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2009 Human Rights Reports: Guatemala

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

2009 Country Reports on Human Rights Practices

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Guatemala is a democratic, multiparty republic with a population estimated at 14 million. Alvaro Colom of the National Unity of Hope (UNE) party won the 2007 presidential election, which international observers generally considered free and fair, and began his four-year term 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 citizens, a wide variety of serious problems remained. These 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 serious crimes; 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, and killings of, journalists and trade unionists; discrimination and violence against women; trafficking in persons; discrimination against indigenous communities; discrimination on the basis of sexual orientation and gender identity; and ineffective enforcement of labor laws and 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 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. An Amnesty International (AI) report issued on December 15 described police and security force involvement in alleged extrajudicial killings and criticized investigations for being delayed or ineffective.

The National Civilian Police (PNC) and its Office of Professional Responsibility (ORP) reported that they investigated 17 accusations of killings involving 16 PNC agents, all of whom remained under investigation at year's end.

On January 20, authorities arrested PNC officers Mynor Joel Loarca Morales and Isaias Miguel Pineda for the January 15 killing of Walter Garcia Suruy in Guatemala City. Suruy had formally accused the two officers of car theft. No further information was available at year's end.

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On April 14, unknown persons shot and killed Khalil Musa, a prominent coffee grower and businessman, and his daughter, Marjorie, in Guatemala City. At year's end authorities had not charged anyone in their deaths. On May 10, Rodrigo Rosenberg Marzano, a lawyer retained by the Musa family, was also shot and killed in Guatemala City. Following an exhaustive investigation, the UN-sponsored International Commission against Impunity in Guatemala (CICIG) announced its finding that Rosenberg had arranged for his own murder. CICIG also exonerated President Colom and close associates in his administration regarding the accusation, made by Rosenberg in a video filmed just before his death, that they had orchestrated his killing.

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In September and October, authorities arrested 11 members of an organized crime group for organizing and carrying out Rosenberg's murder. Six were either active or former PNC agents, and one was a retired soldier. The Public Ministry (MP or the Attorney General's Office) charged five persons with murder and four with illicit association and issued warrants for others who allegedly served as middlemen for Rosenberg in arranging his killing. Three suspects remained at large at year's end.

On May 27, after the driver of a truck in which 15-year-old Pedro de Jesus Sacul Pop rode failed to obey an order to stop in Alta Verapaz, a group of soldiers opened fire and killed him. On June 26, authorities arrested 12 soldiers (Leopoldo Chen Tiul, Hugo Cuz Cuz, Audiel Salazar Cortez, Edy Ronal Caal Colay, Rudy Alberto Sarceno, Walter Raul Ramirez, Mario Enrique Iseem Caal, Jose Luis Lopez Sanchez, Oscar Anibal Garcia Ramirez, Javier Cacao Coy, Oscar Ramirez Gudiel, and William Augusto Cetino Garcia) for the killing. At year's end the 12 soldiers remained free on bail as the MP's investigation of the case continued.

On July 4, the PNC arrested three MP prosecutors (Mario Adolfo Soberanis Pinelo, Oscar Efrain Vasquez Fuentes, and Rigoberto Arturo Castanon Mejia) and two PNC officers (Marlon Josue Garcia Lopez and David Ezequiel Vasquez) for conspiring to obstruct justice in the killing of Castulo and Ana Leticia Vasquez Garcia. The main suspect in the case (also arrested on July 4) was reportedly the victims' brother, Jeiner Estanislao Vasquez Garcia, in whose home a June 16 video allegedly showed the arrested prosecutors and police officers failing to impound money and weapons and altering and destroying evidence. At year's end the six suspects remained in custody awaiting trial.

At year's end PNC agents Omar Evidan Godoy Arana and Gendy Misael Chinchilla Samayoa remained in custody awaiting trial for the February 2008 killing of bus assistant Jose Angel Hernandez.

On February 3, charges were filed against former MP chief homicide prosecutor Alvaro Matus for abusing authority and failing to fulfill his duties with respect to investigating the April 2008 killing in Guatemala City of Victor Rivera, former advisor to a government minister and former head of the PNC antikidnapping unit. On June 17 and 18, authorities arrested three MP assistant prosecutors (Denys Billy Herrera Arita, Carlos Rodriguez Serrano, and Pedro Pablo Giron Polanco) and MP deputy chief Leyla Susana Lemus Arriaga on charges of obstruction of justice and conspiracy for their alleged role in aiding Matus. On December 28, at a pretrial hearing, the Eighth Penal Court added obstruction of justice and conspiracy charges against Matus as well. At year's end the five suspects remained in custody as an MP investigation continued.

On March 31, the Seventh Sentencing Court sentenced three former PNC agents (Juan Carlos Jalal Caal, Julio Roberto Aguirre Martinez, and Israel Barco Arana) to 25 years' imprisonment for the April 2008 shooting and killing of Jorge Eduardo Rivera-Cabezas Klusmann, who had failed to obey a stop order.

On November 23, the Sentencing Court of Coatepeque absolved three Criminal Investigation Division detectives charged in the June 2008 killings of the son and former husband of Edilma Navarajo, mayor of Ocos, San Marcos.

On February 16, authorities arrested Sandro Adrian Ramos Venegas, a former PNC officer, for alleged involvement in the November 2008 killings of 16 occupants of a Nicaraguan bus in eastern Guatemala. On March 27, the MP arrested Rony Eduardo Terraza Hernandez, a possible member of the "Taquero" narcotics trafficking organization, for alleged participation in the killings. The two suspects remained in custody at year's end awaiting trial.

At year's end the nine PNC officers arrested as suspects in the alleged 2007 killing of Antonio de Leon Lopez in Huehuetenango during an antinarcotics operation remained in custody awaiting trial, while a tenth officer remained at large.

There were no developments in the cases of the Jutiapa mayor-elect and former member of Congress, Manuel Castillo, and his assistant, Carlos Alberto Gutierrez, who were arrested in 2008 for alleged involvement in the 2007 killings of three Salvadoran members of the Central American Parliament (PARLACEN) and their driver. At year's end both remained in custody, with Castillo facing seven charges.

At year's end the former director of El Boqueron prison, Manuel Antonio Recinos Aguirre; his deputy, Baldimiro Rodene Lopez y Lopez; and several police officers with alleged ties to narcotics trafficking in Jutiapa remained in custody awaiting trial in connection with the killing of four PNC suspects in the 2007 PARLACEN case.

On December 22, the Supreme Court ordered the reopening and reinvestigation of the 1993 assassination of Jorge Carpio Nicolle, a former presidential candidate and prominent journalist, as well as the killing of three of his close political associates. The Supreme Court was complying with a 2004 decision by the Inter-American Court of Human Rights, which found that the previous investigation by the country's authorities was flawed. The Supreme Court offered to provide security for witnesses, judges, prosecutors, and family members who participate in the new process.

Also on December 22, the Supreme Court ordered the reopening and reinvestigation of two other high-profile human rights cases. The first, known as the "street children" case, involved the alleged abduction, torture, and killing by state security forces of five street children in 1990. The second was known as the "white van" case, in reference to a van that state security agents allegedly used during 1987 and 1988 in the kidnapping and killing of five civilians.

At year's end former army captain Jose Antonio Solares Gonzalez and former Civil Defense Patrol members Ambrosio Perez Laju and Domingo Chen—three suspects sought for the 1982 killings of 177 civilians in Rio Negro, Baja Verapaz--remained at large, despite court orders.

According to PNC statistics, vigilante mobs (most often in rural indigenous communities) killed 49 persons and injured 216 in lynchings during the year. Many observers attributed the lynchings to public frustration with the failure of police and judicial authorities to guarantee security and to the emergence of local citizen security groups. There were continued reports of community lynchings of individuals suspected of rape, kidnapping, or attempted kidnapping of children to sell for adoption. In many instances, PNC agents refused to intervene out of fear for their own safety.

On March 16, Huehuetenango community members reportedly captured, beat, tortured, dismembered, and set on fire three suspected motorcycle thieves. Citizens claimed that an investigation they had conducted revealed the suspects as responsible for the theft. On July 10, two alleged thieves were lynched in Villa Canales. Police found one victim, Manolo Estrada, tied to a post and shot. On November 16, citizens in Chimaltenango burned to death a police officer accused of attempted extortion. On November 27, a mob in Solola burned to death three persons, including a 16-year-old boy, whom the PNC had arrested earlier that day on suspicion of killing a bus driver and a passenger. The mob also set fire to the governor's office, the PNC station, three patrol cars, and a motorcycle. On December 4, citizens in Huehuetenango burned

to death three persons accused of killing a woman. On December 5, citizens beat to death a man accused of theft in Panajachel, captured his three alleged accomplices, burned four police vehicles and a gas station, and damaged a police station and a municipal building. Police later freed the accomplices.

There were no developments, and none were expected, in the January 2008 shooting and killing in San Juan Sacatepequez of a 17-year-old whom a vigilante group suspected of being a gang member. The group also killed the victim's brother and father, who had attempted to intercede.

Similarly, there were no developments, and none were expected, in the September 2008 lynching by community members in San Pedro Yepocapa, Chimaltenango, of a 22-year-old man accused of assaulting and robbing bus passengers and raping four women.

b. Disappearance

Although there were no reports of politically motivated disappearances, there were reports of police involvement in kidnappings for ransom. The PNC's ORP reported that during the year there were 11 complaints of kidnapping by PNC personnel.

There were no developments in the 2007 disappearance of security guard Marcos de Jesus Garcia Sarmiento from the alleged hiding place of former fugitive Gustavo Herrera.

There were also no known developments in the MP investigation of the 2007 kidnapping of Marco Tulio Moreno Ramirez, reportedly committed by men wearing PNC-type uniforms.

On December 29, in response to a 2002 Inter-American Court of Human Rights order, the Supreme Court reopened the case of the forced disappearance in 1992 of guerrilla leader Efraim Bamaca Velasquez.

On March 5 and 6 respectively, authorities arrested PNC officer Hector Roderico Rodriguez Rios and retired PNC officer Abraham Lancerio Gomez, former members of the disbanded National Police, in the case of the 1984 forced disappearance of labor leader Edgar Fernando Garcia, whose widow is Congresswoman Nineth Montenegro. The suspects remained in custody at year's end on charges of illegal detention, kidnapping, and abuse of authority; authorities also issued arrest warrants for two other suspects.

On August 31, a Chimaltenango court convicted former military commissioner Felipe Cusanero Coj of the forced disappearances in Choatalum, San Martin Jilotepeque, Chimaltenango, between 1982 and 1984 of Lorenzo Avila, Alejo Culajay, Filomena Lopez, Encarnacion Lopez, Santiago Sutuj, and Mario Augusto Tay--all members of the Kaqchiquel Mayan indigenous group--and sentenced him to 150 years' imprisonment.

On December 3, a Chiquimula court convicted and sentenced retired army colonel Marco Antonio Sanchez Samayoa and three former military commissioners (Jose Domingo Rios, Gabriel Alvarez Ramos, and Salomon Maldonado Rios) each to 53 years in prison for the 1981 forced disappearances of the following eight individuals from El Jute village: Jacobo Crisostomo Cheguen, Miguel Angel Cheguen Crisostomo, Raul Cheguen, Inocente Gallardo, Antolin Gallardo, Valentin Gallardo, Santiago Gallardo, and Transito Rivera. The court also ordered an investigation of former minister of defense Angel Anibal Guevara, former army chief of staff Benedicto Lucas Garcia, and army officers and soldiers who served at the Zacapa military base when the disappearances occurred.

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.

There were no developments in the February 2008 alleged police beatings of two bus assistants.

Prison and Detention Center Conditions

Prison conditions remained harsh and dangerous, and there were multiple instances of killings by inmates. The prison system continued to suffer from a severe lack of resources, particularly in the areas of prison security and medical services and 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, gang fights, and other manifestations of prisoner unrest. Prisoners reportedly used cell phones frequently to demand extortion payments, coordinate kidnappings for ransom and killings of bus drivers and assistants, and direct other criminal activity both inside and outside the prison. Several prisons installed equipment to block such calls, but at year's end the final installation for equipment activation was incomplete.

Prison overcrowding continued to be a problem, although in September the government opened a new high-security prison in Fraijanes capable of holding 230 inmates. According to the prison system registry, as of mid-December, 19 prisons and jails designed to hold 6,974 persons held 9,801 persons. Of the national penitentiary system population, approximately 45 percent was in pretrial detention; 579 were adult women, 358 were boys held in three centers, and 31 were girls.

Inadequate security measures undermined the penitentiary system's ability to control prisoners effectively; there were only 2,144 prison guards nationwide. In the prisons, 16 percent of inmates reportedly belonged to gangs, which were active in prisons and occasionally attacked prison guards. Prison work and educational programs were inadequate to rehabilitate prisoners and decrease the 90 percent recidivism rate.

The media and nongovernmental organizations (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 February 4, the PNC arrested Jorge Torres, director of the Pavoncito Preventive Prison, as well as seven prison guards for their alleged complicity in the February 1 escape of inmate Leonel Giovanni Herrera Reyes, who was serving a 50-year sentence for a 2003 rape and homicide.

On September 4, six inmates (Byron Alberto Morales Villatoro, Carlos Esteban Galindo Pardo, Wilmer Armando Argueta, Jose Armando Sapon Ola, and former PNC officers Leopoldo Zaid Castillo Belloso and Bartoleme Teni Cuc)—believed to be members of a kidnapping band—escaped from the Quetzaltenango Preventive Prison. Authorities subsequently arrested five PNC agents (Gonzalo David Morales, Hilario Antonio Lopez, Juan Carlos Mendez, Jose Pedro Rojas, and Francisco Javier Agustin) for allegedly aiding the escape.

In September the minister of government fired 37 prison system employees, including the director, deputy director, manager, and guards of the El Boqueron Prison; ordered their investigation for allegedly allowing inmates under their control to possess money, guns, and drugs; and moved gang leaders into the new high-security prison at Fraijanes. Subsequent (apparently coordinated) retaliatory incidents included the firing by unknown assailants of more than 35 AK-47 rounds at the prison system headquarters, the killings in Guatemala City of a prison guard and the El Progreso Jail deputy director, and the killings of the Chimaltenango Jail deputy director and a guard in Chimaltenango. On October 31, unknown assailants in Guatemala City shot and killed one prison guard and injured two others and, on the outskirts of the city, unknown assailants shot and killed a guard and injured two others. The PNC and the Ministry of Government (MOG) responsible for the penitentiary system ascribed these attacks to retaliation for the MOG's attempted disruption of gang activity in prisons. The minister of government specifically attributed the attacks to incarcerated gang leader Jorge Jair Hernandez, who allegedly operated a criminal organization from El Boqueron Prison.

At year's end there were no known developments in the MP investigation of the 2007 case of prison guard Irma Barrientos, who allegedly prostituted female prisoners in Jalapa and extorted a commission on money sent to prisoners.

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, and, on rare occasions, juveniles and adults were held together.

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; 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 sometimes failed to bring suspects before magistrates within the legally mandated six-hour deadline, and magistrates sometimes failed to hold a hearing within the legally mandated 24-hour period.

Role of the Police and Security Apparatus

The 19,465-member PNC, headed by a director general appointed by the minister of government, remained understaffed, inadequately trained, and insufficiently funded. As of December, the PNC reported 65 deaths of PNC personnel, 30 in the line of duty.

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 PNC operational control continued in Guatemala City high-crime areas as well as other areas.

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

On August 7, President Colom fired PNC director general Porfirio Perez Paniagua and three of his top lieutenants (deputy director general Rolando Mendoza Perez, deputy director of operations Victor de Jesus Lopez, and deputy director of investigations Hector David Castellanos Soto) on suspicion of having masterminded an attempt to steal more than 2,200 pounds of cocaine during an August 6 counternarcotics operation in Guatemala City. On August 18, authorities arrested Orlando Evangelista Villatoro Alvarado, the PNC special division of criminal investigations operations chief, in connection with the attempted theft. At year's end an arrest warrant for Castellanos remained unimplemented, and the MP continued to investigate Paniagua and other PNC officers.

On August 28, authorities arrested Paniagua and two subordinate PNC officers (Benigno Lopez Fuentes and Mario Roberto Castillo) on separate charges of stealing \$350,000 in cash that the PNC had originally seized on June 10 in Chimaltenango.

Police impunity remained a serious problem. The PNC routinely transferred officers suspected of wrongdoing rather than investigating and punishing them.

There were credible reports that PNC officers 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.

On September 21, the Second Penal Court sentenced PNC chief Elias Lemus Guerra, deputy inspector Jose Lopez Hernandez, and agents Jorge Garcia Ortiz and Dennis Gueiry Godinez to prison terms ranging from five to eight years for the April 2008 illegal detention of Eleazar Rodas in Guatemala City as well as for threats, theft, and abuse of authority.

There were no developments in the September 2008 case of two deputy PNC commissioners under arrest and 12 other PNC officers under MP investigation for alleged involvement in a Guatemala City criminal group.

Police threatened persons engaged in prostitution and other commercial sexual activities with false drug charges to extort money or sexual favors and harassed lesbian and gay persons and transvestites with similar threats. Critics accused police of indiscriminate and illegal detentions when conducting antigang operations in some high-crime neighborhoods. Security officials allegedly arrested and imprisoned suspected gang members without warrants or sometimes on false drug charges.

The ORP conducted internal investigations of misconduct by police officers. During the year the ORP reported receiving 776 complaints, which included 17 complaints of killings, three forced disappearances, 11 kidnappings, six illegal detentions, 80 thefts, three rapes, 81 threats, and 323 cases of abuse of authority.

Although the ORP forwarded to the MP for further investigation and prosecution cases with sufficient evidence of criminal activity, few such cases went to trial. At year's end the ORP had investigated 69 police officers. The PNC did not provide statistics on the resolution of these cases, some of which remained pending at year's end.

The PNC trained 3,770 cadets in human rights and professional ethics, compared with 2,810 in 2008. The army required civil affairs officers at each command to plan and document human rights training provided to soldiers. As of year's end, 5,760 military officers and soldiers had received human rights training, according data provided by the Ministry of Defense.

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

Arrest Procedures and Treatment While in 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.

At year's end the ORP had received six 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 continued to operate three 24-hour court pilot projects that significantly reduced the number of cases dismissed for lack of merit or on technical grounds and increased the prosecution rate in the Guatemala City metropolitan area. Year-end statistics for the 24-hour court in Guatemala City indicated that only 9.4 percent of those who were brought before the court were released for cases lacking merit or technical grounds, compared to 77 percent who were released for these reasons in 2005 before the 24-hour court was established. These projects also 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. Some prisoners were not released in a timely fashion after completing 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.

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. Most serious crimes were not investigated or punished. Very few reported crimes were prosecuted; fewer resulted in conviction. A Myrna Mack Foundation study released in July stated that the MP pressed formal charges in 3 percent of 13,342 homicide cases between the beginning of 2006 and the middle of 2008. Many high-profile criminal cases remained pending in the courts for long periods, as defense attorneys employed successive appeals and motions.

On July 17, Congress approved a two-year extension of the mandate of the International Commission against Impunity in Guatemala through September 11, 2011. The UN and the government agreed to establish the UN-led CICIG in 2006 to investigate and prosecute cases involving criminal penetration of the state and to advance rule-of-law reforms.

During the year Congress also passed and implemented reform legislation designed to make the selection of Supreme Court and appellate court judges more transparent. In the September 30 selection of 13 Supreme Court justices, a special committee developed a list of 26 candidates from the 250 names it had ranked, based on legislated criteria. Despite public denunciation of eight of the 26 by CICIG commissioner Carlos Castresana, Congress elected six of the eight denounced candidates. However, on October 7, after international criticism, Congress partially reversed itself, deciding that three of the six justices Castresana named were not qualified, and replaced them with three others from the list of 26.

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. At year's end the special prosecutor for crimes against judicial workers received 68 cases of threats or aggression against workers in the judicial branch, compared with 129 in 2008.

The MOG assigned police officers to CICIG to augment security, and the MP-created, CICIG-vetted prosecutor unit continued to be directly supervised by a senior CICIG prosecutor. At year's end CICIG continued its investigation of 15 high-profile cases, 39 prosecutions, and various cases involving killings of women, bus drivers, and assistants; trafficking in persons; and attacks against and killings of unionists and human rights defenders.

On July 4, Leopoldo Liu, the chief prosecutor in the MP for money laundering, resigned after receiving death threats.

On September 10, unidentified gunmen shot and killed PNC agent Dimas Godoy when he surprised them trying to break into the residence of MP chief prosecutor for organized crime Rony Lopez.

There were credible reports of killings of witnesses.

On September 3, a court acquitted Juan Ignacio Monzon Guillen, Gabriel Ruche Pixtun, William Donald Hernandez, and Marvin Leonel Coc—members of the Monzon gang--of all charges in the January 8 killing of Blanca Leticia Amperez Velasquez, a protected witness in the case against gang leader Wilfredo Monzon Gillen.

On February 16, unidentified gunmen attempted to kill Sandro Ramos Vanegas, a protected witness in the 2008 Nicaraguan bus-killings case, in Guatemala City.

On May 18, unknown gunmen in Mazatenango killed Nery Angel Urizar Garcia, a former army intelligence operative and witness in the Efrain Bamaca forced disappearance case.

There were no known developments in the 2007 killing of Dalia Evangelina Garcia Illescas, a witness in the murder trial of PNC officer Jorge Macario Mazariegos.

Judge Eduardo Cojulum of the Eleventh Court of First Instance reportedly continued to receive death threats throughout the year for his assistance in the Spanish national court case brought by Rigoberta Menchu, in collaboration with NGOs, against five retired military officers and two civilians for alleged human rights violations committed during the internal conflict.

There were no developments concerning the March 2008 killing in Guatemala City by unknown assailants of MP Homicide Division clerk Ingrid Judith Borrayo and PNC officer Hugo Rolando Toj, who had been assigned to the MOG's Human Rights Division. According to the MP, the investigation remained officially open although the two main suspects in the case both died in separate incidents during the year.

There were also no developments in the May 2008 killing of Judge Jose Vidal Barillas Monzon, president of the Appeals Court of Retalhuleu, by unidentified gunmen. Judge Barillas had presided over organized crime, drug trafficking, and land disputes cases.

There were also no developments in the July 2008 killing of assistant homicide prosecutor Juan Carlos Martinez, chief prosecutor in the PARLACEN and Victor Rivera homicide cases, by unknown assailants.

The Supreme Court continued to seek the suspension of judges and to conduct criminal investigations for improprieties or irregularities in cases under its jurisdiction. The Judicial Disciplinary Unit investigated 165 complaints of wrongdoing and held hearings for 55 complaints during the year but did not provide statistics on case resolution.

Prosecutors were often ineffective and remained susceptible to intimidation and corruption.

The judiciary consists 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. There were 388 justices of the peace 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. The Constitutional Court, which reviews legislation and court decisions for compatibility with the constitution, is independent of the rest of the judiciary.

At year's end the MP had 196 persons in its witness protection program.

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. Defendants and their attorneys have access to government-held evidence relevant to their case. The law provides for plea bargaining, possible release on bail, and the right of 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, although inadequate government funding limited effective application of this requirement. The MP utilized 20 interpreters nationwide, including in former conflict areas of the country, and the Office of the Public Defender employed 35 bilingual public defenders in locations where they could also serve as translators.

The MP, acting semi-independently 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 such orders. Some killings resulted from PNC failure to enforce restraining orders promptly.

Property Restitution

In November 2008 the president signed an agreement with leaders of the group of families that lost relatives during the Rio Negro massacres in the early 1980s, known as the Coordinator of the Communities Affected by the Construction of the Chixoy Dam. In the agreement the government acknowledged "damages and violations" and accepted responsibility to provide reparations to families of the victims. An ad hoc presidential commission continued to work on a plan to implement this agreement.

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.

At year's end the espionage trial of former chief of presidential security Carlos Quintanilla, who voluntarily surrendered in December 2008, continued in connection with the discovery of listening devices in the offices of the president and first lady. On January 8, facing similar charges, the former head of the secretariat of strategic analysis, Gustavo Solano, voluntarily surrendered, and at year's end he remained under house arrest awaiting trial.

There were no developments, and none were expected, in the cases of the November 2008 break-in of the home of Ruth del Valle, the presidential human rights commissioner, and the 2007 break-ins at the offices of three NGOs.

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.

The independent media, including international news organizations, operated freely and actively and expressed a wide variety of views without overt government restriction. During the year, however, some members of the press reported being pressured by various public officials. Some owners and members of the media also accused the government of following a discriminatory advertising policy, particularly with respect to leading print and broadcast media that expressed news or commentary perceived as critical of the president, his administration, the first lady, or public officials and programs.

Members of the press claimed that increasing levels of impunity and violence in the country, particularly associated with narcotics trafficking, threatened the practice of free and open journalism. The press also complained of threats made

against them by organized crime and drug trafficking organizations, noting that these threats increased their sense of vulnerability.

During the year the Special Prosecutor's Unit for Crimes against Journalists and Unionists received 39 complaints of attacks and other acts of intimidation against journalists. The MP reported 24 incidents of intimidation of journalists, compared with 10 during 2008. A 2008 UN Development Program report categorized the country as a "country of risk" for journalists, based on violence against the media and violations of freedom of expression.

On April 1, unknown gunmen killed Telecentro 13 television journalist Rolando Santis in Guatemala City and injured an accompanying cameraman, Juan Antonio De Leon Villatoro.

On June 6, an unknown assailant shot and killed Telediario television correspondent Marco Antonio Estrada Orla in Chiquimula.

On September 1, Vice President Rafael Espada filed an accusation of slander against journalist Marta Yolanda Diaz Duran, who had accused him in an opinion column of having met with lawyer Rodrigo Rosenberg days before he was killed on May 10 (see section 1.a.).

There were no developments in the following cases:

- The May 2008 killing of *Prensa Libre* correspondent Jorge Merida Perez in Coatepeque, Quetzaltenango, after he reported corruption in Coatepeque municipality and alleged the mayor's connection to drug trafficking.
- The July 2008 death threat case of *Prensa Libre* news correspondent Danilo Lopez, who reported on corruption in the Suchitepequez governor's office.
- The July 2008 shooting attack on the home of Radio Punto news correspondent Edin Rodelmiro Maaz Bol in Coban.
- The 2007 attempted killing of *Nuestro Diario* correspondent Wilder Jordan.
- The investigation of the 2007 anonymous death threats against the staff of Guatevision and their family members for coverage of the PARLACEN killings.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Leading independent print, broadcast media, and a growing number of small/medium-size news organizations featured Internet editions and operated freely. Individuals and groups engaged in the peaceful expression of views via the Internet, including by e-mail. The International Telecommunication Union reported that in 2008 approximately 14 percent of the population accessed the Internet.

On May 14, in the aftermath of the killing of attorney Rodrigo Rosenberg, authorities arrested Twitter user Jean Ramses Anleu Fernandez and charged him with provoking financial panic by his "tweet" e-mail message calling on Rural Development Bank customers to close their bank accounts. The bank superintendent claimed the message caused withdrawal of 525 million quetzales (approximately \$66 million). On June 8, the Third Appeals Court issued a no-merit ruling and found that the tweet had not caused financial panic.

Academic Freedom and Cultural Events

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 this right in practice, there were some allegations of unnecessary use of force or of police inaction during violent demonstrations.

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.

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 2009 International Religious Freedom Report at www.state.gov/g/drl/rls/irf.

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 government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations.

The law prohibits forced exile.

Protection of Refugees

The country is a party to the 1951 Convention relating to the Status of Refugees and the 1967 Protocol relating to the Status of Refugees. The constitution and the law provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

During the year the government received six requests for refugee status and accorded temporary protection, asylum, or refugee status to one person.

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

In 2007 Alvaro Colom of the UNE party won a four-year term as president with approximately 53 percent of the vote. The Organization of American States international observation mission characterized the elections as generally free and fair. AI reported an estimated 26 killings of political activists in the context of the election.

There were 20 women in the 158-seat Congress. A total of 197 women served as judges nationwide, including one each on the Supreme Court and the Constitutional Court. There were no women in the 12-member cabinet. Six of the country's 332 mayors were women.

There was one indigenous cabinet member, no indigenous Supreme Court justices, 113 indigenous mayors, and approximately 20 indigenous members of Congress. A prominent indigenous leader has headed the Human Rights Office in the Ministry of Foreign Affairs since mid-2008.

Section 4 Official Corruption and Government Transparency

Government corruption was widely perceived to be a serious problem. World Bank governance indicators reflected that government corruption was a serious problem. The MP continued to investigate corruption charges against former president Alfonso Portillo, former vice president Reyes Lopez, and other senior members of previous governments.

On March 27, police arrested retired general Enrique Rios Sosa, Captain Pedro Adolfo Catalan Munoz, and retired lieutenant Miguel Angel Salguero Torres on charges of document forgery and embezzlement of 471 million quetzales (approximately \$59 million) from 2001 to 2003 during the Portillo administration. Three other suspects charged in the case (retired colonel Sergio Hugo Cardenas Sagastume; Navy captain Rodolfo Leonel Chacon Alvarez, naval school commander; and Colonel Luis Alberto Gomez Guillermo) thereafter turned themselves in. The presiding judge set no bail but ordered house arrest for all six, which continued at year's end.

On June 25, authorities arrested former minister of defense and minister of government Eduardo Arevalo Lacs on charges of embezzling army funds worth 120 million quetzales (approximately \$15 million) in 2001. At year's end he remained in custody awaiting trial.

Having resigned from office in August 2008 after acknowledging that his private secretary (Byron Sanchez) had illegally transferred 82.8 million quetzales (approximately \$11 million) of public funds to Mercade do Futuros (MDF), a private investment house, former president of Congress Eduardo Meyer delayed his trial on embezzlement charges while remaining under house arrest. Raul Giron, the MDF's general manager and legal representative, who voluntarily surrendered in August 2008, remained in custody awaiting trial for money laundering and fraud at year's end. Sanchez and former congressional chief financial officer Jose Conde, also wanted in the case, remained at large at year's end.

Authorities arrested former president of Congress Ruben Dario Morales on November 26 on embezzlement and fraud charges based on his alleged receipt of a 300,000-quetzal (approximately \$38,000) commission for investing congressional funds in the MDF in 2007. On December 3, the Seventh Penal Court placed Morales under house arrest on bail of 400,000 quetzales (\$50,000) while the MP continued its investigation.

On October 27, the Tenth Sentencing Court imprisoned former congressman Hector Loaiza Gramajo for 14 years on money laundering, fraud, and tax evasion charges related to the theft of gasoline trucks in 2006.

Former president Portillo continued to face charges for embezzlement allegedly committed during his presidency (2000-04), but the start of his trial was delayed due to appeals. He remained free on bail at year's end.

Public officials who earn more than 8,000 quetzales (approximately \$1,000) per month or who manage public funds are subject to financial disclosure laws overseen and enforced by the Controller General's Office. Lack of political will and rampant impunity facilitated government corruption.

The constitution provides for the right of citizens to access public information. A 2008 law in effect since April regulates the provision of, and facilitates access to, information held by public institutions. It covers all branches of government, requires all public and private entities that receive public funds to respond to public requests for information on their operations and

administration of resources, and establishes sanctions for obstructing such public access. The press, however, has criticized the government for not having provided sufficient resources to allow government and publicly funded offices to comply fully with the new legislation. The country's Transparency International chapter noted that public access to government information has decreased since 2006 and that implementation of the 2008 law was slow.

Section 5 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 generally cooperative and open to their views.

On February 16, the UN special representative on the situation of human rights defenders issued a report on her February 2008 follow-up visit to the country that expressed deep concern "at the deterioration in the environment in which human rights defenders operate, characterized by endemic impunity for crimes and violations" against them. She recommended that the government construct a human rights political agenda, take steps to legitimize the work of human rights defenders, institutionalize consultation processes with civil society, ensure coordination among investigatory bodies, reform witness protection measures and the police, monitor implementation of CICIG recommendations, protect public defender staff, and fund the government's human rights ombudsman (PDH).

In partial implementation of the March 2008 Constitutional Court decision that four early-1980s military counterinsurgency plans be declassified, the Ministry of Defense on March 6 surrendered two plans (Victoria 82 and eight of the estimated 200-plus pages of Firmeza 83) and claimed the other two (operations Sofia and Ixil) had been lost. An MP investigation and the Presidential Commission for Declassification of Military Archives continued at year's end.

In a November 2008 decision, the Inter-American Court of Human Rights held the government accountable for the 1990 forced disappearances of Maria Tiu Tojin and her daughter. The court recognized that the government had complied with some of its recommendations, including providing a letter of apology to the victims' family, the payment of two million quetzales (\$259,000) to family members, and the construction of a monument in the victims' memory. The court found, however, that the government had not done enough to establish the identities of those responsible or to locate the victims' remains.

On December 22, the Supreme Court decided to reopen four high-profile human rights cases from the 1980s and 1990s (see section 1.a.).

Many NGOs and human rights workers, as well as 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.

An NGO, the Guatemalan Human Rights Defenders Protection Unit (UDEFEQUA), reported that, as of August, there had been 10 killings of human rights defenders. Reports suggested that former or current members of the police were involved in some of the killings. On May 21, the Inter-American Commission on Human Rights (IACHR) granted precautionary measures for the director (Iduvina Hernandez) and members of the NGO Association for the Study and Promotion of Security in Democracy and requested government protection for them in view of threats connected with their activities.

On September 29, and again on December 31, human rights activist Norma Cruz said that she had received repeated death threats for calling on authorities to prosecute Juan Jose Santos Barrientos, accused of killing Francisca Ayala Pinto

and Carlos Cruz Pineda on May 11. Francisca Ayala was a key witness in the trial of Estuardo Ayala Casasola, who was convicted on April 25 of the statutory rape of a 13-year-old girl.

On October 18, unknown persons attacked and killed Fausto Leonel Otzin Poyon, a human rights lawyer and advocate for Mayan community rights, in San Juan Comalapa, Chimaltenango. At year's end an investigation was underway, but no suspects had been named or arrested.

There were no known developments in the MP's investigations in the following cases that the UDEFEGUA highlighted as examples of violence and intimidation against human rights defenders:

- The March 2008 death threat against Bishop Alvaro Ramazzini, a supporter of rural communities in land-use conflicts.
- The August 2008 death threat against indigenous leader Amilcar Pop, president of the Guatemalan Association of Mayan Lawyers.
- The August 2008 killing in Colotenango, Huehuetenango, of indigenous community leader Antonio Morales Lopez, a member of the Committee of Peasant Unity and an activist for indigenous natural resource rights in opposition to mining projects.
- The October 2008 death threat against a family member of Norma Cruz, director of the Survivors Foundation, in Guatemala City.

The Office of the Special Prosecutor for Human Rights opened new cases involving anonymous telephone or written threats, physical assaults, and 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.

At year's end Erwin Gudiel Arias remained in custody awaiting an appeals court-ordered retrial for the 2007 killing of Jose Emanuel Mendez Dardon, son of former congressman and human rights leader Amilcar Mendez.

The resident Office of the UN High Commissioner for Human Rights advised and assisted the government and monitored the human rights situation. The government cooperated with the office and other international organizations, including CICIG.

PDH Sergio Morales, whose current five-year term runs until 2012, reports by law to Congress and monitors the human rights set forth in the constitution. The PDH operated without government or party interference, had the government's cooperation, and issued reports and recommendations that were made public, including an annual report to Congress on fulfillment of its mandate.

On March 24, the PDH released its first official report on the national police archives project (*The Right to Know*). It specifically publicized the case of the 1984 forced disappearance of a labor leader, allegedly by active and retired PNC members whom authorities arrested in early March and who remained in custody at year's end (see section 1.b.).

On April 8, the IACHR granted precautionary measures for the director and employees of the Office of the Human Rights Prosecutor and requested government protection in view of threats connected with their publication of historical police archives.

The President's Commission on Human Rights (COPREDEH), led by Ruth del Valle, is charged with formulating and promoting the government's human rights policy, representing the government before the IACHR, and negotiating amicable settlements in cases before the Inter-American Court of Human Rights. COPREDEH also led coordination of

police protection for various human rights and labor activists during the year.

The Congressional Committee on Human Rights drafts and provides advice on legislation regarding human rights matters. By law all political parties represented in Congress 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 6 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 sets penalties between five and 50 years in prison. A 2008 law establishes penalties for physical, economic, and psychological violence committed against women because of their gender. At year's end 1,512 cases of economic violence and 2,033 cases of sexual abuse and other forms of physical violence were reportedly under investigation.

Police had minimal training or capacity for investigating sexual crimes or assisting victims of sexual crimes. The government maintained the PNC Special Unit for Sex Crimes, the Office of Attention to Victims, the Office of the Special Prosecutor for Crimes against Women, and a special unit for trafficking in persons and illegal adoptions within the Special Prosecutor's Office for Organized Crime. Rape victims sometimes did not report the crime for lack of confidence in the justice system and fear of reprisals.

Violence against women, including domestic violence, remained a common and serious problem. The law prohibits domestic abuse, provides for both the issuance of restraining orders against alleged aggressors and police protection for victims, and 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 assist victims.

The Institute of Public Criminal Defense continued to provide free legal, medical, and psychological assistance to victims of domestic violence. By year's end the project had attended to 13,375 cases of domestic violence.

According to press reports, the government's Program for Prevention and Eradication of Intrafamily Violence, under the first lady's Secretariat of Social Work, received on average 565 calls daily from battered women and children via its three emergency hotlines. At year's end the MP reported that it received more than 31,641 complaints of violence against women and children, including domestic violence, economic violence, and sexual crimes. Of the 5,097 complaints of sexual crimes, at year's end the government reported 242 convictions. The MP did not provide data on punishment.

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. 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. The 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.

Killings of all types continued, including those with reported evidence of sexual assault, torture, and mutilation of women. The NGO Guatemalan Women's Group reported that 721 women were killed from January to November 22. The PNC reported a total of 6,498 killings during the year, including 720 killings of women, compared with 6,292 total killings, including 687 women, in 2008. There were 219 prosecutions for killings of women in Guatemala City during the year, but few prosecutions resulted in convictions.

The MOG continued to operate 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. The Institute of Public Criminal Defense hotline to assist female victims of physical violence received approximately 60,113 calls during the year.

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 widely recognized problem. There were credible reports that police and immigration service agents were complicit in trafficking or leaking information on imminent raids of brothels and other commercial sex establishments to criminal targets.

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.

Couples and individuals had the right to decide the number, spacing, and timing of children. On October 30, the government approved a regulation designed to help implement family-planning law by providing for access to family-planning information and sex education throughout the public health system. Catholic and evangelical churches sought court injunctions against implementation of the regulation but did not succeed by year's end. According to UN data, two-thirds of urban births and 30 percent of rural births were attended by skilled personnel. At least 82 percent of women had at least one antenatal care visit, but no data were available about postpartum care. In general women and men had equal access to diagnostic services and treatment for sexually transmitted diseases, including HIV.

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. They 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 the president on interagency coordination of policies affecting women and their development. The secretariat's activities included seminars, outreach, and providing information on discrimination against women.

A Guatemala City women's shelter for victims of violence continued to operate during the year with capacity to house 20 victims and their families for six months at a time.

Children

Citizenship is derived by birth within the country's territory and from one's parents. 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 ninth grade, less than half the population over the age of 13 had completed primary education. Completion rates were lower in rural and indigenous areas.

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 43 convictions in the 364 child abuse cases it opened between January and December.

The Secretariat of Social Welfare, 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.

Authorities investigated and prosecuted an estimated 90 cases of abduction or purchase of children, some involving more than one child, for purposes of offering them for adoption.

There were credible reports of forced early marriages in some rural indigenous communities.

Child prostitution remained a problem. Child sex tourism was not a widespread problem, although there were credible reports that some activity of this nature occurred in Antigua and Guatemala City. The minimum age of consensual sex is 18. The Law against Sexual Violence, Exploitation, and Trafficking in Persons that was passed in February provides sentences ranging from 13 to 24 years in prison, depending on the victim's age, for sex with a minor. The law also prohibits child pornography and establishes penalties of six to 10 years in prison for the production, promotion, and selling of child pornography and two to four years' imprisonment for possession of it.

The government conducted 65 rescue operations during the year, resulting in the rescue of approximately 30 sexually exploited minors under age 18. The Secretariat of Social Welfare handled 1,052 child protection cases, including cases of sexually exploited minors, as part of a national plan to combat the commercial sexual exploitation of children.

Credible estimates put the number of children who were members of street gangs at 3,000 nationwide. Many street children had left home after being abused. Criminals often recruited street children for purposes of stealing, transporting contraband, prostitution, and illegal drug activities. The NGO Mutual Support Group reported that, as of July, 28 minors suffered violent deaths nationwide. 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 girl's shelter in Antigua and a boy's shelter in San Jose Pinula. Two other shelters in Quetzaltenango and Zacapa served both boys and girls. The government devoted insufficient funds to shelters, and

authorities often preferred to send juveniles to youth shelters operated by 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, trafficking was a significant problem, and there were reports that men, women, and children were trafficked to, from, through, and within the country. The law criminalizes trafficking in persons for all purposes and defines the categories of persons responsible for trafficking offenses. On February 18, Congress approved a reform law against sexual violence, exploitation, and trafficking in persons that establishes increased prison terms of eight to 18 years and fines of 300,000 to 500,000 quetzales (approximately \$38,000 to \$63,000) for persons found guilty of trafficking for sexual or labor exploitation. However, the government did little to implement the law after its entry into force in March and funding for antitrafficking efforts either remained the same or decreased.

The country was a source, transit, and destination country for citizens and other Central Americans trafficked for purposes of commercial sexual exploitation and forced labor. Women and children were trafficked within the country for sexual exploitation and to Mexico and the United States. 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 in 2008 that children between the ages of eight and 14 were sold for 750 to 1,500 quetzales (approximately \$90 to \$190) to work in various economic activities, primarily for commercial sexual exploitation. According to ECPAT the incidences of trafficking in persons and the sale of children for sexual exploitation in 2008 likely increased due to higher unemployment rates and increasing numbers of individuals living in extreme poverty.

Trafficking was particularly a problem in towns along the country's borders. Children of Guatemalan and other Central American migrants who did not accompany their parents into Mexico often 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 crime rings that forced them into prostitution. The primary target groups for sexual exploitation were girls and young women from poor families. In March Honduran media reported that four Honduran minors found in Guatemala were victims of commercial sexual exploitation and trafficking, and Guatemalan police arrested four suspects.

Trafficking organizations ranged from family businesses to highly organized international networks. Brothel owners in Mexico, Belize, and the United States 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 false promises of economic rewards, jobs in cafeterias or beauty parlors, or employment in other countries. They used flyers, newspaper advertisements, and verbal or personal recommendations.

The MP operated a special unit within the Prosecutor's Office of Organized Crime to investigate and prosecute trafficking. A task force that included the MP, the PNC, and immigration authorities conducted an unspecified number of raids on bars and other commercial establishments.

The PNC and MP units responsible for combating trafficking were severely understaffed and underfunded. Weak institutional capacity, infiltration of organized crime, systemic corruption, lack of resources to aid victims, and lack of

witnesses willing to aid prosecution also hampered government efforts. At year's end the MP's Special Unit against Trafficking in Persons received and investigated 400 trafficking cases, compared with 136 during 2008. During the year the MP prosecuted and the courts sentenced seven persons for trafficking offenses.

There were credible reports that some police and immigration service agents were complicit in trafficking of persons. ECPAT reported that some child victims of trafficking claimed immigration officials took bribes from traffickers, provided 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.

Civil society and humanitarian organizations provided all the services specially designed for trafficking victims. However, the shelters operated by the government's Secretariat of Social Welfare in Antigua, San Jose Pinula, Quetzaltenango, and Zacapa to house victims of domestic abuse and abandonment and to offer social services, job training, and counseling also on occasion provided services to trafficking victims. During the year the NGO shelter Casa del Migrante assisted 966 victims of trafficking, including four cases involving minors. During the year one of the primary shelters for trafficking victims in Guatemala City, Alliance House, closed for financial reasons; its parent organization, Covenant House, planned to reopen a shelter in 2010.

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.

The Interagency Commission to Combat Trafficking in Persons and Related Crimes, headed by the Ministry of Foreign Affairs and including representatives of the executive, legislative, and judicial branches as well as NGOs and international organizations and totaling 27 entities, coordinated initiatives to combat trafficking. The government participated in a regional plan to combat trafficking in persons and the commercial sexual exploitation of children and adolescents.

The government gave increased attention to rescuing minors from commercial sexual exploitation in bars, brothels, and other establishments. The minors were referred to a number of NGOs, which provided shelter, medical treatment, psychological counseling, and job training.

The country cooperated with Mexico to assist victims in both countries. This cooperation included ensuring that 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 MP worked with ECPAT to train government officials on crimes of sexual and commercial exploitation with an emphasis on trafficking of children. ECPAT provided numerous courses to more than 1,410 government officials nationwide, but the government made only a minimal effort to train justice officials in the new law on trafficking.

The State Department's annual *Trafficking in Persons Report* can be found at www.state.gov/g/tip.

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 addressing the problem.

There were minimal educational resources for persons with special needs, and the majority of universities were not made accessible to persons with disabilities. The National Hospital for Mental Health, the principal health-care provider for persons with mental illness, lacked basic supplies, equipment, hygienic living conditions, and adequate professional staffing. The National Council for the Disabled, composed of representatives of relevant government ministries and agencies, met regularly to discuss initiatives and had a budget of five million quetzales (approximately \$610,000).

Indigenous People

Indigenous persons from 22 ethnic groups constituted an estimated 43 percent of the population. The law provides for equal rights for indigenous persons and obliges the government to recognize, respect, and promote their lifestyles, customs, traditions, social organizations, 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. While the indigenous population increased its political participation, some civil society representatives questioned whether such participation had resulted in greater influence in the national political party structure. Indigenous lands often were not effectively demarcated, making land titles frequently problematic.

On March 4, the Defense for Indigenous Women announced that lawyer Sandra Santos Lopez was stabbed while exiting a court in Chimaltenango where she had been involved in a case related to indigenous women's rights.

On September 27, unknown persons killed an indigenous schoolteacher, Adolfo Ich Chaman, and injured seven other protesters who had gathered to protest a rumored eviction of community members by the Guatemalan Nickel Company (CGN) from disputed land near El Estor, Izabal. Authorities issued a warrant for the arrest of Mynor Padilla, who headed CGN's private security force in El Estor at the time of Chaman's death. Padilla remained at large at year's end.

According to AI, on September 2, police evicted approximately 80 indigenous Mayan Q'eqchi community members from their homes in the communities of Bella Flor and 8 de Agosto, Alta Verapaz Department; burned houses; destroyed crops; and attempted to rape a 15-year-old girl. The underlying land dispute reportedly remained unresolved because the alleged landowners failed to attend negotiations.

During an October 12 protest in Guatemala City against government agrarian policy, a gunman reportedly shot and killed one indigenous rural worker and injured two others.

The NGO Human Rights First noted a tendency to criminalize social movements, especially community mobilizations against large-scale industrial projects that would negatively impact the livelihood of the community. Several indigenous community members of San Juan Sacatepequez had been arrested over the previous few years because of their opposition to the construction of a cement factory. In July 2008 authorities issued arrest warrants for eight individuals as a result of a dispute between a landowner and a mining company, the second dispute in 18 months in which residents opposed to the mine were targeted for arrest. At year's end there were no developments in the cases.

Rural indigenous persons had limited educational and employment opportunities. Many indigenous persons were illiterate,

and approximately 29 percent did not speak Spanish, according to the 2006 National Statistics Institute National Survey of Life Conditions report, the latest data available. While the average nonindigenous child from seven to 17 years of age had received 4.4 years of schooling, indigenous children of the same age range had received an average of 3.7 years, according to the same report. More than 50 percent of indigenous women over the age of 15 were illiterate, and a disproportionate number of indigenous girls did not attend school. According to the Ministry of Education, 78,117 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 a budget of 60,000 quetzales (\$7,354) and only four employees to investigate discrimination claims.

Legally mandated court interpreters for criminal proceedings were rarely available, placing indigenous persons arrested for crimes at a disadvantage due to their sometimes limited comprehension of Spanish. There were 115 judges who spoke Mayan languages among the 536 tribunals in the country. There were 62 court interpreters, including 45 bilingual Mayan speakers, and the Supreme Court reported that the judicial system had 758 employees who spoke indigenous languages. However, in many instances bilingual judicial personnel continued to be assigned to areas where their second language was not spoken.

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

Homosexual rights support groups alleged that members of the police regularly waited outside clubs and bars frequented by sexual minorities and demanded that persons engaged in commercial sexual activities provide protection money. A lack of trust in the judicial system and a fear of further persecution or social recrimination discouraged victims from filing complaints. There was general societal discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons in employment, the workplace, and housing.

On September 29, a court ordered a stay of proceedings against LGBT rights defender Jorge Luis Lopez Sologaitoa, executive director of the NGO Organization to Support an Integrated Sexuality to Confront AIDS, who was accused of assaulting a sex worker in November 2008.

Other Societal Violence or Discrimination

The law does not expressly include HIV/AIDS status among the categories prohibited from discrimination, and there was societal discrimination against persons with HIV/AIDS.

Section 7 Worker Rights

a. The Right of Association

While the law provides for freedom of association and the right to form and join trade unions for all workers with the exception of security force members, enforcement in practice remained weak and ineffective. Violence against unionists and worker activists combined with a lack of adequate enforcement of labor and employment laws weakened labor unions and restricted this right in practice. Only 8 percent of the formal-sector workforce was unionized.

The official report reviewing the petition filed in 2008 under the Central American Free Trade Agreement noted serious problems regarding labor law enforcement. The government made very limited progress during the year in addressing specific deficiencies highlighted in the submission, and systemic enforcement issues remained.

The Ministry of Labor granted legal status to 72 new labor unions, compared with 53 during 2008. Most of the new unions were small unions in the provinces, primarily in the agricultural or municipal sector. Although there were 2,014 legally registered labor unions, 650 appeared to be active at year's end based on administrative registration records.

Legal recognition of a new industry-wide union requires that the membership constitute 50 percent-plus-one majority of the workers in an industry. The International Labor Organization (ILO) Committee of Experts (COE) stated in its annual report that the requirement restricted the free formation of unions.

At year's end an active "Solidarismo" (a national solidarity association movement) claimed to have 91 affiliated associations with approximately 30,000 members. Another 90 independent, nonaffiliated associations claimed approximately 50,000 members in addition. Unions may operate legally in workplaces that have solidarity associations, and workers have the right to belong to either or both.

Labor leaders reported receiving death threats and being targets of other acts of intimidation. The Special Prosecutor's Unit for Crimes against Journalists and Unionists within the Office of the Special Prosecutor for Human Rights accepted 48 new union-related cases during the year. The unit achieved 10 convictions for crimes against trade unionists during the course of the year. The unit's small size (two full-time prosecutors and six assistant prosecutors) limited its effectiveness.

UDEFEGUA reported at year's end that 120 trade unionists had been attacked (a 255 percent increase over UDEFEGUA's 2008 figure for this category) and five killed by unknown assailants. It was generally difficult to identify motives for killings, since most were not well investigated and went unprosecuted. Local unions urged that the killings of unionists be investigated and called for increased security for union leaders and members. On October 29, CICIG announced that it intended to investigate the deaths of 20 union and peasant leaders killed since 2007.

On April 1, according to AI, unknown men threatened and shot at the house of Edgar Neftaly Aldana Valencia, secretary general of the National Health Professionals Union, San Benito branch, which reportedly has complained of corruption and discrimination at San Benito Hospital, Peten.

On October 25, according to the International Trade Union Confederation (ITUC), unknown assailants killed Victor Galvez, a union leader who had demonstrated in front of the National Electricity Institute.

Notwithstanding MP investigations in some instances, there were no known developments in the following cases from 2008:

- The killing in March of labor leader Miguel Angel Ramirez Enriquez, a founder of the Union of Banana Workers of the South.
- The April killing of Carlos Enrique Cruz Hernandez, a member of the Union of Banana Workers of Izabal (SITRABI).
- The June killing of Freddy Morales Villagran, a member of the Consultative Council of the Peten Distributor Employees Union.
- The August killing of Edvin Portillo, treasurer of the Pension Administration Board and member of the port workers union of the National Santo Tomas Port Company.

On January 10, authorities arrested Wilfredo Waldemar Valiente Garcia for the 2007 killing of Pedro Zamora, secretary general of the Dock Workers Union of Puerto Quetzal. A court acquitted Valiente on November 12, and the MP's Special Unit for Crimes against Trade Unionists and Journalists reportedly filed an appeal on December 2, but the appeals court had not made any decision on the matter at year's end. A second suspect wanted in the case, Dremier Fuentes, remained at large.

There were no known developments in the following cases from 2007: the killings of 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 and the killing of Marco Tulio Ramirez Portela, a SITRABI leader and brother of the SITRABI secretary general.

Workers have the right to strike but by law must have the support of 51 percent of a company's workforce. Due to the low level of unionization and such procedural hurdles, there was only one legal strike during the year, according to the judicial branch's statistical department. However, teachers, health-care workers, farm workers, and other labor groups organized and participated in various protests, marches, and demonstrations throughout the year.

The law empowers the president and cabinet to suspend any strike deemed "gravely prejudicial to the country's essential activities and public services." Workers in such essential services and public services sectors may 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.

Organized labor protested the use of national-security and emergency-situation arguments by the government to enjoin what organized labor considered "legal" strikes. It also criticized arrests, incarcerations, and fines imposed against protesters, regarding such actions as violations of ILO conventions on the right to strike. The ITUC annual report noted that "essential services" was more broadly interpreted than the ILO believed warranted, thus denying the right to strike to a large number of public workers (such as those working in education; postal services; transport; and energy production, transport, and distribution).

The annual ITUC report found insufficient labor inspections, a weak judicial system, and impunity. The survey reported that, according to workers, the inspectors were more likely to persuade them to renounce their rights than seek to protect them and often gave employers advance warning of their visits. The labor courts had a backlog of applications for the reinstatement of workers, and cases could last more than 10 years. Employers tended to ignore court rulings, and courts did not take action to ensure that their decisions were respected. The February ILO technical assistance mission expressed concern regarding the will to resolve obstacles to freedom of association and noted that issues of impunity, judicial system effectiveness, and implementation of freedom of association needed priority attention.

b. The Right to Organize and Bargain Collectively

The law provides the right to organize and allows unions to bargain collectively. The government sought to protect this right in actuality but had limited means to do so. The law requires that union members approve a collective bargaining agreement by simple majority; however, the small number of unionized workers and restrictions on union formation limited the practice of collective bargaining. In particular, formation restrictions effectively eliminated the possibility for workers to exercise their rights to negotiate and engage employers formally at an industry level.

According to the law, a factory or business owner is not obligated to negotiate a collective bargaining agreement unless at least 25 percent of the total number of workers in that factory or business are union members and request negotiations. 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. This was largely due to the combination of employer-supported unions, illegal terminations or layoffs of union members, refusal to honor court reinstatement orders or rulings requiring the employer to negotiate with recognized unions, and threats and manipulations of subcontracted workers (i.e., threats not to renew a contract or offer permanent employment if the worker joins a union or refuses to disaffiliate).

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.

The Ministry of Labor reported that there were 36 new collective bargaining agreements, including agreements reached with teachers and health-care workers unions, during the year. These agreements were reached after years of negotiations and after numerous teachers' demonstrations throughout the country.

The COE referred in its annual report to long-standing problems related to the failure to comply with orders to reinstate dismissed trade unionists; the slowness and ineffectiveness of procedures to impose penalties for breaches of labor legislation; and the need to promote collective bargaining, especially in export processing zones.

The law prohibits antiunion discrimination and employer interference in union activities, but enforcement of these provisions--in particular, legal prohibitions on retribution for forming unions and for participating in trade union activities--was weak. Many employers routinely sought to circumvent legal provisions for union organizing by resisting union formation attempts or by ignoring judicial orders to enforce them. Inadequate penalties for violations and an ineffective legal system to enforce sanctions continued to undermine the right to bargain collectively and participate in trade union activities. An additional factor was the 2004 Constitutional Court ruling that the Ministry of Labor does not have the authority to impose sanctions for labor law violations.

Local unions reported increased incidences of fraudulent bankruptcies, ownership substitution, and reregistration of companies by employers seeking to circumvent legal obligations to recognize newly formed or established unions. Government institutions continued to tolerate these practices. The delay in processing legal complaints, from submission to final resolution, resulted in immunity for employers.

There were credible reports of retaliation by employers against workers who tried to exercise their 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 labor tribunal decisions in favor of workers, including reinstatement of wrongfully dismissed union organizers.

According to the ITUC, since January, 60 members of the Zaragoza municipal workers' union were dismissed for "forming a trade union organization." Their dismissal coincided with the appointment of new members of the municipal council.

The law requires employers to reinstate workers dismissed illegally for union-organizing activities. In practice employers

often failed to comply with reinstatement orders. During the year workers who suffered illegal dismissal won 284 court injunctions ordering reinstatement. 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 sanctioned employers for ignoring legally binding court orders. Employers often failed to pay the full amount of legally required severances to workers.

Labor courts, not labor inspectors, have responsibility for sanctioning employers found violating labor laws. The labor courts received 8,606 cases from the Labor Inspectorate during the year. Court decisions favorable to workers, however, were rarely enforced due to frequent refusals by employers to honor the decisions. Management or persons hired by management reportedly continued to harass and make death threats against workers who did not accept employer dismissals or refused to forfeit their right to reinstatement.

There were no special laws or exemptions from regular labor laws in the 16 active export processing zones (EPZ) and within the garment factories that operated under an EPZ-like regime. Due to inadequate enforcement of labor laws and illegal measures often taken by employers to prevent new-union formation or undermine existing unions, there were few successes in organizing workers in EPZs and in the garment sector. Some factories closed and then reopened with a new name and new tax exemption status. Of the 216 companies operating in the EPZs, only two had recognized trade unions and none had collective bargaining agreements. The government did not regularly conduct labor inspections in the EPZs, and there were systemic 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 in 2008 identified as a problem the requirement of pregnancy tests in some workplaces 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, men, women, and children were trafficked within the country, for forced labor, particularly in agriculture. In the Mexican border area, children were exploited for forced begging on streets and labor on coffee plantations and in municipal dumps. Organized labor equated mandatory overtime practices, which were commonplace in the private sector, particularly in the export sectors, to forced or compulsory labor.

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 persons under the age of 18 from work where alcoholic beverages are served, in unhealthy or dangerous conditions, and at night or overtime. 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 majority of child labor occurred in rural indigenous areas where economic necessity forced children to supplement family income. The informal and agricultural sectors regularly employed children below 14 years of age, usually in small family enterprises, and there were reports during the year that child labor existed in the production of broccoli, coffee, corn, fireworks, gravel, and sugar.

Children, primarily indigenous girls, worked as domestic servants vulnerable to physical and sexual abuse. Indigenous

children also worked frequently in street sales, rubber and timber production, and as shoe shiners and bricklayer assistants. There were reports of forced child labor in municipal dumps and in street begging.

The Ministry of Labor's Child Worker Protection Unit 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 did not effectively enforce laws governing the employment of minors, a situation exacerbated by the weakness of the labor-inspection and labor-court systems. While in exceptional cases the Labor Inspectorate may authorize children under the age of 14 to work, the Ministry of Labor has committed, in accordance with the applicable ILO convention, not to provide such authorizations. In keeping with this commitment, the Labor Inspectorate reported that it had not made such authorizations during the year.

The COE observations in March 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 child labor legislation, and encouraged the government to step up efforts to improve the situation of child laborers under age 14.

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 and work in garment factories. On December 29, President Colom raised the daily minimum wage to 56 quetzales (\$6.86) per day for agricultural and nonagricultural work and 51.75 quetzales (\$6.34) per day for work in garment factories. The president raised the minimum wage through an executive order after a tripartite committee consisting of representatives from the government, unions, and the private sector failed to reach agreement on the annual increase, which has to be set by year's end.

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 1,897.32 quetzales (\$232.54) per month, nearly 4 percent lower than in 2008. Labor representatives noted that even where both parents worked, the minimum wage did not allow a family to meet basic needs.

The Ministry of Labor conducted inspections to monitor compliance with minimum-wage law provisions, but the government allocated inadequate resources to enable inspectors to enforce the law adequately, especially in the very large informal sector. Noncompliance with minimum wage provisions in the informal sector was widespread. Advocacy groups focused on rural-sector matters estimated that more than half of the 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 credible estimates, between 65 and 75 percent of the workforce continued to work within the informal sector and outside the basic protections afforded by 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 do not apply to domestic workers. Time-and-a-half pay is 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, labor-court inefficiencies, and employer refusals to permit labor inspectors into facilities or provide access to payroll records and other documentation. Moreover, labor inspectors were not empowered to adopt administrative measures or to impose fines, but had to send alleged violations to the labor courts, where decisions favorable to workers were rarely enforced.

The Ministry of Labor operated a call center that received 44,767 labor complaints or requests for information and advice during the year. Local unions continued to highlight and protest violations by employers who failed to pay employer and employee contributions to the national social security system despite employee contribution deductions from workers' paychecks. These violations, particularly common in the private sector and export industries, resulted in limiting or denying employees access to the public health-care system and reducing or underpaying workers' pension benefits during their retirement years.

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 onsite 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.