GUATEMALA

The 1985 Constitution provides for election by universal suffrage of a one-term president and a unicameral congress. It also mandates an independent judiciary and a Human Rights Ombudsman (PDH), who is elected by and reports to the Congress. Elections for president, vice president, congress, and municipal offices held on November 12, 1995, resulted in the National Advancement Party (PAN) winning 42 of the 80 congressional seats; however, no presidential candidate received an absolute majority of the votes. Alvaro Arzu Irigoyen of the PAN won the runoff presidential election and took office January 14. Reflecting a greater opening for political activity, 24 parties, including a broad front coalition composed of civic, human rights, and labor leaders, campaigned in the free and fair elections.

Peace talks between the Government and the leftist insurgent Guatemalan National Revolutionary Unity (URNG) resulted in a negotiated end to the 36-year-long civil war, with a final peace accord signed on December 29. Guerrilla groups unilaterally ceased offensive action in March, and government forces immediately responded by halting counterinsurgency patrols. In May the URNG announced that it would cease collection of "war taxes" following signature of an accord dealing with socioeconomic and agrarian issues. Even before the final peace agreement, the Government began demobilizing the rural civil self-defense groups called Civilian Defense Patrols (PAC's), a process largely completed in November. The peace accords call for restructuring and downsizing the military, abolishing all PAC's, and strengthening the civil government, including increased spending on education and health. The army's budget and authorized strength of 43,000 men are to be reduced by one-third by 1999, and the Government is to propose a constitutional amendment to permit a civilian Minister of Defense. The agreements also call for the creation of a new police force with increased training and for the army to be
removed from all internal security functions. A broad range of civic groups, including prominent human rights groups, endorsed the final accords.

The U.N. Human Rights Verification Mission (MINUGUA), established by a 1994 Government-URNG accord on human rights, maintains a large staff with regional offices to monitor compliance with the human rights accord. It is expected to assume expanded responsibilities in the wake of the final peace agreement. A military observer component will be added to MINUGUA for a short time to monitor demobilization. MINUGUA has served as an important deterrent to human rights abuses.

The Minister of Government oversees the National Police and the Treasury Police, which shared responsibility for internal security with the army. There are no members of the military in the police command structure. More than 200,000 men served in the PAC's at the beginning of the year, and some PAC's still conducted counterinsurgency patrols then. An estimated 137,000 men participated in Peace and Development Committees (PDC's) at the beginning of the year. While PDC's are voluntary associations that have no official links to either the military or the PAC's, they are often composed of former PAC members. By the end of the year, the PAC's had been disbanded, over 215,000 PAC members demobilized, with over 10,000 weapons surrendered. Although the Constitution requires that service be voluntary, the PDH's office, the Catholic Archbishop's Human Rights Office (ODHAG), and MINUGUA reported that in some regions certain PAC's were still compelling members to join or remain in the patrols in the first half of the year. Security forces, especially PAC's and members of the police, committed numerous serious human rights violations.

The agricultural-based, private sector-oriented economy grew by approximately 3.1 percent in real terms. Coffee, sugar, and bananas are the leading exports, with more than half the work force engaged in agricultural labor. Inflation was 11 percent.

There is a marked disparity in income distribution, and poverty is pervasive, particularly in the large indigenous community. According to U.N. statistics, approximately 80 percent of Guatemalans live in poverty, with 59 percent in extreme poverty. Per capita gross national product was approximately $1,400.

There was marked improvement in the overall human rights situation, as demonstrated by a decrease in the number of serious violations, but problems remain in several areas. The improvement was the result of the March cessation of hostilities, the December final peace accord, the Government's initial reforms of the security services, including disbanding the PAC's, as well as increased political will to combat impunity. These favorable military and political developments resulted in a greatly reduced number of conflict-related violations. Nonetheless, the PAC's, former civilian military commissioners, members of the army, and the police committed serious human rights violations, including extrajudicial killings, physical abuse, arbitrary arrest and detention, and death threats. The security forces generally enjoyed impunity from the law. However, in contrast to past years, the Government prosecuted and civilian courts convicted members of several PAC's and some police officers, and the authorities indicted several members of the military for human rights abuses. In December Congress passed a controversial national reconciliation law to implement the peace accord's provisions on reintegrating the URNG into civilian life. The law provides exemption from prosecution for specific war-related acts; MINUGUA stated that it was consistent with international standards.

Even before the final agreements, the Arzu Government took important steps to begin to reduce the extensive institutional and legal autonomy of the army and police in military and security matters. In January the President restructured the military command, reducing the number of general officers from 23 to 8 and retiring or leaving without assignment numerous officers alleged to be involved in corruption or other abuses. In September the President dismissed two other generals, including the
Deputy Defense Minister, on corruption charges. Earlier, in June the Congress enacted a law removing from military jurisdiction cases involving members of the military involved in common crimes; as a result 347 cases were transferred from military to civilian courts. In January the Government also dismissed over 100 police officers for corruption and other crimes, many of whom were also the subject of criminal investigations at year's end. In addition, it dismissed 25 members of the Treasury Police for similar reasons in the first half of the year.

Nonetheless, government policy changes and a more aggressive stance by the Minister of Government and the Director of the National Police, while having important positive effects and demonstrating increased political will, have not yet been sufficient to eliminate completely the impunity commonly enjoyed by government security forces and others. A climate of lawlessness persisted throughout the year, and violent acts were committed against all sectors of society, in particular striking such groups as media representatives and human rights monitors. With judges and other law enforcement officials subject to intimidation, corruption, and inadequate resources, the judicial system was often unable to ensure fair trials. Both legal and societal discrimination and violence against women persisted. Societal abuse of children and discrimination against indigenous people continued as well. Guerrillas, as well as leftwing and rightwing extremist groups, committed major human rights violations. Guerrilla abuses included death threats, kidnaping for profit, the use of mines and explosives in civilian areas, and forced recruitment of minors.

RESPECT FOR HUMAN RIGHTS

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

a. Political and Other Extrajudicial Killing

Politically motivated killings continued with disturbing frequency, albeit at lower levels than in recent years. PAC members, police and military personnel, and rightwing extremist groups were all responsible for political and extrajudicial killings. Because of the scarcity of law enforcement resources and a weak and ineffective judicial system, the Government did not successfully investigate many killings or other crimes fully or detain and prosecute perpetrators. The Government's inability to identify, prosecute, or punish those responsible for such offenses remains an impediment to human rights progress.

The PDH's office, which generally compiles data based on personal interviews with victims and their families, listed 173 cases of possible extrajudicial killings in 1996, compared with 216 in 1995. Using media reports and interviews with victims and their relatives, the ODHAG reported 120 extrajudicial killings, compared with 215 in 1995 and 287 in 1994. For its part, MINUGUA listed 69 complaints of extrajudicial killings for the period between January 1 and June 30, but it was able to confirm only 6. None of these human rights offices broke down the figures according to the organization believed responsible, but government security forces, former military commissioners, and current and former PAC members committed such offenses.

The ODHAG and MINUGUA also accused some members of the army and the National Police of directing an extrajudicial "social cleansing" campaign in which they or their agents kill minors and adults believed to have committed common crimes.

PAC members continued to commit human rights abuses, including extrajudicial killings, extorting money from those who did not want to participate (see Section 1.f.), and general criminal activity including burglary and assault. Former PAC members and former military commissioners, who often form an important part of the local power structure in the absence of day-to-day central government
authority in outlying areas, are feared in many rural communities. (Military commissioners, formally
decommissioned September 15, 1995, were generally local civilian leaders who represented the army,
serving as intermediaries with PAC members.) Despite the peace accord's success in
arresting and disbanding the PAC's, there exists a widespread perception that the PAC's and former
PAC members enjoy army backing and immunity from prosecution. The ODHAG and the Runujel
Junam Council of Ethnic Communities (CERJ, an indigenous human rights organization), reported that
the executive branch failed to carry out arrest warrants against a number of military commissioners and
PAC members for their involvement in human rights crimes. PAC members and military commissioners
are rarely convicted for their crimes. Nonetheless, in an improvement over past years, the courts
convicted and sentenced 4 PAC members during the year, with 15 still pending trial. In several of these
cases, CERJ acted as a joint complainant (see Section 1.e.).

Since the 1994 killings at the La Exacta farm, the Ministry of Government has modified its procedures
and has promoted improved discipline and greater restraint in the use of force in property eviction tactics
employed by the authorities. They carried out at least 20 evictions without incident during the year.
Nonetheless, on April 17, the commander of the Police Rapid Reaction Force, Ernesto Soto, and
Roberto Velasquez, a peasant participating in the occupation of El Tablero farm, were killed when
peasants clashed with police attempting to dislodge them. It is unclear who instigated the confrontation;
MINUGUA, the PDH, and the ODHAG each issued conflicting statements.

There was no significant progress in the case of the 1993 murder of newspaper publisher and former
presidential candidate Jorge Carpio. In November the prosecuting attorney announced he was quitting
and going into voluntary exile because of continued threats and harassment. At year's end, the case
continued under a different attorney.

On January 6, assailants killed CERJ member Miguel Us Mejia and his wife Lucía Tiu Tum, a member
of the Guatemalan Conference of Widows (CONAVIGUA), who were returning from a wedding in a
remote village in Quiche department. The killer stabbed Us Mejia more than 20 times and shot Tiu Tum
twice. The authorities have not arrested anyone for the crime; the violence of the attack and the absence
of robbery suggest political motives. Human rights groups accused local PAC members of committing
the murders.

On January 23, Miguel Mijanos, a member of a military patrol, shot and killed Narciso Alcor along the
Central American highway in Chimaltenango. Alcor had approached the patrol late at night and
apparently disregarded several orders to halt. Mijanos fired shots in the air, at which point Alcor fled. Mijanos
then shot Alcor twice in the back. Mijanos was detained and under investigation for
extrajudicial execution at year's end. There was no indication of a political motive.

On September 20, a Treasury Police agent, Armando Ramirez, killed 16-year-old Ronald Raul Ramos
Hernandez. According to Casa Alianza, an organization dedicated to assisting street children, Ramirez--
apparently under the influence of alcohol-- approached and demanded money from Ramos and other
street children sleeping under a bridge in Tecun Uman on the Mexican border. The agent then beat
Ramos and shot him once in the head. The authorities issued a warrant to arrest Ramos, but he
apparently fled the country. Casa Alianza charged that the refusal of local officials to investigate the
case and detain Ramirez facilitated his escape.

Popular frustration with the inability of the authorities to combat crime resulted in a series of lynchings
and mob attacks throughout the year. Mobs killed at least 31 people who were suspected of crimes
ranging from murder to petty theft and injured many other suspected criminals. There were allegations
that some of these mobs had been incited for political purposes, but the majority of incidents appeared to
be spontaneous. Efforts by volunteer firemen and police, sometimes assisted by the military, to aid the
victims were often unsuccessful. With few exceptions, the Government made no effort to arrest or prosecute the perpetrators of these attacks.

Congress passed a National Reconciliation Law in December to implement the provisions of the peace accord on reintegration of the URNG into political life. The law provides amnesty for political crimes directly related to the war. However, it states that those who committed serious human rights violations—torture, forced disappearance, genocide, illegal treatment of prisoners, and those crimes not subject to a statute of limitations or to amnesty by domestic law or international treaty—do not receive relief from criminal responsibility. The law provides for a special review by the Appeals Court, on a case-by-case basis, for common crimes committed in connection with war-related acts to determine if any exemption from prosecution applies. Human rights activists criticized the law as too lenient, but MINUGUA stated that it was consistent with international standards.

There were developments in some high-profile cases from previous years:

The ODHAG and MINUGUA issued separate reports concluding that the October 1995 killing of 11 returned refugees at the Xaman Ranch in Alta Verapaz by an army patrol was not premeditated or ordered by the military command. In February an appellate judge ordered the criminal case against the soldiers involved transferred to civilian jurisdiction. In June the civilian judge granted bail for 8 of the 26 soldiers in the case, including the commanding officer, Lieutenant Lakan Chaclan. The prosecution appealed this decision, and, based upon irregularities in the way this and other decisions were made, the authorities subsequently suspended the judge and returned the eight to jail. The case continued under a different civilian judge at year's end.

Victor Roman, the alleged perpetrator of the 1995 murder of evangelical pastor Manuel Saquic and the 1994 murder of pastor Pascual Serech, remained at large at year's end, despite an arrest warrant and the offer of a $3,300 (20,000 quetzales) reward. In September the Public Ministry filed charges against two other persons allegedly involved in the Serech murder, including Serech's wife, and filed charges in absentia against Roman. Members of the presbytery to which both Saquic and Serech belonged received numerous death threats during the year, presumably related to their continued demands for the apprehension of Roman and their testimony before the Inter-American Commission on Human Rights (IACHR). In June the IACHR issued a resolution faulting the Government for a lax investigation and ordered protection of the witnesses involved and monthly reports from the Government on the progress of the case.

Partly in response to the Commission's findings, the Government established regular meetings between civilian and military authorities responsible for the case and members of the presbytery. In August the presbytery withdrew from the meetings citing a lack of progress in the investigation and a lack of cooperation from the military. A search of local military facilities where Roman allegedly had been sighted failed to uncover Roman or further leads.

In the April 1994 killing of Constitutional Court President Epaminondas Gonzalez Dubon, an appeals court overturned the verdict of two of the six persons convicted; they were released in March. The Constitutional Court later reversed this decision after an appeal by the Public Ministry. One of the accused had been arrested on unrelated charges but subsequently escaped in August and remained at large at year's end. The other was recaptured in September. Meanwhile, the authorities indicted Antonio Trabanino Vargas, already in prison on other charges, for involvement in the killing. Judicial proceedings against Trabanino continued at year's end. Although the Public Ministry ruled out any motive other than robbery, there was widespread speculation that Gonzalez Dubon was killed because he had decided to uphold the constitutionality of an extradition order to the United States for former Lieutenant Colonel Carlos Ochoa Ruiz on drug-related charges.
A videotape of a November 1994 demonstration by university students showed policemen severely beating student Mario Lopez Sanchez after he was injured and incapable of resistance. Lopez later died from his injuries. Judicial proceedings continued at year's end. An appellate court reinstated a previously dismissed wrongful death lawsuit for $1.6 million (10 million quetzales) against the Government filed by the family. MINUGUA reports that, since Lopez' death, there have been incidents of torture, kidnaping, and intimidation directed against witnesses and others involved in the prosecution of the case.

The authorities arrested seven police officers in connection with the August 1994 killing of three workers at the La Exacta farm. The seven were still awaiting trial at year's end. According to MINUGUA, however, Public Ministry officials have neglected to carry out some basic investigative inquiries into this incident.

There were major developments in the case against three former army officers accused of ordering the 1990 murder of anthropologist Myrna Mack. An October Supreme Court decision to proceed with the case under the former penal procedures code rendered inadmissible all evidence previously gathered by the Public Ministry and cocomplainant Helen Mack, effectively ending the prosecution. The Public Ministry and Mack appealed the ruling to the Constitutional Court. The convicted material author of the crime, Jose Noel Beteta, is in prison serving a 30-year sentence. There was no progress in the presumably related case of detective Jose Luis Merida Escobar, killed in 1991 while investigating Myrna Mack's death.

The 1988 "white van case," in which members of the Treasury Police allegedly abducted, tortured, and murdered victims using a white van, remained open at year's end. In June the Public Ministry announced that unknown individuals had broken into its offices and searched the prosecution's file on the case.

On April 11, a court acquitted members of a PAC in Colotenango --which was disbanded on August 9-- due to lack of evidence in the August 1993 murder of Juan Chanay Pablo, an anti-PAC demonstrator. The Public Ministry is appealing the decision. Family members also brought the case to the IACHR. For the first time in any such case, the Government is seeking to negotiate a settlement with the plaintiffs.

There was no progress in resolving numerous other past extrajudicial killings: The 1985 killings of Nicholas Blake and Griffith Davis; the 1989 disappearances and murders of university students; the 1990 Hector Oqueli Colindres and Gilda Flores killings; the 1990 disappearance of Maria Tiu Tojin and her daughter; the 1991 disappearance of Diego Domingo Martin; the 1992 kidnaping, torture, and murder of Huehuetenango peasant Lucas Perez Tadeo; the 1993 shooting of street children Henry Yubani Alvarez and Francisco Tziac; and the 1993 shooting of student protester Abner Abdiel Hernandez Orellana.

b. Disappearance

In contrast to past years, there were no credible reports of disappearances attributed to official forces.

The PDH's office received 47 complaints of forced disappearance, compared with 77 for 1995. While motives in the incidents reported by the PDH are difficult to determine, the victims were not, in general, politically active. Using a more restrictive definition than the PDH, the ODHAG reported no forced disappearances during the year.

Disappearances in high-profile cases from recent years remained unresolved at year's end. Arnoldo Xi, a
community leader in Tixila, Purulha, Baja Verapaz and a member of CONIC (an indigenous human rights organization dedicated to saving Mayan culture), reportedly wounded by gunfire and abducted by armed men on March 23, 1995, remained missing. The whereabouts were unknown of Salvador de la Rosa, a member of a military patrol who disappeared in March 1995, and of Lorenzo Quiej Pu, a member of CONDEG (an organization dedicated to helping Guatemalans internally displaced due to the armed conflict), who disappeared in January 1994. The disappearances of San Marcos PAC members Margarito Lopez and Obdulio Zapeta, army enlisted man Diego Chel Matom, and farmers Ramona Munoz and Maritza Gil, who were allegedly kidnaped in 1993 by guerrillas, also remained unresolved at year's end.

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

The Constitution provides for the integrity and security of the person and prohibits the physical or psychological torture of prisoners. There were credible reports of mistreatment by members of the security forces, including sexual abuse of minors and adults and use of excessive force at the time of arrest. Additional reports indicated that, especially in rural areas, the army, civil defense patrols, former military commissioners, and police all at times used excessive force against the civilian population.

Many bodies were found in various parts of the country bearing signs of severe disfigurement or mutilation. It was difficult to determine those responsible, in part because the authorities do not have the capacity to undertake serious investigations. The PDH's office listed 12 potential cases of torture, compared with 9 in 1995. The ODHAG listed 4 cases of torture, compared with 5 cases in 1995 and 17 cases in 1994. Some of these incidents were believed to be politically motivated, such as the case of radio reporter Vinicio Pacheco (see Section 2.a.) Evidence of torture and severe mistreatment are also prevalent in murders arising from nonpolitical disputes, particularly those related to narcotics trafficking.

Casa Alianza reported various instances in which the National Police abused street children. It also reported that the criminal case against the five policemen charged in the March 1994 baton beating of Luis Antonio Roldan Izeppi remained pending because two policemen have not testified. One of the five has since left the force. Also according to Casa Alianza, private security guards routinely abuse street children. The courts convicted five people, including two police officers and one military officer, of abusing street children. Guerrilla forces also occasionally abused the civilian population, especially in rural areas.

There were no new developments in the investigation of abuses suffered by U.S. citizen Sister Dianna Ortiz in November 1989.

Prison conditions are harsh but not life threatening. The Government reports that prison capacity is 7,100 persons. However, prisoners frequently complain of overcrowding, even though there were less than 5,700 inmates at year's end. Prisoners also complain of inadequate food, and fights among inmates led to the deaths of several prisoners. Corruption--

especially drug-related--is widespread, and the authorities replaced the director of prisons in November due to allegations of corruption. Women prisoners are held in facilities separate from men, and minor children are held in separate detention facilities.

The Government permits access to prisons by family members as well as independent international monitors.
d. Arbitrary Arrest, Detention, or Exile

Despite legal safeguards, there were frequent credible reports of arbitrary arrest, incommunicado detention, and failure to adhere to prescribed time limits in legal proceedings by the security forces. The Constitution requires that a court-issued arrest warrant be presented to a suspect prior to arrest unless he is caught in the act of committing a crime. Police may not detain a suspect for over 6 hours without bringing the case before a judge. The law also provides for bail and access to lawyers.

There are no reliable data on the number of arbitrary detentions, although most accounts agree that the security forces routinely ignore writs of habeas corpus in cases of illegal detention. There were 5,400 men and 277 women in prison at year's end. Reliable estimates suggest that about 70 percent have been sentenced, and 30 percent are awaiting sentences. Prisoners are often detained past their legal trial or release dates. The ODHAG has charged that prisoners are sometimes not released in a timely fashion after completing their sentences due to the failure of judges to issue the necessary court order.

There were numerous reports that policemen illegally detained street children; the authorities rarely took action in any of these incidents.

The Constitution prohibits exile, and it is not officially practiced. There are instances of threatened individuals fleeing the country out of fear for their lives.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary. However independent in fact, in practice the judicial system often fails to provide fair trials. International organizations, including MINUGUA, continued to note the Government's failure to investigate, prosecute, and punish many suspects, especially in cases involving members of the military and public security forces.

The judiciary is composed of a Constitutional Court, a Supreme Court, appellate courts, lower courts, and courts of special jurisdiction (e.g., labor courts). The Constitution provides that the Congress elect Supreme Court and appellate court magistrates from lists prepared by panels comprised of active magistrates, the Bar Association, and law school deans.

The new Criminal Procedures Code, which came into effect in mid-1994, fundamentally alters the administration of criminal justice by strengthening the prosecutorial function, establishing a public defender program, and instituting oral adversarial proceedings at the trial phase. Its key precepts include the accused's presumption of innocence, the right to be present at trial, the right to counsel, and the possibility of release on bail. Trials are public. The new code also provides for language interpretation for those who require it (see Section 5).

Because of the difficulty in implementing the new code, however, the commitment to transform a dysfunctional judicial system into an effective one is being seriously tested. Despite evidence of increased political will and some concrete advances, the legal obligation of the State (through its Public Ministry) to investigate crimes, prosecute offenders, and administer punishment has been severely hampered by inadequate training and equipment, as well as insufficient numbers of investigators. The courts' response to human rights violations, as well as to general criminal activity, has been very slow. The authorities often avoid conducting investigations that might lead them into conflict with powerful forces. There is apparently no set procedure within the Public Ministry to govern criminal investigations and thus to ensure a viable response to criminal activity. In an effort to improve coordination and set an example for other investigative units, a specially trained investigative task force began operating in May.
The task force is made up of members of the Public Ministry and Ministry of Government and is assigned to high priority cases. By year's end, the task force had made arrests in a number of kidnaping and murder cases.

Coordination between the Public Ministry and the National Police with regard to investigations is inadequate. Security forces personnel are reluctant to investigate cases potentially involving colleagues. Police are poorly paid, relatively few in number, and lack adequate resources and training. Judges and prosecutors are susceptible to intimidation and corruption and suffer from low pay, poor working conditions, and low morale. Such factors, combined with the small number of prosecutors and the interference of the Supreme Court with the lower courts, demonstrate that the Government's efforts to date have been insufficient to combat the existing pervasive atmosphere of impunity.

There are, however, signs that the reforms are taking root. There were over 600 oral trials held under the new procedures; of which approximately 100 resulted in acquittals. In contrast with the past, during the year the authorities tried and convicted some police officials and current and former members of PAC's and arrested several members of the military, including high-ranking officers, who awaited trial at year's end (see Section 1.a.). The Public Ministry was successful in prosecuting a number of other high-profile cases of common crime as well, including the 1994 murder of Karin Fleischmann, for which a court sentenced Ricardo Ortega del Cid to 30 years in prison. In an effort to improve the functioning of the court system in rural areas, the judicial system added 19 judges and 5 justices of the peace in August and announced plans to expand the court system in rural areas.

Members of the judiciary, as well as prosecutors, continued to receive threats, either in an attempt to influence current decisions or as reprisals for past decisions. According to the Secretary General of the Supreme Court, early in the year, 40 judges had reported receiving threats related to their cases. Public prosecutors, private plaintiffs, and officials from MINUGUA, the ODHAG, and the PDH's office also received threats.

Corruption continues to impede the proper functioning of the police force, and there are credible allegations of some police involvement in narcotics trafficking. In numerous criminal cases, police were unwilling to execute arrest warrants. In January the Arzu administration began an effort to combat corruption in the security forces by dismissing over 100 National Police and 25 Treasury Police officers. By the middle of the year, more than 100 of these officers were facing judicial proceedings. In a further effort to professionalize the police force, the Ministry of Government initiated a mandatory 6-month training course for all newly hired police officers. In the past, many officers received no formal training. The new training program includes instruction on human rights given by the PDH and Casa Alianza and was developed with assistance from MINUGUA and other international organizations. The first officers graduated from the new course in mid-summer. Plans incorporated into the final peace agreement include the unification of the civilian security forces into a single police force, a professional training and development program, and a significant increase in the number of officers. All new officers are to pass the 6-month training course.

There were no reports of political prisoners.

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

The Constitution provides for the inviolability of home, correspondence, and private documents, but the authorities at times disregard these provisions. Elements of the security forces reportedly continue to monitor private communications. As recently as 1995, Ministry of Defense officials admitted that the military monitors communications "when necessary." In January the daily newspaper Siglo Veintiuno
charged that the Presidential Military Staff had tapped its fax machine. Many human rights workers alleged surveillance of their movements and activities.

MINUGUA reports that the military has honored the June 1994 presidential order to suspend all conscription, including forced recruitment. However, while the Constitution requires that PAC service be voluntary, in some regions, army officers and PAC leaders pressured men to become and remain members or extorted a fee from individuals in exchange for permission to resign. There are credible reports that individuals refusing to serve in PAC's suffered threats and other abuses. The Government's action to disband the PAC's was a major step toward ending these abuses.

g. Use of Excessive Force and Violations of Humanitarian Law in Internal Conflicts

A mutual cessation of hostilities in March, a major agreement in September, and the signing of the final peace accord on December 29 that ended the 36-year-long civil war greatly reduced the number of human rights violations related to the conflict. However, instances of terrorist bombings conducted by unknown perpetrators occurred throughout the year. At least five explosive devices were detonated or deactivated in Guatemala City and two others outside the city, leaving at least two persons dead and several injured. Several of these devices were accompanied by URNG leaflets. Other bomb attacks were believed to be orchestrated by rightist groups opposed to the peace negotiations.

After reaching agreement on an accord with the Government on socioeconomic and agrarian issues on May 6, the guerrillas unilaterally stopped the collection of war taxes. Prior to this decision, however, MINUGUA had verified the accuracy of complaints of ranch owners against the URNG's practice of collecting war taxes in several departments. There were also complaints that either the URNG or criminal elements were still collecting "back taxes" at year's end.

Both the army and the guerrillas used antipersonnel land mines in civilian areas, particularly in San Marcos and Quiche departments. However, both sides cooperated with the U.N and national authorities in the removal of mines. MINUGUA reported that three members of the military were killed, and one soldier and three civilians injured, in five mine explosions in the first half of the year. These incidents mainly occurred during attempts to remove the mines.

Throughout the year, guerrilla groups assembled captive audiences to listen to their political pronouncements. Armed guerrilla units occupied various towns throughout the country and the University of San Carlos campus in Guatemala City for several hours to disseminate propaganda. Local military zone commanders did not resist these incursions, and there were no confrontations or casualties. On July 30, press reports indicated that guerrillas took over a radio station in Mazatenango, forced personnel to play URNG propaganda tapes, and detonated a pamphlet bomb. There were no casualties in the incident.

On October 28, the Government announced it had captured a high ranking guerrilla commander in connection with the kidnapping of a wealthy 86-year-old woman. After negotiations, the authorities released the guerrilla in exchange for the victim's safe return. Guerrilla leaders later confirmed the commander's involvement in the kidnapping but claimed that he was acting without orders. There was widespread speculation of guerrilla involvement in other kidnappings.

The URNG claims it holds no prisoners, and there were no reports of any captives in URNG custody at year's end.

U.S. citizen lawyer Jennifer Harbury continued to search for the remains of her husband, guerrilla leader
Efrain Bamaca Velasquez, who disappeared following a March 1992 clash between army and URNG forces. The military contends that Bamaca died in battle, but reliable information indicates the army captured Bamaca and held him for an undetermined period, interrogating and ultimately killing him. Several legal developments in ongoing Guatemalan court cases related to Bamaca's disappearance failed to shed additional light on his fate. In addition, the military frustrated at least two separate attempts to exhume a possible grave at the Las Cabanas military detachment in San Marcos by obtaining countermanding judicial orders. MINUGUA is assisting the Public Ministry in its investigation as part of its support for due process. In October the Constitutional Court denied legal recognition of the U.S. marriage of Harbury and Bamaca. The Inter-American Court of Human rights accepted a case against the Government over Bamaca's disappearance but gave no indication when a ruling may be issued.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of expression. In addition to regular and open criticism of government policies, the media publicizes communiques from the URNG, leftist groups, and others opposed to the Government or its policies. Journalists admit, however, that in some particularly sensitive cases pressure and fears of reprisal result in self-censorship and limits on investigative reporting. Some journalists report they are reluctant to criticize the military or military officers or to discuss topics that could be perceived to affect the interests of powerful economic groups and individuals. Reports on human rights and narcotics trafficking are carefully written and sourced so that neither journalists nor their institutions are put at risk. Radio and television station owners observe that licensing procedures could give the Government powerful leverage over their editorial policies, but they have not cited any instances in which the Government attempted to use this power.

Continuing acts of political violence directed against journalists give credence to their complaints of pressure and coercion at the working level. The ODHAG reported 18 incidents of violence or threats against the media, including 3 murders, 2 bomb attacks, 1 case of torture, and 12 threats against reporters or editors. The ODHAG was unable to identify the perpetrators or determine the motives in most of these incidents but believes that many were related to the journalists' work.

On February 28, unknown men abducted radio reporter Vinicio Pacheco and physically abused him. They reportedly warned Pacheco to discontinue his aggressive coverage of drug trafficking and car theft. The authorities have not arrested anyone for this crime. On May 16, hand grenades were thrown at the car of newspaper editor Jose Ruben Zamora who, as editor of one of the major daily newspapers, had run articles sharply critical of the military and other powerful interests. The perpetrators were not apprehended.

The Constitution provides for academic freedom. There were no reports of professors or students being subject to violence or intimidation for their academic work.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for the right of peaceful assembly and association, and the Government respects this right in practice. Peaceful demonstrations were common, and demonstrators sometimes occupied government institutions, including the presidential palace, government ministries, Congress, and the Supreme Court building. In all these cases, the police acted with restraint, and the authorities negotiated a peaceful departure of the demonstrators. The Government did not interfere with political associations. The law requires organizations to obtain legal status, a cumbersome and expensive
c. Freedom of Religion

The Constitution provides for religious freedom, and the authorities respect it in practice. However, personal and political enemies sometimes threatened or killed religious personnel because of their activism in human rights, indigenous rights, land reform, and related fields. During the year, both the ODHAG and the Council of Evangelical Churches denounced acts of intimidation and harassment directed against several members of the clergy, Evangelical pastors, and lay workers.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Government does not restrict foreign travel, nor does it revoke citizenship for political reasons. The authorities did not restrict movement inside the country except in some areas of conflict before the cessation of hostilities, where the army and PAC's limited travel.

Early in the year, guerrillas established roadblocks to rob private citizens, extort protection payments from businessmen, attack and drain petroleum trucks, and hinder travel in certain rural areas.

The Government cooperates with the office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees from other countries. The issue of the provision of first asylum did not arise. There were no reports of forced expulsion of persons to countries where they feared persecution. Voluntary repatriation of refugees from Mexico continued. The UNHCR reported that 4,185 refugees returned to Guatemala in 1996, bringing the total to over 25,000 since initiation of the program in 1993.

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

Citizens have the right to change their government by peaceful and democratic means, through secret ballot and universal suffrage for those 18 years of age and older. Members of the armed forces and police may not vote. Since the return to democracy and civilian rule in 1985, there have been seven free elections. International observers concluded that both the general elections for President, Vice President, Congress, and municipal offices, held on November 12, 1995, and the runoff presidential election held on January 7, 1996, were free and fair. In the runoff between Alvaro Arzu of the National Advancement Party (PAN) and Alfonso Portillo of the Guatemalan Republican Front (FRG), Arzu won with 51.2 percent of the vote to Portillo's 48.8 percent, and he took office on January 14.

Reflecting a greater opening for political activity, 24 parties, including a broad-front coalition composed of civic, human rights, and labor leaders, campaigned. The parties put forward 19 presidential candidates and thousands of candidates for congressional deputy and mayor. The election also was characterized by a greater participation by grassroots organizations and the left, incorporated into a newly formed coalition party called the New Guatemalan Democratic Front (FDNG). Although the URNG did not participate directly, in a radical departure from previous policy, it did call for voter participation in the election and agreed to a unilateral cease-fire for the last 2 weeks of both the first and second election periods in return for political parties' commitment to abide by those peace accords previously agreed to by the Government and the URNG.

Voters elect the 80-member Congress using a system of proportional representation based on with deputies elected both from districts and from a nationwide list. Congress has 64 deputies from districts and 16 from the national list. The last elections involved 24 political parties; 6 won seats in the
legislature. Congress can and does act independently of the executive, but fragmentation along party lines and a weak support structure result in the Government being driven by the executive branch.

There are no legal impediments to women's participation in politics, but women are underrepresented in the political arena. Nevertheless, women do hold some prominent political positions, including a cabinet post. In the November 1995 elections, voters elected 11 women to the 80-member Congress. Two women also serve as Supreme Court justices, and one is a Constitutional Court justice.

Indigenous people are entitled to equal rights under the Constitution. Some have attained high positions as army officers (including one general), judges, and government officials, including eight members of Congress. In the November elections, 40 indigenous candidates won mayoral positions (out of 300 municipalities), including the mayor of Quetzaltenango, the second largest city. Nonetheless, they are still heavily underrepresented in politics due to limited educational opportunity and pervasive discrimination (see Section 5).

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

The Government permits local human rights groups to operate freely. However, as noted by MINUGUA, a pervasive attitude continued among rightwing elements of the army, military commissioners, and civil defense patrol members that human rights activists were really subversives tied to the URNG.

A government-URNG accord led to the November 1994 introduction of MINUGUA into Guatemala. MINUGUA became fully staffed in 1995 and now numbers 305 personnel, with 8 regional and 5 subregional offices. MINUGUA's extensive international presence, its verification of alleged abuses, and other activities serve as a deterrent to human rights abuses. MINUGUA's two comprehensive 1996 reports documented both the Government's and the URNG's successes and failures in implementing the terms of the human rights agreement.

Relations between the Ombudsman's office and the executive branch were strained. The PDH reported that some security force agents intimidated and refused to cooperate with Ombudsman officials. Ombudsman Jorge Mario Garcia Laguardia also complained that the Government was neither funding his office adequately nor implementing his recommendations on human rights.

Other high-ranking officials working in the fields of human rights and jurisprudence complained publicly and privately of receiving threats stemming from their interest in resolving cases related to human rights violations, official corruption, and drug trafficking. ODHAG spokesmen reported that members of that office had received threats as well.

Several members of Congress, who are also leaders of human rights groups, reported receiving threatening letters at various times throughout the year. On April 11, unknown men broke into the house of Amilcar Mendez, FDNG congressional deputy and founder of the human rights group CERJ, and assaulted his adopted daughter. While the Government actively investigated the crime, there were no arrests. Other human rights activists also reported receiving threats throughout the year. For example, Federico Reyes Lopez, a member of the Guatemalan forensic anthropology team which is dedicated to uncovering mass graves—mainly resulting from human rights abuses in the 1980's—reported in June receiving threats presumably related to his work.

Both the PDH's office and the ODHAG continued to enjoy widespread public support and respect.
Senior government officials also met with numerous foreign officials and human rights monitors. While many international human rights organizations and their workers do not enjoy formal legal status, they continue to operate openly.

**Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The Constitution states that all human beings are free and equal in dignity and rights and that the State must protect the life, liberty, justice, security, peace, and development of all Guatemalans. In practice, however, the Government is frequently unable or unwilling to enforce these provisions, due to inadequate resources, corruption, and a continuing atmosphere of impunity.

**Women**

CONAVIGUA and the PDH reported that violence against women, including domestic violence, remains common among all social classes. There is no specific law against domestic violence, although it is considered to fall under other statutes. Victims rarely report criminal sexual violence, and relatively few rape cases go to court. The PDH reported that complaints of spousal abuse committed by husbands have continued to rise due to increased nationwide educational programs, which have encouraged women to seek assistance. There are family courts, and judges may issue an injunction against an abusive spouse or companion. The police are charged with enforcing such injunctions. There is also a Women's Rights Department of the PDH, and various nongovernmental organizations (NGO's) provide medical and legal assistance and information on family planning. In March the Constitutional Court overturned an adultery statute that applied only to women.

The Constitution asserts the principle of equality between the sexes. Nonetheless, women face job discrimination and on average receive significantly lower pay than men. They are primarily employed in low-wage jobs in the textile industry, agriculture, retail businesses, and the public sector. More working women than men are employed in the informal sector of the economy, where pay and benefits are generally lower. A 1989 survey reported that in Guatemala City women are underrepresented in high-income job categories and overrepresented among poorly paid workers. Women may own, manage, and inherit property on an equal basis with men.

**Children**

The Constitution charges the Government with protecting the physical and mental health, as well as the moral well-being, of minors. These provisions notwithstanding, the Government consistently fails to devote sufficient resources to ensure adequate educational and health services for children. The abuse of street children (see Section 1.c.) is a serious problem in major cities. Estimates of the number of street children range between 1,500 and 5,000, with the majority of these youths concentrated in Guatemala City. Corrupt police and military personnel and criminals often recruit these children into thievery or prostitution rings. The Government and a number of NGO's operate youth centers, but the funds devoted to them are not sufficient to alleviate the problem.

The Presidential Human Rights Commission continued weekly meetings of the Permanent Commission for Children, composed of representatives from Casa Alianza and from the judicial and executive branches, with the aim of addressing the problems of street children. Relations between Casa Alianza and the National Police have often been strained.

**People With Disabilities**
The Constitution provides that the State should protect disabled persons. Nonetheless, physically disabled persons are discriminated against in employment practices, and few resources are devoted to combat this problem or otherwise to assist people with disabilities. There is no legislation mandating provision of accessibility to public buildings or transportation for the disabled.

Indigenous People

The Constitution states that Guatemala is composed of diverse ethnic groups and obliges the Government to recognize, respect, and promote the lifestyles, customs, traditions, forms of social organization, and manner of dress of indigenous people. Indigenous people constitute over one-half the population but remain largely outside of the country's political, economic, social, and cultural mainstream. Indigenous people suffered most of the serious human rights abuses described in Section 1.a. and throughout this report. Although the Constitution accords indigenous people equal rights, in practice they have only minimal participation in decisions affecting their lands, culture, traditions, and allocation of natural resources. In July the Congress ratified International Labor Organization (ILO) Convention 169, intended to safeguard the rights of indigenous people. The final peace accord reached between the Government and the URNG includes agreements on indigenous and socioeconomic issues which, together, should strengthen indigenous participation in society and increase government resources devoted to indigenous areas.

Rural indigenous people have limited educational opportunities and thus have fewer employment opportunities. Many indigenous people are illiterate and do not speak Spanish. Linguistic barriers