these NGOs. Security authorities incarcerated juvenile offenders at separate youth detention facilities.

Trafficking in Persons

While the law prohibits trafficking in persons, there were reports that persons were trafficked to, from, through, and within the country. The law criminalizes all forms of trafficking, defines the categories of persons responsible for trafficking offenses, and establishes prison terms of seven to 12 years for persons found guilty of trafficking. The government reported that trafficking was a significant problem.

The country was a source, transit, and destination country for women and children trafficked for purposes of sexual exploitation and child labor.

Women and children were trafficked within the country for purposes of sexual exploitation; children were also trafficked for labor exploitation, including for begging rings in Guatemala City, but there were no reliable estimates on the extent of the problem. The NGO End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT) reported that children between the ages of eight and 14 were sold for \$100 to \$200 (750 to 1,500 quetzales) to work in various economic activities but primarily for sexual exploitation.

Trafficking was particularly a problem in the capital and in towns along the country's borders. Child migrants who did not cross the border into Mexico often remained in the country and resorted to or were forced into prostitution. Many women and children also were brought into the country from El Salvador, Nicaragua, and Honduras by organized rings that forced them into prostitution. The primary target groups for sexual exploitation were boys and girls and young women from poor families.

Trafficking organizations ranged from family businesses to highly organized international networks. Brothel owners often were responsible for transporting and employing victims of trafficking. Traffickers frequently had links to other organized crime, including drug trafficking and migrant smuggling.

Traffickers often approached individuals with promises of economic rewards, jobs in cafeterias or beauty parlors, or employment in other countries. The means of promotion included flyers, newspaper advertisements, and verbal or personal recommendations.

The PNC and Public Ministry units responsible for combating trafficking were severely understaffed. From January to July the Public Ministry received 51 trafficking cases, compared with 34 during 2006. During the year the Public Ministry prosecuted and sentenced eight persons, including owners and managers of bars and night clubs, for trafficking offenses. By year's end the Prosecutor's Office for Women's Unit of Adolescent and Child Victims had investigated three trafficking cases, issued an arrest warrant in one of these cases, and in another deported the alleged trafficker, a foreign national, to

his country of citizenship.

There were credible reports that police and immigration service agents were complicit in trafficking of persons. ECPAT reported that some minor victims of trafficking claimed that immigration officials took bribes from traffickers, gave the victims falsified identification papers, and allowed them to cross borders. There were credible reports that brothel owners allowed police and immigration officials to have sex with minor victims without charge. Casa Alianza reported that business owners of massage clubs and other establishments that sexually exploited adolescents had good relations with government authorities who warned these businesses of upcoming police raids.

The government's Secretariat for Social Welfare operated shelters in Antigua, San Jose Pinula, Quetzaltenango, and Zacapa that housed victims of trafficking and offered social casework, job training, and counseling. In October the immigration service opened a new shelter for undocumented aliens, which included special rooms for trafficking victims. During the year the NGO shelter Casa del Migrante attended to 700 victims of trafficking in persons, including cases involving minors.

Immigration officials generally deported foreign adult trafficking victims and did not treat them as criminals. Immigration officials deported an unspecified number of women found during bar raids back to Honduras, Nicaragua, and El Salvador. Victims were not prosecuted and were not required to testify against traffickers.

On July 12, a government decree established the Inter-Agency Commission to Combat Trafficking in Persons and Related Crimes, which formalized the status of an existing interagency trafficking working group. The commission, headed by the vice minister of foreign affairs, is made up of representatives of the executive, legislative, and judicial branches, as well as NGOs and international organizations. The commission coordinated consultation, development of, and consensus on initiatives to combat trafficking and led raids to rescue trafficking victims.

The Public Ministry created and operated a special unit within the Prosecutor's Office of Organized Crime to investigate and prosecute trafficking and illegal adoptions.

The government undertook efforts to address the problem of trafficking in persons, including increased attention to rescuing minors from commercial sexual exploitation in bars, brothels, and other establishments.

The government cooperated with NGOs in conducting rescue operations in which 20 sexually exploited minors were taken into custody. The minors were referred to Casa Alianza, which provided shelter, medical treatment, psychological counseling, and job training. Other NGOs provided similar services and, along with Casa Alianza, lobbied for legislation, protection of victims, and prevention of trafficking.

The country cooperated with Mexico on an annual work plan to care for victims and regularize cooperation between the respective government agencies. This cooperation included ensuring that the repatriation of trafficking victims was handled separately from deportations. The country had repatriation agreements for minor victims of trafficking with El Salvador, Nicaragua, Honduras, Costa Rica, and Panama.

The Public Ministry operated the Office of the Special Prosecutor for Crimes against Women, Children, and Victims of Trafficking. A task force, which included the Office of the Special Prosecutor, immigration authorities, PNC, and Casa Alianza, conducted an unspecified number of bar raids.

The Public Ministry worked with ECPAT to train government officials on crimes of sexual and commercial exploitation with an emphasis on trafficking of children. ECPAT provided 12 courses to 290 government officials nationwide.

Persons with Disabilities

The constitution contains no specific prohibitions against discrimination based on physical disability in employment, education, access to health care, or the provision of other state services. The law, however, mandates equal access to public facilities and provides some other legal protections. In many cases persons with physical and mental disabilities did not enjoy these rights, and the government devoted few resources to combat this problem.

There were minimal educational resources for those with special needs, and the majority of universities were not made accessible to persons with disabilities. The National Hospital for Mental Health, the principal healthcare provider for persons with mental illness, lacked basic supplies, equipment, hygienic living conditions, and adequate professional staffing. Although the National Council for the Disabled, composed of representatives of relevant government ministries and agencies, met regularly to discuss initiatives, the government devoted no resources to the implementation of that organization's recommendations.

Indigenous People

Indigenous persons from 22 ethnic groups constituted an estimated 43 percent of the population. In addition to the many Mayan communities, there were also the Garifuna, descendants of Africans brought to the Caribbean region as slaves who intermarried with Amerindians, and the indigenous Xinca community. The law provides for equal rights for indigenous persons and obliges the government to recognize, respect, and promote their lifestyles, customs, traditions, social organization, and manner of dress.

Although some indigenous persons attained high positions as judges and government officials, they generally were underrepresented in politics and remained largely outside the country's political, economic, social, and cultural mainstream due to limited educational opportunities, poverty, lack of awareness of their rights, and pervasive discrimination. The ILO Committee of Experts (COE) 2007 observations identified as a problem ethnic discrimination in employment and occupation.

In response to Council of Mayan Organizations of Guatemala concerns regarding lack of government consultation when issuing mineral exploration licenses in areas affecting lands of indigenous communities, the COE asked the government to establish suitable instruments for consultation and participation of these communities to attenuate disputes and lay the foundations for inclusive development projects.

By year's end the government had not acted on the 2006 recommendations of the UN Committee on the Elimination of Racial Discrimination (CERD) that the government adopt specific legislation to penalize dissemination of ideas based on notions of superiority or racial hatred, incitement of racial discrimination, and violent acts directed against indigenous people and persons of African descent. The government also did not act on CERD's recommendations that the government return lands and territories traditionally owned by indigenous persons and adopt a national land bill to identify and demarcate historical indigenous lands.

The Pan American Health Organization reported that 77 percent of the indigenous population lived in poverty, compared to 41 percent of the nonindigenous population.

Rural indigenous persons had limited educational opportunities and fewer employment opportunities. Many of the indigenous were illiterate and approximately 33 percent did not speak Spanish. More than 50 percent of indigenous women were illiterate and a disproportionate number of indigenous girls did not attend school. According to a 2006 report of the Ministry of Education, the most recent available, 78,692 preschool- and kindergarten-age indigenous children were enrolled in Spanish-indigenous language bilingual education programs.

The Department of Indigenous People in the Ministry of Labor, tasked with investigating cases of discrimination and representing indigenous rights, counseled indigenous persons on their rights. This department had no separate budget, only four employees, and lacked resources to investigate discrimination claims.

Legally mandated court interpreters for criminal proceedings were rarely available, placing indigenous people arrested for crimes at a disadvantage due to their sometimes limited comprehension of Spanish. There were 117 judges who spoke Mayan languages among the 561 tribunals in the country. There were 84 court interpreters, including 36 bilingual Mayan speakers, and the Supreme Court of Justice reported that the judicial system had 905 employees who spoke indigenous languages. In many instances bilingual judicial personnel continued to be assigned to areas where their second language was not spoken.

Other Societal Abuses and Discrimination

The law does not criminalize homosexuality, but it also does not expressly include sexual orientation or HIV status among the categories prohibited from discrimination. There was social discrimination against gay, lesbian, and transgender persons and persons with HIV/AIDS. Homosexual rights support groups alleged that members of the police regularly waited outside clubs and bars frequented by sexual minorities and demanded that patrons and persons engaged in commercial sexual activities provide protection money. Due to a lack of trust in the judicial system and out of fear of further persecution or social recrimination, victims were unwilling to file complaints.

Section 6 Worker Rights

a. The Right of Association

While the law provides for freedom of association and the right to form and join trade unions, in practice enforcement remained weak and ineffective. A 2006 ILO evaluation, the most recent available, reported that workers continued to live under threat from their employers, and labor unions remained weak. Local and international unions and labor rights advocacy groups reported an increase in threats, attacks, and killings of trade union activists compared with previous years and criticized the government's application of antiterrorism regulations against unions and trade unionists. With the exception of members of the security forces, all workers have the right to form or join unions, but only 8 percent of the formal sector work force was unionized.

Legal recognition of a new industry-wide union requires that the membership constitute 50 percent plus one of the workers in an industry. The COE stated that this requirement restricts the free formation of unions. Labor rights activists considered this number to be a nearly insurmountable barrier to the formation of new industry-wide unions, which effectively eliminated the possibility for workers to exercise the right to negotiate and formally engage employers at an industry level.

Enforcement of legal prohibitions on retribution for forming unions and for participating in trade union activities was weak. To hold union office, the law requires that a person must be both a citizen of the country and actively employed by the enterprise or economic activity. Many employers routinely sought to circumvent legal provisions for union organizing by resisting union formation attempts or by ignoring judicial orders to enforce them. An ineffective legal system and inadequate penalties for violations continued to undermine enforcement of the right to form unions and participate in trade union activities.

There were credible reports of retaliation by employers against workers who tried to exercise internationally recognized labor rights. Common practices included termination and harassment of workers who attempted to form workplace unions, creation of illegal company-supported unions to counter legally established unions, blacklisting of union organizers, threats of factory closures, refusal to permit labor inspectors to enter facilities to investigate worker complaints, and refusal to honor decisions made by labor tribunals in favor of workers, including reinstatement of wrongfully dismissed union organizers. There were credible reports that a union officer at a garment factory received death threats from workers supported by the factory owners.

Some workers who suffered illegal dismissal took their cases to the labor courts and won 160 injunctions ordering reinstatement. The law requires employers to reinstate workers dismissed illegally for union organizing activities. In practice employers often failed to comply with reinstatement orders. Appeals by employers, along with legal recourse such as reincorporation as a different entity, often prolonged reinstatement proceedings. The labor courts rarely dismissed frivolous cases or appeals, did not operate in a timely manner, and did not ensure enforcement of their decisions. According to Labor Ministry officials, authorities rarely disciplined employers for ignoring legally binding court orders. Employers often failed to pay the full amount of legally required severances to workers.

Labor leaders reported receiving death threats and being targets of other acts of intimidation. A three-prosecutor Office of the Special Prosecutor for Crimes Against Unionists and Journalists accepted several new union-related cases during the year. There was no information available regarding convictions achieved for crimes against trade unionists.

On January 15, unidentified assailants ambushed and fatally shot Secretary General of the Dock Workers Union of Puerto Quetzal Pedro Zamora as he was driving home. At the time of the killing, Zamora's union was negotiating a collective bargaining agreement with port management, opposing a proposed port modernization plan, and demanding reinstatement of union members who had been dismissed after an October 2006 three-day military and police takeover of the port. During the year Zamora had received death threats allegedly related to his union work and had requested government security protection. Following his death, four other members of the dock workers' union executive committee continued to receive death threats. The Ministry of Government provided police security for the union's new general secretary. At year's end the Public Ministry had issued arrest warrants for two suspects, who remained at large.

On February 6, unknown assailants fatally shot street vendors Walter Anibal Ixcaquic Mendoza and Norma Sente de Ixcaquic, members of the Sixth Avenue Union of the National Front of Vendors of Guatemala. In the weeks preceding the killings, municipal authorities had reportedly pressured the union to get vendors to leave the major commercial street Sixth Avenue in Guatemala City. At year's end there were no developments regarding an investigation of the killings.

On September 23, unidentified masked assailants on motorcycles fatally shot Marco Tulio Ramirez Portela, leader of the SITRABI banana workers' union, in Izabal as he left his employer-provided home on the farm for work. Ramirez was the brother of SITRABI Secretary General Noe Ramirez.

In January 2006 SITRABI had filed with the Ministry of Labor for arbitration with the banana producer BANDEGUA regarding wage provisions in the collective bargaining agreement and engaged in peaceful collective action to protest the failure of BANDEGUA to honor the agreement. In September the Office of the Special Prosecutor of Crimes Against Journalists and Unionists denied a formal complaint filed by SITRABI regarding the killing of Ramirez that same month. At year's end a Public Ministry investigation indicated that Ramirez's killing was related to his activities as an UNE party monitor on election day.

In October Del Monte subsidiary BANDEGUA, SITRABI, and the International Union of Food Workers created a permanent commission that met several times to address security, including protection of SITRABI leaders, on BANDEGUA banana farms. By year's end the commission had not reached agreement on appropriate security measures. The Ministry of Government provided police for perimeter security of BANDEGUA farms and a 24-hour patrol of the neighborhoods of SITRABI executive committee members and Ramirez's family.

During the year the Ministry of Labor granted legal status to 36 new labor unions. Although there were 1,810 legally registered labor unions, 475 appeared to be active based on administrative registration records.

An active Solidarismo (solidarity association movement) claimed to have 86 associations with approximately 30,000 members. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to choose between them or to belong to both. Although the law stipulates that trade unions have an exclusive right to negotiate work conditions on behalf of workers, unions asserted that management promoted solidarity associations to discourage the formation of trade unions or to compete with existing labor unions.

b. The Right to Organize and Bargain Collectively

The law allows unions to conduct their activities without interference, and the government generally sought to protect this right in practice. The law requires that union members approve a collective bargaining agreement by simple majority. Although workers had the right to organize and bargain collectively, the small number of unionized workers limited the practice of organizing and bargaining.

In a factory or business, 25 percent of the workers must be union members for collective bargaining to take place. Most workers, including those organized in trade unions, did not have collective contracts documenting their wages and working conditions, nor did they have individual contracts as required by law.

The Ministry of Labor reported that there were 27 collective bargaining agreements.

Workers have the right to strike, but due to the very low level of unionization and procedural hurdles, there were no legal strikes. The law requires approval by simple majority of a firm's workers to call a legal strike, and it requires that a labor court consider whether workers are acting peacefully and have exhausted available mediation before ruling on the legality of a strike. Teachers, farm workers, and other labor groups held illegal or unofficial work stoppages.

The law empowers the president and his cabinet to suspend any strike deemed "gravely prejudicial to the country's essential activities and public services." Workers in the essential services and public services sectors can address grievances by means of mediation and arbitration through the Ministry of Labor's General Inspectorate of Labor and also directly through the labor courts. Employers may suspend or fire workers for absence without leave if authorities have not recognized a strike as legal. The law calls for binding arbitration if no agreement is reached after 30 days of negotiation. The law prohibits employer retaliation against strikers engaged in legal strikes.

The COE observations identified violations of collective bargaining agreements, acts of employer interference, acts of antiunion discrimination, and a very low number of government sanctions issued for labor violations.

There were no special laws or exemptions from regular labor laws in the 13 active export processing zones (EPZs) and within the garment factories that operated under an EPZ-like regime. Due to inadequate enforcement of labor laws and often illegal measures taken by employers to prevent the formation of new unions or undermine existing unions, there were few successes in organizing workers in EPZs and in the garment sector. Some factories closed and then reopened under a new name and with a new tax exemption status. Of the 188 companies operating in the EPZs, only three had recognized trade unions, and none had a collective bargaining agreement. The government did not regularly conduct labor inspections in the EPZs, and there were violations of wage and hour laws, mandatory overtime at nonpremium pay, terminations of workers who tried to form unions, withholding of social security payments, and illegal pregnancy testing. The COE observations identified as a problem the requirement of pregnancy tests as a condition to obtain and retain employment.

c. Prohibition of Forced or Compulsory Labor

While the constitution and the law prohibit forced or compulsory labor, including by children, women and increasingly minors were trafficked for the purpose of sexual exploitation.

d. Prohibition of Child Labor and Minimum Age for Employment

Although the law bars employment of minors under the age of 14 without written permission from parents or the Ministry of Labor, child labor was a widespread problem. The law prohibits minors--but does not clearly identify of what age range--from work in establishments where alcoholic beverages are served, from work in unhealthy or dangerous conditions, and from night work and overtime work. The legal workday for persons younger than 14 is six hours, and for persons 14 to 17 years of age, seven hours. Despite these protections, child laborers worked on average in excess of 45 hours per week.

The informal and agricultural sectors regularly employed children below 14 years of age, usually in small family enterprises. Economic necessity forced most families to have their children work to supplement family income, particularly in rural and indigenous communities. There were credible reports that child labor was used in food processing, fresh produce, and flower production companies. In March food processor Legumex, its exporter Superior Foods, and the NGO Center for Studies and Support for Local Development (CEADEL) negotiated a settlement relating to 24 child workers CEADEL found in November 2006 laboring at Legumex's Chimaltenango facility. The settlement stipulated that the food processor would provide the child workers with any outstanding wages, remove them from the factory, place them in

school, and guarantee them a job offer upon reaching age 18.

Laws governing the employment of minors were not enforced effectively. The situation was exacerbated by the weakness of the labor inspection and labor court systems and a law that provides that parental consent alone is sufficient to permit a child to work.

The COE observations expressed deep concern about the situation of children under 14 years compelled to work in the country, noted that it appeared very difficult to apply in practice the national legislation on child labor, and encouraged the government to step up efforts to improve the situation of child laborers under age 14. The ILO committee also requested that the government take measures to ensure that no person under 18 years was employed in the hazardous fireworks production industry and to provide information on the number of children removed from that activity. The Ministry of Labor estimated that approximately 3,700 children were illegally employed in fireworks production.

The ILO's International Program for Elimination of Child Labor (IPEC) continued operating programs as part of a seven-year regional effort to combat commercial sexual exploitation of children. During the year IPEC completed two child labor programs in Retalhuleu and San Marcos. An international NGO collaborated with several local civil society groups in executing a program to strengthen the capacity of the government and civil society to withdraw and prevent children from hazardous labor through the provision of educational services.

The Child Worker Protection Unit within the Ministry of Labor is charged with enforcing restrictions on child labor and educating minors, their parents, and employers on the rights of minors in the labor market. The government devoted insufficient resources to prevention programs, but Guatemala City's municipal administration managed several small programs that offered scholarships and free meals to encourage families to send to school children who had formerly worked in the broccoli, coffee, gravel, and fireworks industries.

e. Acceptable Conditions of Work

The law sets national minimum wages for agricultural and nonagricultural work. The daily minimum wage was \$5.94 (44.58 quetzales) per day for agricultural work and \$6.10 (45.82 quetzales) for nonagricultural work.

The minimum wage did not provide a decent standard of living for a worker and family. The National Statistics Institute estimated that the minimum food budget for a family of five was \$221.97 (1,664.81 quetzales) per month, 10.8 percent higher than in 2006. Labor representatives noted that even where both parents worked, the minimum wage did not allow the family to meet its basic needs.

Noncompliance with minimum wage provisions in the informal sector was widespread. The Ministry of Labor conducted inspections to monitor compliance with minimum wage provisions, but the government allocated inadequate resources to enable inspectors to enforce the minimum wage law adequately, especially in the very large informal sector. Advocacy groups focused on rural sector issues estimated that more than half of workers in rural areas who engaged in day-long employment did not receive the wages, benefits, and social security allocations required by law. According to an October Ministry of Labor seminar, approximately 75 percent of the workforce operated in the informal sector and therefore outside basic protections, such as minimum wage, afforded by the law.

The legal workweek is 48 hours with at least one paid 24-hour rest period, although in certain economic sectors workers continued to operate under a tradition of longer work hours. Daily and weekly maximum hour limits did not apply to domestic workers. Time-and-a-half pay was required for overtime work. Although the law prohibits excessive compulsory overtime, trade union leaders and human rights groups charged that employers forced workers to work overtime without legally mandated premium pay. Management often manipulated employer-provided transportation to force employees to work overtime, especially in EPZs located in isolated areas with limited transportation alternatives. Labor inspectors reported uncovering numerous instances of overtime abuses, but effective enforcement was undermined due to inadequate fines and inefficiencies in the labor court system.

Labor courts have responsibility for sanctioning employers found violating labor laws. Labor inspectors are not empowered to adopt administrative measures or to impose fines for labor violations. The labor courts received 866 cases from the labor inspectorate and ruled in favor of reinstatement of the worker in 766 cases. Court decisions favorable to workers, however, were rarely enforced due to frequent refusals by employers to honor these decisions. Management or persons hired by management reportedly harassed and made death threats to workers who did not accept employer dismissals or refused to forfeit their right to reinstatement.

The government sets occupational health and safety standards, which were inadequate and poorly enforced. When serious or fatal industrial accidents occurred, the authorities often failed to investigate fully or assign responsibility for negligence. Employers rarely were sanctioned for failing to provide a safe workplace. Legislation requiring companies with more than 50 employees to provide on-site medical facilities for their workers was not enforced. Workers have the legal right to remove themselves from dangerous work situations without reprisal. Few workers, however, were willing to jeopardize their jobs by complaining about unsafe working conditions.

